

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
Bryson City Division

In re:	)		
	)	Case no.	17-10230
ROCKY-NOLE, INC.,	)		
	)	Chapter	11
Debtor.	)		

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**MOTION FOR INTERIM AND FINAL ORDERS (A) AUTHORIZING DEBTOR'S USE OF CASH COLLATERAL, AND (B) GRANTING REPLACEMENT LIENS, AND MEMORANDUM IN SUPPORT**

NOW COMES Rocky-Nole, Inc. ("Debtor"), by and through its undersigned attorneys, moving the Court pursuant to 11 U.S.C. §§ 105(a), 361, 363(c)(2) and (e) and Fed. R. Bankr. P. 4001(b) and 9014 for an order authorizing Debtor to use cash collateral on which International Channel Systems, Apex Mortgage Corporation, and Richard Bates Properties, LLC (collectively "Lenders") assert a security interest and lien. Debtor proposes to use the monies on hand at the Petition Date and generated from operation, which is absolutely necessary for the continuation of Debtor's business. Debtor asserts the following in support of this Motion:

JURISDICTION

1. The Debtor filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code on May 25, 2017 (the "Petition Date"). The Debtor filed its petition in the Western District of North Carolina ("WDNC"), Bryson City Division. The Case was assigned to the Honorable George Hodges.
2. The Debtor is a North Carolina corporation. It is operating its business and managing its assets in Maggie Valley, North Carolina, as debtor in possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code.
3. This Court has subject matter jurisdiction over the Motion pursuant to 28 U.S.C. §1334.

4. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A). The Court can exercise its subject matter jurisdiction pursuant to 28 U.S.C. §157(b)(1).
5. Venue of these proceedings and the Motion is proper in this district pursuant to 28 U.S.C. §§1408 and 1409.
6. The statutory basis for relief requested herein are 11 U.S.C. §§ 105(a), 361, 363(c)(2) and (e) and Bankruptcy Rules 4001(b) and 9014.

#### BACKGROUND

7. The Debtor is a motel located in Maggie Valley, Haywood County, North Carolina. It has been in business for over ten years. It primarily caters to the motorcycle community of tourists who travel through Western North Carolina on vacation. The Debtor is owned by Larry Hartline, an individual. Mr. Hartline and his wife, Rita Hartline, manage the Debtor and reside on-site in the motel.

8. The Debtor believes that Lenders hold claims as follows:

a. International Channel System holds a claim in the approximate amount of \$unknown, secured by a UCC financing statement filed on September 13, 2013 in North Carolina (document number 20130088522B). On information and belief, Lender's security interest may impair the debtor's cash and other liquid assets (the "Cash Collateral").

b. Apex Mortgage Corp. a Subsidiary of Firstrust Bank holds a claim in the approximate amount of \$384,441.07, secured by a deed of trust filed in Book 861, Pages 1785-1799 of the Haywood County, North Carolina Registry of Deeds on February 7, 2014, and also secured by virtue of a UCC financing statement filed on

February 7, 2014 in North Carolina (document number 20140011991K). On information and belief, Lender's security interest may impair the debtor's cash collateral.

c. Richard Bates Properties, LLC holds a claim in the approximate amount of \$46,247.44, secured by a deed of trust filed in Book 863, Pages 968-972 of the Haywood County, North Carolina Registry of Deeds on March 14, 2014. On information and belief, Lender's security interest may impair the debtor's cash collateral.

9. The Debtor's use of Cash Collateral in this case is necessary for the continued operation of its business. Debtor needs to pay operational expenses, such as payroll, utilities, and insurance.

10. Debtor proposes to use the Cash Collateral as described in the budget attached hereto as Exhibit A (the "Budget"). Specifically, Debtor proposes to pay only those expenses itemized Budget. Debtor also requests permission to exceed any line item in the Budget that contains a dollar amount as long as Debtor does not exceed the overall amount requested in the Budget. If surplus funds are available from Cash Collateral after payment of those expenses set forth in Exhibit A, then such funds will be held by the Debtor pending further order of the Court.

#### RELIEF REQUESTED

11. As adequate protection for the use of Lender's Cash Collateral, Debtor agrees to provide Lender with replacement liens on post-petition Cash Collateral to the same extent and priority as its pre-petition liens, for the extent of any post-petition diminution in the pre-petition Cash Collateral as well as replacement liens on all other property that may be acquired post-petition by the Debtor with such replacement liens having the same extent and priority as Lenders' prepetition liens on such property.

12. Section 363(c)(2) provides that the Debtor may use Cash Collateral if each entity that has an interest in such Cash Collateral consents or if the court authorizes such use

after notice and hearing. Among the non-exclusive examples of adequate protection found in §361 is a replacement lien to the extent that use of collateral results in a decrease in its value.

13. Use of Cash Collateral is necessary in order for the Debtor to maintain its business operations. As the Debtor is continually receiving income from the operation of its business, Cash Collateral is continually being replenished. Therefore, Debtor believes that granting replacement liens to Lender will adequately protect Lenders' interest in the Debtor's assets.

14. Lenders have not yet consented to Debtor's use of Cash Collateral according to the terms set forth herein and the proposed interim order on use of cash collateral filed simultaneously herewith.

WHEREFORE, having shown that Debtor's continuing use of Cash Collateral for its ongoing operations is absolutely necessary, Debtor seeks interim and final orders authorizing use of such Cash Collateral and requests such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED on this the 21st day of June, 2017.

KIGHT LAW OFFICE, PC

By: /s/ D. Rodney Kight, Jr.  
D. Rodney Kight, Jr.  
NC State Bar #26453  
Attorney for the Debtor  
56 College Street, Suite 302  
Asheville, NC 28801  
(828) 255-9881  
(828) 255-9886 facsimile  
[rod@kightlaw.com](mailto:rod@kightlaw.com)