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Bruce T Beesley

Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
August 23, 2017

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Proposed Attorneys for Debtor

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

GOODWILL INDUSTRIES OF SOUTHERN
NEVADA, INC.,

Debtor.

Case No.: BK-S-17-14398-btb
Chapter 11

Interim Hearing:
Date: August 18, 2017
Time: 1:30 p.m.

Next Interim Hearing:
Date: August 30, 2017
Time: 10:00 a.m.

**EMERGENCY ORDER AUTHORIZING INTERIM USE OF CASH
COLLATERAL PURSUANT TO 11 U.S.C. § 363(c)(2) AND GRANTING
ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. §§ 362 AND 363(e);
AND SCHEDULING FURTHER INTERIM HEARING**

1 This matter came on for interim hearing on August 18, 2017 at 1:30 p.m. (the “Interim
2 Hearing”) upon the emergency motion (the “Motion”) [ECF No. 38] of Goodwill Industries of
3 Southern Nevada, Inc., as debtor and debtor in possession (the “Debtor”), requesting, *inter alia*,
4 that the Court enter an *Emergency Order Authorizing Interim Use of Cash Collateral Pursuant to*
5 *11 U.S.C. § 363(c)(2) and Granting Adequate Protection Pursuant to 11 U.S.C. §§ 362 and 363(e);*
6 *and Scheduling Next Interim Hearing* (this “Emergency Interim Order”), pursuant to sections 105,
7 361, 362, 363, 503, 507 and 552 of chapter 11 of title 11 of the United States Code (the
8 “Bankruptcy Code”), Rules 2002, 4001, 6004 and 9013 of the Federal Rules of Bankruptcy
9 Procedure (the “Bankruptcy Rules”), and Rule 4001 of the Local Rules of Bankruptcy Practice for
10 the United States District Court for the District of Nevada (the “Local Rules”), (i) authorizing the
11 Debtor to use cash collateral, (ii) granting adequate protection in connection therewith, and (iii)
12 approving this Emergency Interim Order at an emergency interim hearing and scheduling a
13 subsequent interim hearing (the “Subsequent Interim Hearing”) on the Motion.

14 The Court, having considered the Motion, the *Omnibus Declaration of John Helderma in*
15 *Support of Debtor’s Initial Emergency Motions and Related Relief* [ECF No. 28] and the
16 *Declaration of John Helderma in Support of Approval of Cash Collateral Stipulation* [ECF No.
17 39], and first day motions and applications filed substantially contemporaneously with the Motion,
18 and the evidence submitted, adduced or proffered at the Interim Hearing, the notice of the Interim
19 Hearing having been given in accordance with Bankruptcy Rules 2002, 4001 and 9013, and having
20 been announced on the record in open court on August 16, 2017 at 3:00 p.m., and all objections,
21 if any, to the interim relief requested in the Motion having been withdrawn, resolved or overruled
22 by the Court, and it appearing to the Court that granting the interim relief and entering this
23 Emergency Interim Order is necessary to avoid immediate and irreparable harm to the Debtor, its
24 creditors and its estate pending the Subsequent Interim Hearing, and otherwise is fair and
25 reasonable and in the best interests of the Debtor, its estate and its creditors, and equity holders,
26 and is essential for the continued operation of the Debtor’s business; and after due deliberation and
27 consideration, and for good and sufficient cause appearing therefor;

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1 **BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING,**
2 **THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND**
3 **CONCLUSIONS OF LAW:**

4 A. Petition Date. On August 11, 2017 (the “Petition Date”), the Debtor filed a
5 voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States
6 Bankruptcy Court for the District of Nevada (the “Court”). The Debtor is continuing in the
7 management and operation of its business and properties as a debtor-in-possession pursuant to
8 sections 1107 and 1108 of the Bankruptcy Code.

9 B. Jurisdiction and Venue. This Court has jurisdiction over the Debtor’s chapter 11
10 case (this “Case”) pursuant to 28 U.S.C. §§ 157 and 1334 and over the persons and property
11 affected hereby. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. §
12 157(b)(2). Pursuant to Local Rule 9014.2, the parties hereto consent to the entry of final orders
13 and judgments by the Court as to the matters set forth in the Motion and this Emergency Interim
14 Order. Venue of the Debtor’s Case is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

15 C. Notice. Notice of the Interim Hearing and the emergency relief requested in the
16 Motion has been provided by the Debtor, whether by fax, e-mail, overnight courier or hand
17 delivery, to certain parties in interest, including: (i) UMB Bank, as successor Indenture Trustee (in
18 such capacity, the “Indenture Trustee”), (ii) the Office of the United States Trustee (the “U.S.
19 Trustee”), (iii) the Internal Revenue Service, (iv) the persons and/or entities identified in the list
20 of 20 largest unsecured creditors of the Debtor, and (v) any parties required to be served under any
21 applicable Bankruptcy Rule or Local Rules. The Debtor has made reasonable efforts to afford the
22 best notice possible under the circumstances and such notice is good and sufficient to permit the
23 interim relief set forth in this Emergency Interim Order, and no other or further notice is or shall
24 be required.

25 D. Debtor’s Acknowledgments and Agreements. Without prejudice to the rights of
26 parties in interest as set forth in paragraph 15 herein, the Debtor (on behalf of and for itself and its
27 estates) admits, stipulates, acknowledges and agrees that (collectively, paragraphs E(i) through
28 E(vii) below are referred to herein as the “Debtor’s Stipulations”).

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- i. The Debtor is indebted to the Indenture Trustee, in such capacity, in the principal sum of not less than \$20,570,000 pursuant to a conduit financing relationship evidenced by (a) those certain \$19,735,000 in Series 2015A (Tax-Exempt) bonds issued pursuant to that certain Trust Indenture dated as of December 1, 2015 between Public Finance Authority, and UMB Bank, as successor indenture trustee (the “Trust Indenture”) and those certain \$2,410,000 Series 2015B (Taxable) Bonds issued pursuant to the Trust Indenture, and (b) that certain Loan Agreement between Public Finance Authority and Goodwill Industries of Southern Nevada, Inc., dated as of December 1, 2015, relating to \$22,145,000 Public Finance Authority Revenue Bonds (Goodwill Industries of Southern Nevada Project) Series 2015 (the “Loan Agreement”), and collectively, the “Prepetition Obligations”).
- ii. The Prepetition Obligations are secured by the Loan Agreement, under which the Debtor granted to the to the Indenture Trustee, as assignee for the Public Finance Authority (the “Authority”), for the benefit of the Bondholders, a security interest in its (i) “Gross Revenues” and (ii) its right, title and interest in all deposit accounts to which the Gross Revenues are deposited including an account established in the name of the Debtor at Bank of Nevada, a division of Western Alliance Bank, all amounts on deposit therein from time to time and all of the proceeds of the foregoing (the “Cash Collateral”). (Loan Agreement, § 16(k).) “Gross Revenues” include “all revenues, income, receipts and money now existing or hereafter received by or on behalf of the Debtor, solely from its Facilities, including (a) gross revenues derived from its operations and possession and pertaining to such Facilities, (b) gifts, grants, bequests, donations and contributions, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of Base Loan Payments, (c) proceeds derived from (i) condemnation proceedings, (ii) accounts and

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accounts receivable, (iii) securities and other investments, (iv) inventory and other tangible and intangible property, (v) insurance, (vi) contract rights and other rights and assets now or hereafter owned, held or possessed by or on behalf of the Debtor, (vii) payment intangibles and (viii) realization on any collateral provided by the Debtor under the Loan Agreement, including, without limitation, any Deed of Trust, and (d) rentals received from the lease of real estate.” (Indenture, p. 10.) Defined terms not otherwise defined in the preceding are ascribed the same definition as in the Indenture. The Debtor additionally covenanted in the Loan Agreement to grant the Debtor deeds of trust in certain real property. (Loan Agr. § 16(k).)

- iii. The Indenture Trustee has properly perfected its security interests in and on the Prepetition Collateral (the “Prepetition Liens”) by taking possession of, or obtaining control over, certain assets, and/or by filing UCC-1 financing statements, mortgages, deeds of trust, or other required documents against the Debtor and such Prepetition Collateral in the proper state or county offices for the perfection of such security interests and liens.
- iv. The Debtor represents that all of the Debtor’s cash and cash equivalents, including the cash in its deposit accounts, wherever located, whether as original collateral or proceeds of other Prepetition Collateral, constitute the “cash collateral” of the Indenture Trustee (as such term is defined in section 363(a) of the Bankruptcy Code) (the “Cash Collateral”), and is Prepetition Collateral of the Indenture Trustee, excepting and excluding therefrom any dedicated grant funds and any donations expressly earmarked for specific uses that would not include or permit the repayment of the Prepetition Obligations (collectively, the “Excluded Assets”).
- v. Without the prior express written approval of the Indenture Trustee, the Debtor shall not (i) file with the Court any pleading or request to limit, alter, modify, or terminate any provision of this Emergency Interim Order, or any protection

1 granted to the Bondholders hereunder, or (ii) seek, consent to, or join in the
2 approval of any matter or any plan of reorganization which purports to do any
3 of the things prohibited by this Emergency Interim Order.

4 E. Use of Cash Collateral. The Indenture Trustee is entitled to receive adequate
5 protection to the extent of any diminution in value of the Bondholders' interests in the Prepetition
6 Collateral (including the Cash Collateral) resulting from the use of Cash Collateral, the authorized
7 use, sale or lease of Prepetition Collateral, and the imposition of the automatic stay (collectively,
8 the "Diminution in Value") pursuant to sections 361, 362, and 363 of the Bankruptcy Code. The
9 Debtor has requested that the Indenture Trustee consent to the Debtor's use of the Cash Collateral
10 pursuant to the terms and conditions of this Emergency Interim Order during the Interim Period
11 (as defined herein). Subject to the entry of and continued effectiveness of this Emergency Interim
12 Order, the Indenture Trustee has consented to the Debtor's use of the Cash Collateral during the
13 Interim Period strictly on the terms and conditions set forth herein.

14 **NOW, THEREFORE**, on the Motion of the Debtor and the record before this Court with
15 respect to the Motion, and with the consent of the Debtor and the Indenture Trustee to the form
16 and entry of this Emergency Interim Order, and good and sufficient cause appearing therefor,

17 **IT IS ORDERED** that:

18 1. The Motion is granted in accordance with and limited to the terms and conditions
19 set forth in this Emergency Interim Order.

20 2. All objections to the Motion as it relates to the interim relief sought therein and to
21 the entry of this Emergency Interim Order have been resolved by the provisions hereof or are
22 overruled.

23 3. The Debtor's authorization, and the Indenture Trustee's consent, to use Cash
24 Collateral shall terminate on the earliest to occur of (the "Termination Date"): (i) September 1,
25 2017 (unless such period is extended by the Indenture Trustee in the Indenture Trustee's sole
26 discretion); (ii) the entry of an order of this Court terminating such right; (iii) the dismissal of the
27 Case or the conversion of the Case to a case under chapter 7 of the Bankruptcy Code; (iv) the
28 appointment in the Case of a trustee or an examiner with expanded powers; or (v) the expiration

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1 of the Remedies Notice Period following the delivery of a Termination Declaration (each as
2 defined herein) by the Indenture Trustee, according to the procedures set forth in Paragraph 11
3 below (the period during which the Debtor is authorized to use Cash Collateral pursuant to this
4 Emergency Interim Order being referred to as the “Interim Period”), unless the Court has entered
5 an order during such Period prohibiting the exercise of any of the following actions, rights and
6 remedies of the Indenture Trustee.

7 4. The Debtor, the Indenture Trustee, and their respective advisors and employees
8 have acted in good faith in negotiating, consenting, and agreeing to the Debtor’s use of the Cash
9 Collateral as contemplated and provided by this Emergency Interim Order. The negotiation of the
10 terms and provisions of this Emergency Interim Order has been conducted at arms’ length, and
11 such terms and provisions are fair and reasonable under the circumstances and reflect the Debtor’s
12 exercise of reasonable business judgment consistent with the Debtor’s fiduciary duties.

13 5. Nothing in this Emergency Interim Order shall in any way be construed or
14 interpreted to impose or allow the imposition upon the Bondholders, the Indenture Trustee or any
15 of their advisors or employees, any liability for any claims arising from the prepetition or
16 postpetition activities of the Debtor in the operation of its business, or in connection with its
17 restructuring efforts.

18 6. This Emergency Interim Order is without prejudice to the rights of the Indenture
19 Trustee to seek a modification of this Emergency Interim Order, including a request for additional
20 adequate protection or the termination of the Debtor’s right to use Cash Collateral, after notice and
21 hearing, including a hearing noticed on an emergency basis. The Indenture Trustee has expressly
22 reserved, and this Emergency Interim Order is without prejudice to, any and all rights and remedies
23 of the Indenture Trustee, including as to the appropriateness of any adequate protection that may
24 be proposed in connection with any authorization to use Cash Collateral after the Interim Period.

25 7. The Cash Collateral shall be used by the Debtor in a manner consistent with the
26 terms and conditions of this Emergency Interim Order and in accordance with the Budget, attached
27 hereto as **Exhibit 1** (the “Budget”), limited pursuant to this Emergency Interim Order to the Interim
28 Period, subject to the Permitted Budget Variance (as defined herein).

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1 8. The Debtor may use the Cash Collateral during the Interim Period solely to pay the
2 ordinary, necessary and reasonable expenses of operating its business exclusively in accordance
3 with and subject to the Budget. The Debtor’s actual disbursements for any given month during the
4 Interim Period shall not exceed the sum of (x) 110% of the disbursements projected for the Budget
5 (the “Permitted Budget Variance”). The Budget and any modification to, or extension, amendment
6 or update of the Budget, shall be in a form and substance acceptable to the Indenture Trustee in its
7 sole discretion.

8 9. On account of the Debtor’s use of the Cash Collateral during the Interim Period,
9 the Indenture Trustee is granted the following adequate protection:

10 a. Adequate Protection Liens. Pursuant to sections 361, 363(e) and 364 of the
11 Bankruptcy Code, and in consideration of the stipulations and consents set forth
12 herein, as adequate protection for any postpetition diminution in value of the
13 Indenture Trustee’s interests in the Prepetition Collateral (including the Cash
14 Collateral) (any “Diminution in Value”), the Indenture Trustee is hereby granted
15 additional and replacement valid, binding, enforceable, non-avoidable, and
16 automatically perfected postpetition security interests in and liens (the “Adequate
17 Protection Liens”), without the necessity of the execution by the Debtor (or
18 recordation or other filing) of security agreements, control agreements, pledge
19 agreements, financing statements, mortgages, or other similar documents, on all
20 property, whether now owned or hereafter acquired or existing and wherever
21 located, of the Debtor and the Debtor’s “estate” (as created pursuant to section
22 541(a) of the Bankruptcy Code), of any kind or nature whatsoever, real or personal,
23 tangible or intangible, and now existing or hereafter acquired or created, including,
24 without limitation, all cash, accounts, inventory, goods, contract rights,
25 instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses
26 therefor, accounts receivable, receivables and receivables records, general
27 intangibles, payment intangibles, tax or other refunds, insurance proceeds, letters
28 of credit, contracts, owned real estate, real property leaseholds, fixtures, deposit

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1 accounts, commercial tort claims, securities accounts, instruments, investment
2 property, letter-of-credit rights, supporting obligations, machinery and equipment,
3 real property, leases (and proceeds from the disposition thereof), other equity or
4 ownership interests, including equity interests in any subsidiaries and non-wholly-
5 owned subsidiaries, money, investment property, and causes of action (including
6 causes of action arising under section 549 of the Bankruptcy Code), and all
7 products, proceeds and supporting obligations of the foregoing, whether in
8 existence on the Petition Date or thereafter created, acquired, or arising and
9 wherever located (collectively, the “Postpetition Collateral”), having the priority
10 set forth in Paragraph 9(b) below. For the avoidance of doubt, notwithstanding
11 anything herein to the contrary, nothing herein is intended or should be construed
12 as granting of an Adequate Protection Lien in any Excluded Assets.

13 b. Priority of the Adequate Protection Liens. Subject to the terms of this Emergency
14 Interim Order, the Adequate Protection Liens shall be junior only to the: (A) the
15 Prepetition Liens, and (B) other unavoidable liens, if any, existing as of the Petition
16 Date that are senior in priority to the Prepetition Liens. The Adequate Protection
17 Liens shall otherwise be senior to all other security interests in, liens on, or claims
18 against any of the Postpetition Collateral (including any lien or security interest that
19 is avoided and preserved for the benefit of the Debtor and its estate under section
20 551 of the Bankruptcy Code). Subject to the terms of this Emergency Interim Order,
21 the Adequate Protection Liens shall be enforceable against and binding upon the
22 Debtor, its estate, any subsequently appointed trustee under either Chapter 7 or 11
23 and any successors thereto.

24 c. Superpriority Claim. Subject to the terms of this Emergency Interim Order, as
25 further adequate protection, and to the extent provided by sections 503(b) and
26 507(b) of the Bankruptcy Code, the Indenture Trustee is hereby granted an allowed
27 administrative expense claim in the Case ahead of and senior to any and all other
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- 1 administrative expense claims in such Cases to the extent of any postpetition
2 Diminution in Value (the “Superpriority Claim”).
- 3 d. Priority of the Superpriority Claim. The Superpriority Claim will not be junior to
4 any claims.
- 5 e. Reporting Requirement. In addition to, and without limiting, whatever rights to
6 access the Indenture Trustee has under the Prepetition Loan Documents, upon
7 reasonable notice, at reasonable times during normal business hours, the Debtor
8 shall permit representatives, agents, and employees of the Indenture Trustee to: (i)
9 have access to and inspect the Debtor’s assets; (ii) examine the Debtor’s books and
10 records, and (iii) to discuss the Debtor’s affairs, finances, and condition with the
11 Debtor’s officers and financial advisors.
- 12 10. The following events shall each constitute an event of default hereunder,
13 (collectively, the “Events of Default”):
- 14 a. the violation of or failure by the Debtor to perform, in any respect, any of the terms,
15 provisions, conditions, covenants, or obligations under this Emergency Interim
16 Order (including the Budget);
- 17 b. the obtaining of credit or the incurring of indebtedness that is (i) secured by a
18 security interest, mortgage or other lien on all or any portion of the Postpetition
19 Collateral that is equal or senior to any security interest, mortgage or other lien of
20 the Indenture Trustee, or (ii) entitled to priority administrative status that is equal
21 or senior to that granted to the Indenture Trustee herein;
- 22 c. any lien or security interest purported to be created under the Prepetition Loan
23 Documents shall cease to be, or shall be asserted by the Debtor not to be, a valid
24 and perfected lien on or security interest in any Prepetition Collateral, with the
25 priority required by the Prepetition Loan Documents or herein;
- 26 d. the entry of an order by the Court granting relief from or modifying the automatic
27 stay of section 362 of the Bankruptcy Code (i) to allow any creditor to execute upon
28 or enforce a lien on or security interest in any Postpetition Collateral, or (ii) with

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1 respect to any lien of or the granting of any lien on any Postpetition Collateral to
2 any state or local environmental or regulatory agency or authority, which in either
3 case would have a material adverse effect on the business, operations, property,
4 assets, or condition, financial or otherwise, of the Debtor;

5 e. the reversal, vacatur, or modification (without the express prior written consent of
6 the Indenture Trustee, in its sole discretion) of this Emergency Interim Order;
7 dismissal of the Case or conversion of the Case to a case under chapter 7, or
8 appointment of a chapter 11 trustee or examiner with enlarged powers or other
9 responsible person;

10 f. the sale of any portion of the Debtor’s assets outside the ordinary course of business
11 without the prior written consent of the Indenture Trustee, in its sole discretion; and

12 g. the granting of any motion providing for reconsideration, stay, or vacatur of this
13 Emergency Interim Order; or (1) the Debtor shall assert in any pleading filed in any
14 court that any material provision of this Emergency Interim Order is not valid and
15 binding for any reason, or (2) any material provision of this Emergency Interim
16 Order shall, for any reason, cease to be valid and binding without the prior written
17 consent of the Indenture Trustee.

18 11. Immediately upon the occurrence and during the continuation of an Event of
19 Default, the Indenture Trustee may declare a termination, reduction or restriction of the ability of
20 the Debtor to use any Cash Collateral (any such declaration shall be referred to herein as a
21 “Termination Declaration”). The Termination Declaration shall be given by e-mail or fax (or other
22 electronic means) contemporaneously to counsel to the Debtor, counsel to any statutory committee
23 of unsecured creditors (the “Committee”), and the U.S. Trustee (the earliest date any such
24 Termination Declaration is made shall be referred to herein as the “Termination Declaration
25 Date”). On the Termination Declaration Date, the Debtor’s right to use Cash Collateral shall
26 automatically cease, except as provided herein. Within seven (7) days after the Termination
27 Declaration Date (the “Remedies Notice Period”), the Debtor shall be entitled to seek an
28 emergency hearing with the Court seeking a determination of whether an Event of Default has

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1 occurred, continues and/or any other appropriate relief related to the Debtor's continued use of
2 Cash Collateral on a non-consensual basis, with the rights and objections of all parties reserved
3 with respect thereto. During the Remedies Notice Period, the parties consent pursuant to
4 Bankruptcy Rule 9006 and Local Rule 9006 to a hearing on any motion challenging the occurrence
5 and/or continuation of an Event of Default or otherwise on shortened time and agree that such
6 matter would be heard on an emergency basis. Unless the Court determines otherwise during the
7 Remedies Notice Period, the automatic stay shall automatically be terminated at the end of the
8 Remedies Notice Period without further notice to or order of the Court, and the Debtor shall no
9 longer have the right to use Cash Collateral and the Indenture Trustee shall be permitted to exercise
10 any and all remedies set forth herein or in the Prepetition Loan Documents, as applicable, and as
11 otherwise available at law against the Postpetition Collateral, without further order of or notice,
12 application or motion to the Court, and without restriction or restraint by any stay under sections
13 362 or 105 of the Bankruptcy Code, or otherwise, against the enforcement of the liens and security
14 interest in the Postpetition Collateral or any other rights and remedies granted to the Indenture
15 Trustee with respect thereto pursuant to the Prepetition Loan Documents or this Emergency
16 Interim Order, as applicable.

17 12. Notwithstanding anything to the contrary set forth in this Emergency Interim Order,
18 the Cash Collateral may only be used as set forth in the Budget.

19 13. This Emergency Interim Order shall be binding upon the Debtor, its estate and any
20 successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or
21 elected for the Debtor) under all circumstances and for all purposes.

22 14. Pending any subsequent interim order or final order, none of the Debtor's
23 stipulations or admissions in this Emergency Interim Order shall be binding on any third party,
24 including, but not limited to the Committee.

25 15. The Indenture Trustee has acted in good faith in connection with this Emergency
26 Interim Order and its reliance on this Emergency Interim Order is in good faith. Based on the
27 findings set forth in this Emergency Interim Order and in accordance with section 364(e) of the
28 Bankruptcy Code, which is applicable to the use of Cash Collateral contemplated by this

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1 Emergency Interim Order, in the event any or all of the provisions of this Emergency Interim Order
2 are hereafter modified, stayed, amended or vacated by a subsequent order of this or any other
3 Court, the Emergency Interim Order is entitled to the protections provided in section 364(e) of the
4 Bankruptcy Code and no such modification, stay, amendment or vacatur shall affect the validity
5 and enforceability of any advances made hereunder or the liens or priority authorized or created
6 hereby. Notwithstanding any such modification, amendment or vacatur, any claim or lien granted
7 to the Indenture Trustee hereunder arising prior to the effective date of such modification,
8 amendment or vacatur of any Adequate Protection Liens or granted to the Indenture Trustee shall
9 be governed in all respects by the original provisions of this Emergency Interim Order, and the
10 Indenture Trustee shall be entitled to all of the rights, remedies, privileges and benefits, including
11 the Adequate Protection Liens granted herein, with respect to any such claim or lien. Since the
12 consent to the use of Cash Collateral is made in reliance on this Emergency Interim Order, the
13 Prepetition Obligations owed to the Indenture Trustee prior to the effective date of any stay,
14 modification or vacatur of this Emergency Interim Order cannot, as a result of any subsequent
15 order in the Case or in any successor Case, be subordinated, lose their lien priority or super priority
16 administrative expense claim status, or be deprived of the benefit of the status of the liens and
17 claims granted to the Indenture Trustee under this Emergency Interim Order.

18 16. The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby
19 modified pursuant to the extent necessary to implement this Emergency Interim Order.

20 17. Nothing herein shall impair or modify the application of section 507(b) of the
21 Bankruptcy Code in the event that the adequate protection provided to the Indenture Trustee
22 hereunder is insufficient to compensate for any Diminution in Value of their interests in the
23 Prepetition Collateral during the Case. Nothing contained herein shall be deemed a finding by the
24 Court, or an acknowledgment by the Indenture Trustee, that the adequate protection granted herein
25 does in fact adequately protect the Indenture Trustee against any diminution in value of its interests
26 in the Prepetition Collateral (including the Cash Collateral).

27 18. The Indenture Trustee shall be entitled to apply the payments or proceeds of the
28 Prepetition Collateral in accordance with the provisions of the Prepetition Loan Documents, and

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1 in no event shall the Indenture Trustee or any bondholder be subject to the equitable doctrine of
2 “marshalling” or any other similar doctrine with respect to any of the Prepetition Collateral.

3 19. Pursuant to sections 105, 361, and 363 of the Bankruptcy Code, the Indenture
4 Trustee is hereby found to be an entity that has acted in “good faith” in connection with the
5 negotiation and entry of this Emergency Interim Order, and the Indenture Trustee is entitled to the
6 protection provided to such entities under section 363(m) of the Bankruptcy Code.

7 20. This Emergency Interim Order shall constitute findings of fact and conclusions of
8 law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately
9 upon the entry hereof. To the extent that any findings of fact are determined to be conclusions of
10 law, such findings of fact shall be adopted as such; and to the extent that any conclusions of law
11 are determined to be findings of fact, such conclusions of law shall be adopted as such.

12 21. Notwithstanding any applicability of any Bankruptcy Rules, the terms and
13 conditions of this Emergency Interim Order shall be immediately effective and enforceable upon
14 its entry.

15 22. The Court has and will retain jurisdiction to enforce this Emergency Interim Order
16 in accordance with its terms and to adjudicate any and all matters arising from or related to the
17 interpretation or implementation of this Emergency Interim Order.

18 23. The Subsequent Interim Hearing to consider entry of any subsequent interim order
19 and interim approval of the use of Cash Collateral, shall be held on August 30, 2017 at 10:00 a.m.,
20 at the United States Bankruptcy Court for the District of Nevada, Courtroom 5, before the
21 Honorable Bruce T. Beesley, Chief United States Bankruptcy Judge.

22 **IT IS SO ORDERED.**

23 ...
24 ...
25 ...

26
27
28

PREPARE AND SUBMITTED:

APPROVED / ~~DISAPPROVED~~:

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LR 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

The court has waived the requirement set forth in LR 9021(b)(1).

No party appeared at the hearing or filed an objection to the motion.

I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated above.

I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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EXHIBIT 1

	8/13/2017	8/20/2017	8/27/2017
	1	2	3
Draft Budget - Goodwill of Southern Nevada			
Ordinary Income/Expense			
Total Income	645,645	645,645	645,645
Total COGS	37,750	3,750	3,750
Gross Profit	607,895	641,895	641,895
Total 5999 · ADVERTISING & MARKETING	6,350	2,750	1,000
Total 6150 · INDIRECT COSTS	20,950	24,950	20,950
Total 6290 · SUPPLIES	9,005	13,540	12,095
Total 6395 · TRANSPORTATION	17,965	10,865	10,865
Total 7300 · PROFESSIONAL FEES	0	0	5,000
Total 7399 · OCCUPANCY	35,911	72,611	35,911
Total 7511 · PERSONNEL	486,418	253,978	486,418
Total 7590 · COMMUNICATIONS	0	18,500	1,670
Total Expense	576,599	397,194	573,909
Net Ordinary Income	31,297	244,702	67,987
Other Income/Expense			
Bond payment			
Net Income	31,297	244,702	67,987