

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

Singh Lodging, Inc.,
Debtor.

Proceedings Under Chapter 11

Tax I.D. No. 22-3944059

Case No.: 17-11637-CLB

Assigned Judge: Carl L. Bucki

***Ex-Parte* NOTICE OF MOTION OF THE DEBTOR FOR AUTHORITY
TO USE CASH COLLATERAL**

PLEASE TAKE NOTICE, Singh Lodging, Inc., through its proposed counsel, Michael A. Weishaar, Esq. has filed an Emergency Motion of the Debtor for Interim and Final Authority to Use Cash Collateral and Seeking Entry of an Order Establishing Dates for Hearings Thereon and Prescribing Appropriate Notice Thereof, dated August 1, 2017.

PLEASE TAKE FURTHER NOTICE, that a hearing on said application will be held *ex-parte* before the Hon. Carl L. Bucki, United States Bankruptcy Judge, in the courtroom usually occupied by him, at the United States Bankruptcy Court, Olympic Towers, 300 Pearl Street, Buffalo, New York 14202.

DATED: August 5, 2017
Buffalo, New York

/s/ Michael A. Weishaar
Michael A. Weishaar, Esq.
Attorney for Debtor
930 Convention Tower
Buffalo, New York 14202
(716) 845-6446

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In re

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Case No.: 17-11637-CLB

Assigned Judge: Carl L. Bucki

**EMERGENCY MOTION OF THE DEBTOR FOR INTERIM AND
FINAL AUTHORITY TO USE CASH COLLATERAL AND SEEKING
ENTRY OF AN ORDER ESTABLISHING DATES FOR HEARINGS
THEREON AND PRESCRIBING APPROPRIATE NOTICE THEREOF**

The Debtor-in- Possession, Singh Lodging, Inc. (the "Debtor"), by its proposed attorneys, Gleichenhaus, Marchese & Weishaar, PC, hereby moves this Court for an Order, pursuant to the Bankruptcy Code Section 363 and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure, authorizing the Debtor to use cash collateral in which Zions First National Bank (hereinafter, "Zions"), New York Business Development Corporation (hereinafter, "NYBDC"), BBCN Bankcorp, Inc. (hereinafter, "BBCN"), CAN Capital, Inc. (hereinafter, "CanCapital"), and Elm Services LLC (hereinafter, "Elm" and together with Zions, NYBDC, BBCN, & CanCapital, the "Secured Creditors") have or allege to have a lien or security interest, all as set forth more fully below.

Through this Motion, the Debtor requests entry of an order, substantially in the form of that filed and served herewith as Exhibit "A", establishing the date and time for a hearing on the Debtor's request for the entry of an Order, substantially in the form of that filed and served herewith as Exhibit "B", authorizing the Debtor's interim use of cash collateral, in accordance with the proposed budget filed and served herewith as Exhibit "C", to permit it to meet the costs of overhead, operations and preservation of its secured creditors' collateral, pending the time of a final hearing in this matter. The Debtor further seeks the entry of a final Order, substantially in the form of that being filed and served herewith as Exhibit "D", authorizing the Debtor's ongoing use of cash collateral.

The Debtor further moves this Court for an Order authorizing its interim use of cash collateral, to permit it to meet the costs of overhead, operations and preservation of the Secured Creditors' collateral, pending interim and final hearings in this matter, and granting replacement rollover liens to Secured Creditors, effective as of the August 4, 2017 filing of this case, to the extent of cash collateral actually used. Additionally, the Debtor requests that this Court enter an order establishing the date for a final hearing in this matter and prescribing appropriate notice of this matter to Secured Creditors and/or their counsel, the Office of the United States Trustee and to the Debtor's 20 largest unsecured creditors. In support of this Motion, the Debtor states as follows:

1. Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on August 4, 2017 (the "Filing").
2. The Debtor is a Sub-chapter "S" corporation that owns and operates the Knight's Inn, located at 50 Freeman Road, Lancaster, New York (the "Knights Inn").
3. The Knights Inn is valued at \$2,500,000.00 and is subject to a first mortgage in favor of Zions, in the approximate amount of \$1,000,000.00 and a second mortgage in favor of the NYBDC, in the approximate amount of \$715,000.
4. The Knights Inn consists of a two (2) story hotel of approximately 50,000 square feet with 99 guest rooms.
5. The property is situated on 1.92 acres, located off I-90, within five miles of Buffalo Niagara International Airport. The property was built in 1991.
6. The Debtor acquired the Knights Inn in or about December of 2006 and has exclusively owned and operated it until a Receiver was recently appointed.
7. Since the time of the acquisition, substantial capital improvements have been made to enhance the Knights Inn's operations and grow its revenues.
8. The business of the Debtor is highly seasonal, with its lowest revenue months occurring during the winter and the Debtor defaulted on its mortgage obligation in or about December 2016.
9. Zions commenced a mortgage foreclosure action, *ZB, N.A. d/b/a ZIONS BANK v. SINGH LODGING INC.*, et al Index No.: 803394/2017, on or about March 7, 2017. The state court entered an Order on June 30, 2017 appointing M. Neal Eckard as receiver in the mortgage foreclosure action.

10. A Motion for Summary Judgment requesting, among other things, Judgment of Foreclosure and Appointment of a Referee is pending in the State Court action.

11. Upon turnover of the property held by the Receiver, the Debtor has an immediate need to utilize cash and receipts to pay necessary expenses relating to the Knights Inn business operations in order to prevent the occurrence of immediate and irreparable harm to those operations.

12. The following creditors assert a perfected security interest in cash collateral:

- i. Zions First National Bank
UCC Financing Statement filed: November 6, 2006
UCC Continuation(s) filed on: May 9, 2011 & May 20, 2016
Outstanding Indebtedness: approx. \$1,000,000
- ii. New York Business Development Corporation
UCC Financing Statement filed: September 11, 2008
UCC Continuation filed on: April 11, 2013
Outstanding Indebtedness: approx. \$715,000
- iii. BBCN Bankcorp, Inc.
UCC Financing Statement filed: December 19, 2012
UCC Continuation filed on: July 15, 2017
Outstanding Indebtedness: approx. \$1,400,000
- iv. CAN Capital, Inc.
UCC Financing Statement filed: December 10, 2015
Outstanding Indebtedness: approx. \$25,000
- v. Elm Services LLC
UCC Financing Statement filed: March 9, 2016
Outstanding Indebtedness: approx. \$15,000

13. The Debtor requires use of cash collateral for those expenses projected in the budget annexed hereto as Exhibit "C".

14. The BBCN Bank Corp, Inc. is cross-collateralized against assets of Singh Hospitality, Inc. which operates a hotel in Minnesota and is pending sale; upon the closing of the Minnesota Hotel, and subsequent disbursement to BBCN, it is anticipated that Secured Creditors' claims will be fully secured by the assets of the Debtor.

15. Through this motion, the Debtor seeks the authorization for leave to use the cash collateral of the Secured Creditors to continue operations of the Debtor as a going concern.

16. Authorization of the usage of cash collateral as proposed by the Debtor would allow for the continuation of the Debtor's operations without interruption, which preserves the collateral of the Secured Creditors.

17. As adequate protection to the Secured Creditors the Debtor proposes to give "rollover" replacement liens on the same types and kinds of property on which the creditors assert liens pre-petition, to the extent of cash collateral actually used.

18. The Debtor's counsel has not had the opportunity, prior to the Filings, to communicate with counsel for Secured Creditors regarding these offers of adequate protection but will attempt to do so in advance of the initial hearing on this motion.

19. Additionally, the Debtor requests that this Court authorize the interim usage of cash collateral, pending the date of a final hearing in this matter.

20. Furthermore, the Debtor requests that this Court enter an order establishing dates for an interim and a final hearing and prescribing that it will be deemed good and sufficient service of this motion if the Debtor serves copies of this Order and the Debtor's moving papers upon the Secured Creditors, the Office of the United States Trustee and the Debtor's twenty largest unsecured creditors via either delivery of copies of same by First Class Mail delivered to the Postmaster on the date said forth on the Order.

21. A copy of the Debtor's proposed Order granting interim usage of cash collateral is being filed herewith as Exhibit "A".

WHEREFORE, the Debtor requests that the Court grant its motion, establishing dates for interim and final hearings regarding the usage of cash collateral, and that it authorize the interim use of cash collateral described above until such time as a final hearing in this matter may be held, that it establish dates for and prescribe notice for such final hearing, as set forth more fully above, and that it grant to the Debtor such other and further relief as this Court deems just and proper.

DATED: August 5, 2017
Buffalo, New York

Yours, etc.,
GLEICHENHAUS, MARCHESE & WEISHAAR, PC

By: /s/ Michael A. Weishaar, Esq.
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