

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK**

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**In re:**

**EAST MAIN COMPLEX, LLC,**

**Debtor.**

**Chapter 11**

**Tax ID 16-1539673**

**No. 1-17-11789-CLB**

**Hon. Carl L. Bucki**

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**EMERGENCY ORDER TO DIRECT AND COMPEL MANDATORY TURNOVER  
AND ACCOUNTING OF DEBTOR'S PROPERTY IN POSSESSION OF COURT-  
APPOINTED RECEIVER, FOR AUTHORITY TO USE CASH COLLATERAL  
ON AN EMERGENCY BASIS, AND TO SCHEDULE INTERIM HEARING  
ON DEBTOR'S USE OF CASH COLLATERAL**

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This matter having come before this Court upon the motion (the "Motion"),<sup>1</sup> of East Main Complex, LLC (the "Debtor"), seeking (a) the mandatory turnover and accounting of the Debtor's Property, (b) authority for the Debtor to use the Cash Collateral in which Manufacturers and Traders Trust Company ("M&T" or, the "Secured Creditor") has or claims a lien or security interest(s) on an emergency basis pursuant to the Emergency Budget, (c.) seeking a determination of this Court that the proposed use of that cash collateral will not otherwise modify the rights of Secured Creditors' and the Secured Creditor's collateral is adequately protected, and (d) to schedule an interim hearing on the Debtor's use of Cash Collateral,

AND, these matters having come on before this Court on an emergency basis, on notice to the Office of the United States Trustee, counsel for M&T, and the Receiver, on September 21, 2017, 1:00 p.m., on that portion of the Motion which sought the establishment of dates for an interim hearing on the Motion; and proper notice, and due deliberation being had thereon; and upon reading said Notice of Motion with Exhibits and after hearing Gleichenhaus, Marchese & Weishaar, PC (Michael A. Weishaar, Esq. of counsel), proposed counsel for the Debtor, Hodgson Russ, LLP (Steven W. Wells, Esq. of counsel), counsel for M&T, and Joseph W. Allen, Esq., the United States Trustee appearing by Assistant United States Trustee; and after due deliberation being had thereon, for the reasons stated by the Court on the record, it is hereby

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<sup>1</sup> Capitalized terms utilized but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

ORDERED, ADJUDGED AND DECREED as follows:

ORDERED, Jeff Bochiechio, Esq. (the "Receiver"), is hereby removed as Receiver; and it is further

ORDERED, that the Receiver shall account for all checks and cash received prior to the Petition Date, to the Debtor no later than seven (7) business days after entry of this Order; and it is further

ORDERED, that the Debtor shall provide an accounting of all expenses paid from October 11, 2016, the date of the appointment of the Receiver, until the Petition Date on or before the interim hearing on September 29, 2017; and it is further

ORDERED, that, on or within seven (7) business days after entry of this Order, the Receiver shall issue a remittance payable to "East Main Complex, LLC, Debtor-in-Possession" in the amount of \$22,343.61 (the "School Tax Carve Out"), said amount representing the Fredonia Central School 2017-2018 Tax Bill (of \$37,539.61), *less* \$15,196 on account of the Debtor not turning over the rents for the month of August, 2017 to the Receiver; and it is further

ORDERED, that, with the exception of the School Tax Carve Out, all checks and cash received prior to the Petition Date is the property of M&T Bank, to be disbursed within seven (7) business days after the entry of this Order; and it is further

ORDERED, that the Debtor shall pay the Fredonia Central School 2017-2018 Tax Bill, in the amount of \$37,539.61 on or before October 3, 2017, or within seven days of receiving the School Tax Carve Out, whichever date is later in time, and failure by the Debtor to pay said real property tax bill shall be grounds for termination of this emergency authority to use cash collateral; and it is further

ORDERED, that, with the exception of the Receiver's operating account, the Debtor shall be allowed to take over operation of the 183 East Main St. including, but not limited to: rent, keys, bank accounts, deposits and any other property of the bankruptcy estate, immediately upon entry of this Order; and it is further

ORDERED, that the turnover of the Debtor's Property, including the School Tax Carve Out, shall be delivered to the Debtor, via First Class Mail, to

East Main Complex, LLC  
Attn: Daniel P. Sturniolo  
183 East Main Street  
Fredonia, NY 14063

in the time limits prescribed herein; and it is further

ORDERED that, the Debtor is hereby authorized and permitted to use cash collateral on an emergency basis until the time of an interim hearing on the Debtor's Cash Collateral Motion in which the Secured Creditor has or claims a lien or security interests as set forth in the Emergency Budget; and it is

ORDERED, that the Debtor shall not deviate from the figures set forth in the Emergency Budget by greater than 5% without the prior written consent of M&T and the failure to comply with this provisions shall be grounds for termination of this emergency authority to use cash collateral; and it is further

ORDERED, that as emergency adequate protection to the Secured Creditor, the Secured Creditor is hereby granted "rollover" and replacement liens in post-petition assets of the Debtors of the same relative priority and on the same types and kinds of collateral as it possessed prepetition, as the same may ultimately be determined, to the extent of cash collateral actually used, effective as of the dates of the filings of these cases, without the necessity of any further public filing or other recordation to perfect such liens or security interests; and it is

ORDERED, that as additional adequate protection to the Secured Creditor, Debtor shall forward the regular monthly payments, in the amount of \$15,196, beginning with September, 2017, with each subsequent payment to be made on the 1<sup>st</sup> day of each month beginning on October 1, 2017, payable to "M&T Bank" and forwarded directly to:

M&T Bank  
Attn: Kenneth W. Paulin, Jr.  
One Fountain Plaza, 9<sup>th</sup> Floor  
Buffalo, New York 14203

and it is further

ORDERED, that nothing contained in this Order shall be deemed to constitute either a finding by this Court that those liens to be provided pursuant to this Order are themselves sufficient to adequately protect the Secured Creditor's secured claim(s), and the entry of this Order is without prejudice to the Secured Creditor's right to oppose further use of cash collateral or, alternatively, asserting that it is entitled to additional adequate protection of its secured claims, and the entry of this Order is without prejudice to the rights of the Debtor or any other party seeking to challenge the secured status of the Secured Creditor, or to assert that the

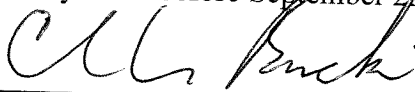
Secured Creditor's claims are less than fully secured, that the Secured Creditor should be entitled to different protections of its claims; and it is

ORDERED, that an interim hearing on the Debtor's Cash Collateral Motion will be held on September 29, 2017 at 2:00 p.m., before the Hon. Carl L. Bucki, in the courtroom usually occupied by him, at the United States Bankruptcy Court, Olympic Towers, 300 Pearl Street, Third Floor, Buffalo, New York 14202-2501; and it is

ORDERED, that a final hearing on the Debtor's Cash Collateral Motion will be set in the Order authorizing interim use of cash collateral; and it is

ORDERED, that the Debtor shall serve copies of this Order and the Debtor's Motion: (1) upon the US Trustee, M&T, counsel to M&T, the Receiver, and (2) upon the Debtor's 20 largest unsecured creditors via First Class Mail only on or before September 25, 2017 at 5:00 p.m..

ENTER: SEP 22 2017



**Hon. Carl L. Bucki**  
**U.S. Bankruptcy Judge**

