

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

Chapter 11

JBecks Properties, Inc.,
d/b/a Mr. Bill's Restaurant & Bar,

No. 1-18-11425-CLB

Debtor.

Hon. Carl L. Bucki

NOTICE OF DEBTOR'S MOTION FOR AUTHORITY
FOR CONTINUED USE OF CASH COLLATERAL

PLEASE TAKE NOTICE that, JBecks Properties, Inc., the debtor and debtor in possession in the above-captioned case (the "Debtor"), hereby files the *Debtor's Motion for Authority for Continued Use of Cash Collateral* (the "Motion").

PLEASE TAKE FURTHER NOTICE that, the Motion is scheduled for a hearing (the "Hearing"), before the Hon. Carl L. Bucki of the United States Bankruptcy Court for the Western District of New York (the "Court"), at the Robert H. Jackson United States Courthouse, 2 Niagara Square, 5th Floor—Orleans Courtroom, Buffalo, New York 14202, on November 12, 2018, at 10:00 a.m. (Prevailing Eastern Time), or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that, responses or objections to the Motion and relief requested therein, if any, must be made in writing, filed with the Court, and served on the undersigned so as to be received prior to the Hearing.

PLEASE TAKE FURTHER NOTICE that, anyone objecting or responding to the relief sought in the Motion must be present at any scheduled hearing.

PLEASE TAKE FURTHER NOTICE that, if you do not object to the relief sought in the Motion, then no other action is required by you.

PLEASE TAKE FURTHER NOTICE that, if no responses are timely filed and served with respect to the Motion, the Debtor shall submit to the Court an order substantially in the form of the proposed order annexed to the Motion, which order the Court may enter without further notice or opportunity to be heard.

PLEASE TAKE FURTHER NOTICE that, the Hearing may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court at the Hearing.

PLEASE TAKE FURTHER NOTICE that, the Motion is on file and may be reviewed by visiting during regular business hours the Clerk of the Court at the Robert H. Jackson United States Courthouse, 2 Niagara Square, Buffalo, New York 14202. You may also obtain copies of any

pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein. A copy of the Motion may be obtained by contacting the undersigned.

Dated: Buffalo, New York
November 2, 2018

GLEICHENHAUS, MARCHESE & WEISHAAR, P.C.

/s/ Michael A. Weishaar, Esq.

By: Michael A. Weishaar, Esq.
Counsel to the Debtor
43 Court Street, Suite 930
Buffalo, New York 14202-3100
Tel. 716/ 845-6446

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

In re:

**JBecks Properties, Inc.,
d/b/a Mr. Bill's Restaurant & Bar,**

Debtor.

Chapter 11

No. 1-18-11425-CLB

Hon. Carl L. Bucki

**DEBTOR'S MOTION FOR AUTHORITY FOR
CONTINUED USE OF CASH COLLATERAL**

The Debtor-in- Possession, JBecks Properties, Inc. (the "Debtor"), by its attorneys, Gleichenhau, Marchese & Weishaar, PC, hereby moves this Court for an Order, pursuant to Bankruptcy Code Section 363 and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure, authorizing the Debtor continued use of cash collateral in which New York Business Development Corporation (hereinafter, "NYBDC"), Colonial Funding Group, LLC (hereinafter, "CFG"), and CIT Bank, N.A. d/b/a Direct Capital (hereinafter, "CIT" and together with NYBDC, & CFG, 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", authorizing the Debtor's continued use of cash collateral, in accordance with the proposed budget filed and served herewith as Exhibit "B", to permit it to meet the costs of overhead, operations and preservation of its Secured Creditors' collateral, and granting replacement rollover liens to Secured Creditors, effective as of the July 24, 2018, filing of this case, to the extent of cash collateral actually used. 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 July 24, 2018.
2. The Debtor is a Sub-chapter "C" corporation that owns and operates Mr. Bills Restaurant & Bar, located at 1500 Cleveland Drive, Cheektowaga, New York (hereinafter, "Mr. Bills").

3. Pursuant to the schedules Mr. Bills assets are valued at \$61,564.00 and is subject to a first priority blanket security interest in favor of NYBDC, in the approximate amount of \$569,797.00 and subordinate liens in the approximate amount of \$100,000 (approx).

4. Mr. Bills bar restaurant can accommodate 100+ diners and a full service bar.

5. The Debtor acquired Mr. Bills in or about May of 2014 and has exclusively owned and operated it since said date.

6. Since the time of the acquisition, substantial capital improvements have been made to enhance the Mr. Bills operations and grow its revenues.

7. The business of the Debtor is seasonal, with its lowest revenue months occurring during the summer months and the Debtor defaulted on its first priority secured loan.

8. Prior to the filing, NYBDC commenced litigation, *NYBDC v. JBecks Properties, Inc.* Index No.: 803368/2018 (which was settled by a pre-petition forbearance agreement, terms of which proposed to be incorporated herewith).

9. On September 17, 2018, the Court authorized the Debtor to use its cash collateral through November 15, 2018.

10. The Debtor has an ongoing need to utilize cash and receipts to pay necessary expenses relating to the Mr. Bills business operations in order to prevent the occurrence of immediate and irreparable harm to those operations.

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

- i. New York Business Development Corporation
UCC Financing Statement filed: April 2, 2014
UCC Filing No.: 201404028122453
Outstanding Indebtedness: approx. \$569,750
- ii. CIT d/b/a DirectCapital/Operating Loan
UCC Financing Statement filed: May 25, 2016
UCC Filing No.: 201605255625498
Outstanding Indebtedness: approx. \$26,000
- iii. Colonial Funding Group, LLC
UCC Financing Statement filed: July 19, 2017
UCC Filing No.: 201707195866085
Outstanding Indebtedness: approx. \$68,486
- iv. CIT d/b/a DirectCapital/Equipment Loan
UCC Financing Statement filed: April 4, 2018
UCC Filing No.: 201804045404575
Outstanding Indebtedness: approx. \$18,000

12. The Debtor requires ongoing use of cash collateral for those expenses similar to those projected in the budget annexed hereto as Exhibit "B".

13. 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.

14. 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.

15. 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.

16. A copy of the Debtor's proposed Order granting authority for its continued use of cash collateral is being filed herewith as Exhibit "A".

WHEREFORE, the Debtor requests that the Court grant its motion for authority for continued use of cash collateral, as set forth more fully above, and that it grant the Debtor such other and further relief as this Court deems just and proper.

Dated: Buffalo, New York
November 2, 2018

GLEICHENHAUS, MARCHESE & WEISHAAR, P.C.

/s/ Michael A. Weishaar, Esq.

By: Michael A. Weishaar, Esq.
Counsel to the Debtor
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