

GEF:car
9/25/18

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:)	
)	CASE NO. 18-15798
VICTORY SOLUTIONS LLC)	
)	CHAPTER 11
Debtor)	
)	JUDGE PRICE SMITH

DEBTOR’S MOTION FOR AUTHORITY TO USE CASH COLLATERAL

Debtor, VICTORY SOLUTIONS LLC., by and through its undersigned attorney, hereby files this Emergency Motion for Authority to Use Cash Collateral (the "Motion") pursuant to 11 U.S.C. §105, §363, and §541 and Rule 4001 of the Federal Rules of Bankruptcy Procedure. In support of this Motion, the Debtor states:

Jurisdiction

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §157 and §1334. The subject matter of this Motion is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper in this district pursuant to 28 U.S.C. §1408. The statutory predicates for the relief sought herein are §105, §363, and §541 of the Bankruptcy Code. No previous application for the relief sought herein has been made by the Debtor to this Court or any other court.

Background

2. On September 27, 2018 (the "Petition Date"), the Debtor filed a Voluntary Petition for Relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The

Debtor is operating its business and managing its property as debtor in possession pursuant to §1107(a) and §1108 of the Bankruptcy Code.

3. The Debtor is in the business of operating a Political Consulting and Technology firm in Northeastern Ohio.

4. No trustee or examiner has been appointed in this case and no official committees have yet been appointed pursuant to §1102 of the Bankruptcy Code.

5. As of the Petition Date, the Debtor employed approximately five (5) employees.

6. Debtor needs to continue to operate to act as a Debtor-in- Possession and ultimately to reorganize.

7. Prior to the Petition Date, the Debtor, as borrower, was indebted to the Internal Revenue Service, which has tax liens on all of its property, in the approximate amount of \$411,000.00.

8. The Debtor believes that the Internal Revenue Service will assert (a) that it has a perfected security interests in the Collateral and (b) that the Internal Revenue Service perfected security interests generally enjoy the first level of priority.

Relief Requested and Grounds for Relief

9. The proceeds from the Collateral may constitute the cash collateral of . By this Motion, the Debtor seeks the entry of an order authorizing its use of cash collateral. The Debtor proposes to use cash collateral for purposes which include the following:

- (a) Care, maintenance and preservation of the Debtor's assets;
- (b) Payment of necessary payroll and other business expenses;
- (c) Purchase of goods and services, including inventory; and
- (d) Continued business operations.

Except as specifically authorized by law or court order, the Debtor will not use cash collateral to pay pre-petition obligations.

10. The Debtor proposes to allow floating liens on the post-petition Collateral in the same amount and level as the Internal Revenue Service held pre-petition and maintain the same level of Collateral as pre-petition. Because of uncertainties regarding the timing of expenses and purchases, and the impact of Chapter 11 on these items, it is impossible to predict with accuracy the precise amount of cash collateral necessary for the Debtor to operate its business. The proposed utilization of cash collateral will not, in any event, impair its position.

11. The Debtor requests authority to use cash collateral immediately to fund the operating expenses necessary to continue the operation of its business and to maintain the estate, to acquire inventory, to maximize the return on its assets, and to otherwise avoid irreparable harm and injury to its business and the estate.

12. There is insufficient time for a full hearing pursuant to Bankruptcy Rule 4001(b)(2) to be held before the Debtor must use cash collateral. If this Motion is not considered on an expedited basis and if the Debtor is denied the ability to immediately use cash collateral, there will be a direct and immediate material and adverse impact on the continuing operation of the Debtor's business and on the value of its assets. In order to continue its business activity in an effort to achieve a successful reorganization, the Debtor must use cash collateral in its ordinary business operations. The inability of the Debtor to meet its ordinary business expenses will require the Debtor to discontinue normal operations which will result in irreparable injury to the Debtor and its chances for reorganization. Any such discontinuation would also materially and

adversely impact upon the value of the Collateral. Indeed, it is in the best interest of the Debtor use its cash collateral, if such usage will preserve the value of the Collateral.

13. The Debtor proposes to grant the Internal Revenue Service a replacement lien on all inventory and accounts receivables acquired after the Petition Date equal in extent, validity, and priority to the security interest in inventory and accounts that the Internal Revenue Service held as of the Petition Date. In other words, the Debtor proposes that the Internal Revenue Service “floating” liens on such assets continue to “float” on post-petition inventory and accounts, notwithstanding §552 of the Bankruptcy Code to the same extent and level of priority as the pre-petition liens on collateral.

14. The interests of the Internal Revenue Service will be adequately protected. To provide additional security to the Internal Revenue Service, Debtor proposes to pay adequate protection in the amount of \$ 7,500.00 per month.

15. If allowed to use cash collateral, the Debtor believes that it can operate its business during the Chapter 11 and successfully reorganize its business.

Notice

16. Notice of this Motion is being sent to the Internal Revenue Service and its counsel, the United States Trustee for the Northern District of Ohio, and the twenty (20) largest unsecured creditors of the Debtor. Such notice is sufficient under Rule 4001.

‘s WHEREFORE, the Debtor respectfully requests that this Court enter an order granting the instant Motion and authorizing the interim use of cash collateral, schedule a preliminary hearing on the Motion at the earliest possible time, schedule a final cash collateral hearing in accordance with Bankruptcy Rule 4001(b)(2), authorize the Debtor to use the cash collateral in the operation of its business, and grant such other and further relief as may be just and proper.

DATED: September 27, 2018

Respectfully submitted:

/s/ Glenn E. Forbes, Esq.
Glenn E. Forbes, Esq. (0005513)
FORBES LAW LLC
Attorney for Debtor
166 Main Street
Painesville, OH 44077
(440) 357-6211

CERTIFICATE OF SERVICE

A copy of the foregoing was sent by the Court's CM/ECF system to the U.S. Trustee and by regular U.S. Mail, postage prepaid, on this 27th day of _____, 2018 to the following parties:

US Trustee at registereduser@usdoj.gov

Michael L. Murphy, Attorney for Creditor, Real Good Technologies at mmurphy@baileyglasser.com

Lydia M. Floyd, Attorney for Creditor, Real Good Technologies at lfloyd@prwlegal.com

20 Largest Unsecured Creditors (addresses attached)

/s/ Glenn E. Forbes, Esq.
Glenn E. Forbes, Esq.
FORBES LAW LLC
Attorney for Debtor