

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In Re:)	Case No. 18-15839
)	
)	
BJRP, LLC)	Chapter 11
)	
)	Judge: Arthur I. Harris
Debtor.)	

**MOTION OF DEBTOR AND DEBTOR-IN-POSSESSION FOR AUTHORITY TO USE
CASH COLLATERAL, OBTAIN AN ADVANCE ON ITS LINE OF CREDIT AND
REQUEST FOR A PRELIMINARY HEARING THEREON**

BJRP LLC, the Debtor and Debtor-in-Possession ("DIP") herein, whose address is 3355 Richmond Rd., Beachwood, Ohio 44122, and whose CEO is Brad Friedlander, Respectfully represents to the Court as follows:

1. The Debtor filed a Voluntary Petition under Chapter 11 of the Bankruptcy Code on September 28, 2018, and has remained in possession of its property and has been operating its business.
2. Tower IV LLC, American Express Bank and Advance American Business Solutions are each believed to claim blanket liens on the Debtor's cash collateral who are more fully identified on Exhibit A attached hereto, that may entitle them to claim a lien upon cash collateral as that term is defined in §363 of the Bankruptcy Code.
3. No Committee of Creditors has been appointed in this case under Title 11 of the United States Code at this time.

4. The Debtor and DIP are engaged in the business of operating two contiguous restaurants, known as Moxie the Restaurant and Red the Steakhouse.

5. The DIP has no source of operating funds, other than from the sales of its products, and the proceeds thereof, as well as the accounts receivables collected therefrom in the interval.

6. The Debtor on a standalone basis is profitable but has gotten into financial difficulty due to extending credit to affiliated restaurant entities which have not been profitable.

7. The DIP's projected cash flow and cash needs for the period through December 23, 2018, are shown on Exhibit A attached hereto and incorporated herein by reference.

8. The value of the collateral claimed by the creditors is worth at fair market value on a going concern basis about equal to the senior lien claim of Tower IV, LLC, which is approximately \$960,000,

9. The second lien holder is believed to be American Express Bank (Amex") whose claim is estimated at \$269,000.00. AMEX on a regular basis accepts the Debtor's credit cards, processes the various charges for AMEX and other credit cards through an ACH service and is paid a monthly fee for doing so. AMEX is critical to the continued operations of the Debtor, and also is secured by receivables collected by an affiliate of the Debtor, Red South Beach LLC.

10. The third lien holder is Advance American Business Solutions, whose claim is believed to be in third position, and which purports to have financed the Debtor's receivable, but whose claim is believed to be wholly unsecured and thus does not have any "cash collateral" to which it may be entitled.

11. The Debtor believes based upon the attached cash flow projections that it will be cash positive within 90 days, but is in need of the use of its cash and a short term loan, which

Tower IV is willing to advance in accordance with its existing loan documents and provide up to \$150,000, on an as needed basis, subject to the entry of an order with mutually acceptable terms. The interests of Tower IV in the cash collateral and any loan up to an additional \$150,000 should be adequately protected by the granting of a replacement blanket lien senior to all other liens on the cash collateral and existing collateral of Tower IV should constitute adequate protection.

12. Pursuant to Bankruptcy Rule 4001(b)(2) and (d) there is a requirement of fourteen (14) days notice of the within Motion to the parties reflected in the Certificate of Service appended hereto, but on request of the Movant for a Preliminary Hearing hereon, the Court may grant Movant limited authority to use cash collateral.

13. Absent granting the DIP immediate authority to use cash collateral substantially in the amounts as shown on Exhibit A, in addition to up to \$150K of additional loans to meet and pay the current items set forth thereon, the DIP will be unable to operate the business of the Debtor, and as a result thereof the estate will suffer immediate and irreparable harm, as the business of the Debtor will be suspended if not terminated and the goodwill lost, with the result that it will be impossible to reorganize the Debtor.

14. Tower IV has agreed to consent to the granting of this Motion, subject to the entry by this Court of an appropriate agreed order, pending the hearing to be had on this Motion pursuant to the requirements of Bankruptcy Rule 4001.

15. The Debtor anticipates continuing its current arrangement with Amex at least on an interim basis.

16. The Debtor intends to treat Advance American Business Solutions as a wholly unsecured creditor.

17. There may be others who profess to be the holders of claims secured by collateral other than cash collateral, but their interests if any, will not be adversely affected by any order of this Court authorizing the DIP to use cash collateral, and absent immediate relief, the payroll of the DIP which is now past due¹, cannot be made.

WHEREFORE, your DIP requests a Preliminary Hearing hereon and the granting of interim relief authorizing your DIP to use its cash collateral during the next 4 weeks as shown on Exhibit A, as well as obtain additional advances up to \$150,000 on its existing loan with Tower IV, for the purposes aforementioned; and prays for leave of Court to use the claimed cash collateral to meet and pay its payroll obligations, including the pre-petition priority portion of the Debtor's payroll, and for such other and further relief as is just and proper.

/s/ Richard A. Baumgart
Richard A. Baumgart (0002664)
Dettelbach Sicherman & Baumgart LLC
55 Public Square, 21st Floor
Cleveland, OH 44113-1902
T 216-696-6000
F 216-696-3338
rbaumgart@dsb-law.com
Attorneys for Debtor(s)

CERTIFICATE OF SERVICE

A copy of the foregoing Motion and attached Notice was served as follows this 3rd day of October, 2018, to the twenty largest unsecured creditors as indicated on the list thereof filed with this Court concurrent with the filing of the Debtor's Petition commencing its case under Chapter 11 of Title 11 of the United States Code.

/s/Richard A. Baumgart

¹The Debtor is not certain but believes that because of the timing of the case and its payroll setup that all or a portion of its payroll may have already been processed.

Richard A. Baumgart, Attorney

NOTICE OF HEARING

Please take notice that the foregoing Motion will be on for a preliminary hearing on the 5th day of October, 2018, at 11:00 o'clock A.M. in Courtroom Room #1, United States Courthouse, Public Square, 201 Superior Avenue, Cleveland, Ohio 44114, before the United States Bankruptcy Judge Arthur I. Harris, or as soon thereafter as the Court may conveniently hear same; and a final hearing thereon will be commenced at a time to then be designated in open court by the Bankruptcy Judge.

Richard A. Baumgart

Richard A. Baumgart, Attorney