

Below is an Order of the Court.


TRISH M. BROWN
U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON**

In re) **CASE NO.: 17-33893-tmb11**
Creekside Homes, Inc.,) **FINAL ORDER AUTHORIZING**
Debtor.) **DEBTOR-IN-POSSESSION TO USE**
) **CASH COLLATERAL**

A final hearing (“Hearing”) was held on November 20, 2017, on the Debtor’s Amended Motion For Use of Cash Collateral on a Final Basis (“Motion”). (Docket No. 43)

The Court has considered the Notice of Final Hearing on Motion for Use of Cash Collateral (Docket No. 43), the Motion and the Declaration and exhibits attached to the Motion, (docket no. 43) the Renewed Objection by Swift Financial Corporation to Debtor’s Motion for Authority to Use Cash Collateral and Swift’s Motion for Surrender

**FINAL ORDER AUTHORIZING DEBTOR-IN-POSSESSION
TO USE CASH COLLATERAL**

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Order (Docket No. 50) (“Objection”), the Declaration of Bonnie Carey in Support of Renewed Objection By Swift Financial Corporation To Debtor’s Motion for Authority to Use Cash Collateral and Motion for Surrender Order (Docket No. 51), the Amended Declaration of Bonnie Carey in Support of Renewed Objection by Swift Financial Corporation to Debtor's Motion for Authority To Use Cash Collateral and Motion for Surrender Order (Docket No. 53), the revised financial projections attached to the correspondence dated November 20, 2017, from attorney Keith Boyd (Docket No. 55). The Court has considered the evidence presented at the Hearing and on the entire record herein, the Court makes the following findings of fact and conclusions of law:

A. On October 18, 2017 (the “Petition Date”), the Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code. It is continuing in possession of its property and is operating and managing its business as a debtor-in-possession pursuant to 11 U.S.C. §§1107 and 1108.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (M), 1334 and LR 2100-1. Consideration of this Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. § 1408.

C. Service of the Motion was accomplished by U.S. Mail and/or email transmission, and notice of the Hearing was provided to affected parties, e.g., the Office of the United States Trustee and to the 20 largest unsecured creditors and creditors asserting interests in the Debtor’s monies and accounts receivable. Under the circumstances of this case, the appropriate notice of the Motion and the relief requested therein has been provided and no other notice need be provided for entry of this Order.

D. The entry of this Order (i) is necessary to allow the Debtor to continue the operation of its businesses in an orderly manner, to pay its essential post-petition

operating expenses, and to satisfy other working capital and operational needs, (ii) constitutes a critical element to achieving a successful reorganization of the Debtor, and (iii) best serves the interests of the Debtor's estate.

E. Each of the foregoing findings by this Court will be deemed a finding of fact if and to the full extent that it makes and contains factual findings, and will be deemed a conclusion of law if and to the full extent that it makes and contains legal conclusions.

G. The Motion affirmatively states and does not seek any relief contained in paragraph 5 of the Court's Local Form 541.5 entitled "Procedures Re: Motions For Use of Cash Collateral or to Obtain Credit".

Based upon the foregoing findings and conclusions, and upon the record made by the Debtor at the Hearing, and good and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is granted on a final basis, subject to the terms and conditions set forth in this Final Order. All objections, if any, to the Motion are resolved hereby or, to the extent not resolved, are overruled.
2. The Debtor is authorized to use cash collateral during the final period November 17, 2017 through February 28, 2018 ("Final Period") in accordance with the budget attached hereto as **Exhibit 1** ("Budget").
3. The Debtor may vary from its proposed Budget by as much as 20% in any one category where the weekly budgeted amount is under \$500. The Debtor may vary from its proposed Budget by as much as 10% as to any one category where the weekly budgeted amount is \$500 or more. If the Debtor determines it needs to vary from any one budgeted item by more than the permitted variances, the Debtor must first provide written notice by

email or telecopier of the variance to Funding Circle and to Swift Funding for approval of such variance. If Funding Circle and Swift Funding do not object to the variance within 72 business hours, then the proposed variance will be deemed approved. If either Funding Circle or Swift Financial timely object to the variance, the Debtor must seek approval of this Court before using cash collateral in excess of the variances permitted under this Order.

4. In addition, to the extent that the Debtor may under-spend in any category in any weekly period, the Debtor may carry over from any such week the unused monies which may then be used in the same categories in future weeks. Such carry forward of monies shall not count toward the permitted variances.
5. The Debtor will timely provide weekly financial statements to the United States Trustee, counsel for Swift Financial Corporation, counsel for Funding Circle and any other interested party requesting a copy in writing from the Debtor. The weekly statements shall include, but not be limited to, a comparison of the Debtor's actual financial performance versus its budgeted financial performance. The weekly financial reports shall be due each Tuesday during this Final Period and shall report on the Debtor's financial performance through Friday of the preceding week.
6. The four entities asserting interests in the Debtor's monies and accounts receivable will be adequately protected during this period by (1) providing replacements lien to these four entities to the extent their prepetition liens attached to the Debtor's property and with the same validity, extent, priority, and description of collateral and (2) the value of the secured assets, (3) additional revenues created by operating the business, (4) keeping all assets

- properly insured and (5) the value of the Debtor's assets.
7. This Order is not intended, nor shall it be deemed, to improve or enhance the collateral position of any of the Debtor's secured creditors as of the Petition Date.
 8. Swift Financial's argument, that it purchased the Debtor's future accounts receivable, is overruled.
 9. The Debtor's request to pay adequate protection payments to Funding Circle is denied provided that the Debtor or Funding Circle may file a motion seeking authority for the Debtor to pay adequate protection payments to Funding Circle.
 10. This Court retains jurisdiction with respect to all matters arising from or relating to the implementation of this Order.
 11. This Order shall be effective immediately upon its entry pursuant to F.R.B.P. Rule 6004(h).

CERTIFICATION OF COMPLIANCE WITH LBR 9021-1(a)(2)(B)

The requirements of LBR 9021-1(a)(2)(B) have been complied with.

Presented By:

THE LAW OFFICES OF KEITH Y. BOYD

By: /s/ Keith Y. Boyd

Keith Y. Boyd, OSB #760701

keith@boydlegal.net

724 S. Central Ave., Suite 106

Medford, OR 97501

Telephone: 541-973-2422

Facsimile: 541-973-2426

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THE FOX LAW CORPORATION
By: /s/ Steven R. Fox, CA bar no. 138808
srfox@foxlaw.com
17835 Ventura Blvd., Suite 306
Encino, CA 91316
Telephone: (818) 774-3545
Facsimile: (818) 774-3707

Attorneys for Debtor in Possession

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Exhibit “1”

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Creekside Homes, Inc.

Projection of Cash Receipts and

Disbursements

For the 4-month period ending 2/28/18

<u>For the week ending:</u>	<u>11/3/17</u>	<u>11/10/17</u>	<u>11/17/17</u>	<u>11/24/17</u>	<u>12/1/17</u>	<u>12/8/17</u>
Revenue	4,080	-	106,000	25,250	10,730	30,000
COGS -Labor & Material	-	1,000	61,000	3,000	4,000	30,500
Gross Profit	4,080	(1,000)	45,000	22,250	6,730	(500)
Expenses						
Advertising/Marketing	1,750				2,750	
Auto Expense (Leases and fuel)			1,801		1,100	1,801
Bookkeeping	500		500		500	
Insurance -Liab, Auto & WC	3,240				3,240	
Payroll -Officers			8,200			
Payroll-admin, PR Tax and fees			16,500			
Office & Admin Expenses			2,175	2,175		2,175
Rent Expense	1,120				1,120	
Repairs & Maintenance			200	200	-	200
Shop Supplies & Small Tools	250		250		250	
Telephone and Utilities				1,100		
US Trustee Fees						
Total Expense	6,860	-	29,626	3,475	8,960	4,176
Net Ordinary Income	(2,780)	(1,000)	15,374	18,775	(2,230)	(4,676)
Beginning Cash as of 10/30/17	4,243					
Projected Ending Cash	1,463	463	15,837	34,612	32,382	27,706

Creekside Homes, Inc.

Projection of Cash Receipts and
Disbursements

For the 4-month period ending 2/28/18

<u>For the week ending:</u>	<u>12/15/17</u>	<u>12/22/17</u>	<u>12/29/17</u>	<u>Jan</u>	<u>Feb</u>	<u>TOTAL</u>
Revenue	130,000	5,680	38,459	320,000	258,000	928,199
COGS -Labor & Material	88,000	26,000	30,000	273,800	224,820	742,120
Gross Profit	42,000	(20,320)	8,459	46,200	33,180	186,079
Expenses						
Advertising/Marketing				2,750	2,750	10,000
Auto Expense (Leases and fuel)			1,100	2,901	2,901	11,604
Bookkeeping	500			1,000	1,000	4,000
Insurance -Liab, Auto & WC				3,240	3,240	12,960
Payroll -Officers	8,200			8,200	8,200	32,800
Payroll-admin, PR Tax and fees	16,500			16,500	16,500	66,000
Office & Admin Expenses		2,175		4,350	4,350	17,400
Rent Expense				1,120	1,120	4,480
Repairs & Maintenance		200		400	400	1,600
Shop Supplies & Small Tools	250			500	500	2,000
Telephone and Utilities	1,100			1,100	1,100	4,400
US Trustee Fees				4,875		4,875
Total Expense	26,550	2,375	1,100	46,936	42,061	172,119
Net Ordinary Income	15,450	(22,695)	7,359	(736)	(8,881)	13,960
Beginning Cash as of 10/30/17						
Projected Ending Cash	43,156	20,461	27,820	27,084	18,203	18,203

Work In Progress

<u>Customer</u>	<u>11/3/17</u>	<u>11/10/17</u>	<u>11/17/17</u>	<u>11/24/17</u>	<u>12/1/17</u>	<u>12/8/17</u>	<u>12/15/17</u>	<u>12/22/17</u>	<u>12/29/17</u>	<u>Jan</u>	<u>Feb</u>	<u>TOTAL</u>
CL					4,730					50,000	10,000	64,730
CS	1,400		36,000				20,000			60,000	30,000	147,400
DG	2,680						40,000			30,000	40,000	112,680
DL			-	21,250		30,000			38,459			89,709
JC							-	-		-	-	-
KG			50,000				40,000			45,000	45,000	180,000
TS			20,000				30,000			45,000	45,000	140,000
DA				4,000							3,000	7,000
KK					6,000					40,000	40,000	86,000
AB				-			-			-	-	-
RB								5,680		50,000	45,000	100,680
Total												
Revenue	4,080	-	106,000	25,250	10,730	30,000	130,000	5,680	38,459	320,000	258,000	928,199

Cost of Goods Sold												
Customer ID	11/3/17	11/10/17	11/17/17	11/24/17	12/1/17	12/8/17	12/15/17	12/22/17	12/29/17	Jan	Feb	TOTAL
CL					4,000					39,500	7,900	51,400
CS			15,000				10,000			47,400	23,700	96,100
DG							25,000			23,700	31,600	80,300
DL		1,000		3,000						-	-	4,000
JC						25,000			30,000	-	-	55,000
KG			18,500				28,000			35,550	35,550	117,600
TS			6,500				25,000			35,550	35,550	102,600
BA										-	2,370	2,370
KK						5,500				31,600	31,600	68,700
AB										-	-	-
RB								5,000		39,500	35,550	80,050
Total Material												
Pay'ts	-	1,000	40,000	3,000	4,000	30,500	88,000	5,000	30,000	252,800	203,820	658,120
Labor			21,000					21,000		21,000	21,000	84,000
Total COGS	-	1,000	61,000	3,000	4,000	30,500	88,000	26,000	30,000	273,800	224,820	742,120

Footnotes:

Revenue -	Based upon the schedule of Work in Progress above.
COGS -Labor & Material	The debtor historically bids jobs at cost plus 30%, resulting in bids @ 24 % gross margin. This margin has not been achieved in recent historicals. Hence, this line item is the area that has been targeted for reorganization.
Advertising/Marketing	Website hosting, sales funnel management, and guerilla marketing.
Auto Expense (Leases and fuel)	Three auto leases, \$491, \$482, and \$828, plus fuel costs estimated \$1100/mo based on YTD fuel expense.
Bookkeeping	Cost to administer financial statements and prepare monthly operating reports. General liability \$1600/mo, Auto \$640/mo, Workers comp estimate of \$1000/mo.
Insurance -Liab, Auto & WC	
Payroll -Officers	Officers payroll includes both Andrew and Sarah Burton, gross wages. Admin payroll plus PR taxes and processing fees for Admin, Officers, and Direct labor.
Payroll & PR Tax- Admin	
Office & Admin Expenses	Based on historical expenses YTD. See table 1 below.
Rent Expense	Per current lease agreement.
Repairs & Maintenance	Includes cleaning of office, uniforms, and repairs.
Shop Supplies & Small Tools	Based on historical expenses, YTD.
Telephone and Utilities	Based on historical expenses, YTD.
US Trustee Fees	According to the US Trustee Fee Schedule.

Table 1 - Office & Admin Expense	Per month
Bus license, taxes, permits & fees	400
Computer and Internet Expense	300
Dues, Subscriptions, Training and Benes	1,300
Printing and postage	250
Office supplies and expense	2,100
Total	4,350