

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>In re:</p> <p>StageArtz Limited,</p> <p style="text-align: center;">Debtor.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>CHAPTER 11</p> <p>Case No. 17-13694 (ELF)</p>
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**DEBTOR’ S MOTION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE
DEBTOR TO INCUR POSTPETITION INDEBTEDNESS;
(II) AUTHORIZING USE OF CASH COLLATERAL;
(III) GRANTING ADEQUATE PROTECTION; (IV) SCHEDULING A
FINAL HEARING AND (V) GRANTING RELATED RELIEF**

StageArtz Limited (the “Debtor”), by and through its proposed counsel, Smith Kane Holman, LLC, hereby moves the Court for the entry of interim and final orders (i) authorizing the Debtor to incur post-petition secured indebtedness (the “DIP Loan”), (ii) authorizing the Debtor to use cash collateral; (iii) granting adequate protection to the Debtor’s pre-petition secured creditor; (iv) scheduling a final hearing on the relief requested herein; and (v) granting related relief (the “Motion”). In support of the Motion, the Debtor respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2).
2. Venue is proper in this district pursuant to 28 U.S.C. §§1408 and 1409.
3. The statutory predicates for the relief sought herein are sections 105, 361, 363 and 364 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 4001 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

4. The Debtor filed its voluntary petition for relief 11 U.S.C. §101 et seq. (the “Bankruptcy Code”) on May 26, 2017 (the “Petition Date”) and has continued in possession of its property and operating its business as a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

5. The Debtor is a performing arts institution which offers private music lessons in a variety of instruments, group classes, child development programs, and summer camps with a focus on musical, theatrical, and performing arts.

6. The Debtor also hosts musical birthday parties, team-building activities, and other activities to entertain families, children and small groups.

7. The Debtor currently employs seventeen (17) employees, including the two (2) owners/officers, all of whom work out of the Debtor’s leased premises located at 6 Airport Square, North Wales, PA 19454 (the “Premises”).

Pre-Petition Litigation

8. On or about October 30, 2014, the Debtor, as buyer, and Music Training Center Holdings LLC, as seller (“MTC Holdings”), entered into an Asset Purchase Agreement (“APA”) for the sale of certain assets for the purchase price of \$105,000.

9. On or about October 30, 2014, Music Training Center Franchising LLC, as franchisor, (“MTC Franchising”) and Srividya and Murali Kesavan, as franchise owner, entered into Franchise Agreement (“FA”) for a term of 10 years; Srividya and Murali Kesavan, as franchise owner provided a personally guarantee for the price of \$40,000 (\$30,000 franchise fee + \$10,000 training fee).

10. On February 4, 2015, the Small Business Administration (SBA) Addendum to the

FA was executed by MTC Franchising and the Debtor, as franchise owner entity, to secure the finance for the purchase of assets and franchise license.

11. The Debtor took over the franchised business on March 1, 2015 and made leasehold improvements, as well as infused further funds towards the operation of the business.

12. Between the execution of the APA and the FA in October 2014 and business takeover in March 2015, the Debtor was working to secure financing. The Kesavans secured the SBA-backed finance by providing personal guarantee to Wells Fargo Bank, N.A. and paid all the balances due to MTC Holdings and MTC Franchising.

13. The leasehold of the Debtor's school is owned by Gateway-DC Properties ("Landlord"). On March 31, 2015, as part of the Asset Purchase Agreement, the Lease Assignment Agreement ("LAA") was executed between Landlord MTC Holdings, and the Debtor for the demised premises "6 Airport Square, North Wales, PA 19454." StageArtz Limited paid \$15,525 to Landlord toward additional security deposit. Further, the Debtor reimbursed the initial security deposit of \$14,375 to MTC Holdings. The Landlord now holds Debtor's \$29,900 security deposit.

14. On or about November 8, 2016, after only 20 months into the operation of the 10-year termed franchise ownership of the Kesavans, MTC Franchising terminated the franchise agreement unlawfully, as a self-help measure to enable its parent company MTC Holdings to assume the lease using the lease take back clause (back-door approach).

15. Shortly thereafter, MTC Holdings filed an eviction action in Magisterial District Court misrepresenting itself as Sub-Lessor. That case was dismissed on December 19, 2016. MTC Holdings re-filed the eviction action in Magisterial District Court and that case was heard on January 9, 2017. The court ruled in favor of Debtor and denied the eviction.

16. MTC Franchising and MTC Holdings together filed a complaint in the Court of Common Pleas for Montgomery County on February 22, 2017. Service was accomplished on March 7, 2017. Plaintiffs filed a Petition for Preliminary Injunction on March 13, 2017. This was served on March 15, 2017.

17. The matter was listed for court hearing and preliminary injunction hearing was pending as of the filing the Debtor's chapter 11 case.

18. The time and cost of the pre-petition litigation, coupled with the broader need to reorganize its affairs, left the Debtor with no choice but to file the within bankruptcy case.

Debtor's Pre-Petition Secured Debt

19. Prior to the Petition Date, to fund its acquisition under the APA, the Debtor obtained an SBA small loan advantage loan funds from Wells Fargo Bank, N.A. ("Wells Fargo") and borrowed \$92,800 pursuant to a Note dated April 23, 2015 (the Note").

20. As security for the Debtor's obligations to Wells Fargo, the Debtor granted to Wells Fargo a security interest in and to all of its accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, consignment or other disposition of any property, and all proceeds and products thereof, equipment and inventory, (collectively, the "Collateral"). To the extent that Wells Fargo holds a valid, perfected and non-avoidable security interest, Wells Fargo's security interest in the Collateral or in the proceeds thereof constitute the cash collateral of Wells Fargo (the "Cash Collateral").

21. As of the Petition Date, the Debtor remains current on its obligations to Wells Fargo under the Note. The Debtor believes, and therefore avers, that amount due and owing to Wells Fargo as of the Petition Date is \$79,218.45

22. A search of the Pennsylvania Department of State records indicates that there are

no other creditors who assert an interest in the Debtor's Cash Collateral.

Debtor's Request of Use of Cash Collateral

23. The Debtor needs immediate authority to use Cash Collateral to continue operations, to pay for goods and services, and to meet other ongoing obligations of the Debtor's business, including the Debtor's upcoming payroll of June 12, 2017 and its bi-monthly payroll thereafter. The Debtor projects its *interim* cash collateral needs for the three week period commencing on June 8, 2017 and continuing through and including Sunday, June 25, 2017 to be \$41,799.66, which includes bi-monthly payroll and related obligations, overhead expenses, administrative expenses, monthly secured loan payment to Wells Fargo and its purchasing requirements. A true and correct copy of the Debtor's interim three week cash collateral budget (the "Interim Budget") is attached hereto and made a part hereof as Exhibit "A."

24. The Court may authorize the use of cash collateral under 11 U.S.C. §§363(c)(2)(B) and 363(e) if the Court determines that the secured party's interest in its collateral is adequately protected. A determination of adequate protection focuses on the nature of the collateral, the likelihood that it will deteriorate during the bankruptcy and the Debtor's prospects for a successful reorganization within a reasonable period of time.

25. The Debtor believes that the going concern value of the Debtor's business exceeds its liquidation value, that the value of the Cash Collateral will not decrease during this proceeding, and that even if the going concern value of the Debtor decreases during this proceeding, it will still exceed the liquidation value.

26. Moreover, Wells Fargo's interest in Cash Collateral will be protected as follows: (i) Debtor shall continue making its monthly secured loan payment to Wells Fargo in the amount of \$11,000 and (ii) to the extent that Wells Fargo has a valid, perfected and a non-avoidable lien

in the Cash Collateral and the Debtor's use of the Cash Collateral diminishes such interest, the Debtor will grant Wells Fargo replacement liens on post-petition accounts and proceeds thereof to secure such diminution.

27. The Debtor believes that the public interest is served by permitting use of Cash Collateral. If the use of Cash Collateral is denied, the Debtor will, in all probability, be forced to close, forcing its employees to lose their jobs and severely impairing the prospect of payment of its creditors' claims.

28. It is in the best interests of the reorganization of the Debtor, its creditors, its employees and its equity interest holders, to authorize the use of Cash Collateral immediately so that the Debtor may continue its operations, meet its payroll obligations and purchasing needs on a current basis, provide employment for employees, and to propose a successful plan of reorganization.

Debtor's Request for Authorization to Incur Post-Petition Indebtedness

29. As reflected in the Interim Budget, the Debtor requires authority to borrow up to \$16,000 to meet all of its anticipated expenses of operation over the next three weeks.

30. Given the emergency nature of the request and the relatively small amount of the required indebtedness, Murali Kesavan, Debtor's owner/officer, is ready and willing to lend up to \$16,000 to the Debtor for its operations on an unsecured basis under 11 U.S.C. §364(b) as an administrative expense (the "DIP Loan").

31. As set forth in the Interim Budget, Mr. Kesavan is prepared to lend up to \$7,000 for operational expenses for the w/e June 11, 2017 and another \$9,000 for operational expenses for the w/e June 25, 2017. If approved, the DIP Loan would be interest-free and paid back to Mr. Kesavan only as cash flow allows in the ordinary course of business and as set forth in future

approved Cash Collateral budgets..

**Expedited Consideration of the Motion is Necessary
to Prevent Immediate and Irreparable Harm**

32. The Debtor requests that the Court conduct an expedited preliminary hearing with respect to this Motion and schedule a final hearing at the earliest possible date in accordance with Fed.R.Bankr.P.4001(b) and (c).

33. Under Rule 4001 of the Bankruptcy Rules, a final hearing on a debtor's motion to authorize use of Cash collateral or to obtain credit may not be commenced earlier than 14 days after service of the motion. Fed.R.Bankr.P.4001(b)(2),(c)(2). Upon request, however, the Court may conduct a preliminary, expedited hearing on such a motion and authorize the use of cash collateral and the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to the debtor's estate. Fed.R.Bankr.P.4001(b)(2),(c)(2).

34. As noted above, the Debtor has an urgent and immediate need to use Cash Collateral and the DIP Loan to continue operating its business. As reflected on the Interim Budget, without immediate access to Cash collateral and the DIP Loan - which are the sole source of funding for the Debtor's operations - the Debtor cannot pay current and ongoing operating expenses such as wages and salaries, necessary products and services and its secured loan obligations. Consequently, the use of Cash Collateral and access to the DIP Loan on an immediate and interim basis is required to avoid irreparable harm that will jeopardize any prospect for a successful reorganization. As reflected in the Interim Budget, the Debtor request to borrow only \$16,000 under the DIP Loan on an interim basis.

35. In order to avoid immediate and irreparable harm to the Debtor's estate pending a final hearing on this Motion, the Debtor requires the use of Cash Collateral and access to DIP

Loan for a three week interim period to pay, among other things, payroll and related expenses, its secured loan obligations and its ordinary business costs and expenses in accordance with the Interim Budget.

Notice

36. Notice of this Motion has been given to (i) the Office of the United States Trustee; (ii) the Debtor's twenty largest unsecured creditors; (iii) Wells Fargo, the Debtor's secured creditor and (iv) Mr. Kesavan, the Debtor's owner/officer and proposed DIP lender. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is required.

37. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that this Court enter interim and final orders, substantially in the form annexed hereto, (i) authorizing the Debtor's use of Cash Collateral; (ii) authorizing the Debtor to obtain the DIP Loan; (iii) scheduling a final hearing on this Motion, and (iv) granting such other and further relief as is just and proper under the circumstances.

SMITH KANE HOLMAN, LLC

Date: June 7, 2017

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