

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

*In re:* : **Chapter 11**  
:   
RINA diMONTELLA FASHIONS, LLC, :   
Debtor. :   
:   
:   
: **Bankruptcy No. 17-17747(JKF)**

**MOTION OF THE DEBTOR AND DEBTOR-IN-POSSESSION FOR AN ORDER PURSUANT TO 11 U.S.C. §363 (I) PERMITTING USE OF CASH COLLATERAL AND PROVIDING ADEQUATE PROTECTION TO PARTIES WITH INTEREST IN CASH COLLATERAL, (II) REQUESTING AN EXPEDITED HEARING, REDUCED NOTICE PERIOD AND LIMITED NOTICE PURSUANT TO FEDERAL RULE OFBANKRUPTCY PROCEDURE 9006(C)(1) AND E.D. PA. L.B.R. 5070(F) AND FOR (III) FOR RELATED RELIEF**

Rina diMontella Fashions, LLC (the “Debtor”) and by and through proposed counsel, Ciardi Ciardi & Astin, hereby requests an order granting authority to (I) use Cash Collateral and Provide Adequate Protection to Parties with Interest in Cash Collateral, and (II) scheduling an Expedited Hearing, Reduced Notice Period and Limited Notice Pursuant to Federal Rule of Bankruptcy Procedure 9006(c)(1) And E.D. Pa. L.B.R. 5070(f), and for (III) related Relief (the “Motion”) and in support thereof, respectfully represents:

**JURISDICTION**

1. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this motion is a core proceeding pursuant to 28 U.S.C. §157(b). Venue of this case is proper in this district pursuant to 28 U.S.C. §§1408 and 1409.

## BACKGROUND

2. On November 14, 2017 (the “Petition Date”), the Debtor filed a voluntary petition for reorganization pursuant to title 11 of chapter 11 of the United States Code, as Amended (the “Bankruptcy Code”).

3. No trustee or examiner has been appointed in this Chapter 11 case. As of the date of the filing of the Motion, no creditors’ committee has been appointed in this Chapter 11 case by the United States Trustee.

4. The Debtor is a design house for women who demand a sophisticated look with an acute sense of taste for elegance and glamour. The Debtor’s designer, Rina di Montella, brings refinement in the form of special occasion dresses, a mother of the bride dress, or a cocktail dress. The Debtor’s bridal dresses feature a wedding dress design with streamlined silhouettes in luxurious fabrications with elaborate beading and embroidery. The Debtor’s designs have garnered international acclaim in both social and bridal circles. The principal of the Debtor and her sister have maintained a family business with a concentrated focus on attention to detail and customer service since the Debtor’s formation.

5. The Debtor currently has one paid employee that is neither an insider of the Debtor nor a relative of the sole member of the Debtor. As of the Petition Date, no pre-petition wages were due and owing from the Debtor to its employee. The Debtor pays approximately \$3,750.00 in gross payroll per month.

6. Prior to the Petition Date, Univest Bank and Trust Co., formerly Valley Green Bank (the “Lender”) made a loan to the Debtor (the “Loan”) secured by a first lien position on the Debtor’s property. As of October 2017, the balance alleged to be due and owing to the

Lender from the Debtor is approximately \$288,000. The Debtor submits the Loan is secured by the Debtor's dress inventory and accounts receivable. The Debtor believes the value of the Debtor's inventory is approximately \$150,000 and the Debtor's accounts receivable, as of the Petition Date, aggregate to approximately \$67,000.

7. Moreover, the IRS has two secured liens on all of the assets of the Debtor in the aggregate approximate amount of \$67,369.99 that prime the Lender. Therefore, the Debtor submits the Lender is undersecured. Also, the Debtor owes approximately \$8,623.94 to the Commonwealth of Pennsylvania due to unpaid employer withholding taxes related to operations in 2016.

8. Prior to the Petition Date, the Debtor also received loans from non-traditional, hard money lenders that have filed UCC-1 Financing Statements against the Debtor's property. Upon information and belief, these non-traditional lenders include Strategic Funding Source, Inc., Cap Call, LLC, Midtown Resources, LLC, and Complete Business Solutions Group, Inc. (the "Non-Traditional Lenders").

9. The Debtor submits the Non-Traditional Lenders are entirely unsecured and thus have no interest in cash collateral.

### **RELIEF REQUESTED**

10. The Debtor requires use of cash and accounts to continue operations in the ordinary course of business.

11. Section 363(c) of the Bankruptcy Code allows a debtor to use, sell or lease cash collateral if each entity that has an interest in cash collateral consents or the Court authorizes the use. See 11 U.S.C. §363(c)(2).

12. The Debtor prepared a budget detailing its projected monthly revenue of \$20,000 and its fixed monthly expenses of approximately \$10,000 (the "Budget"). The Budget is attached hereto as **Exhibit A**. Because the Debtor filed the Motion on an expedited basis, it initially seeks use of cash collateral for two weeks, through November 30, 2017, or such shorter time period as the Court deems just and appropriate. The continued use of cash collateral will allow the Debtor to continue operating so that the Debtor can continue with this reorganization by proposing a plan to satisfy the claims of creditors.

13. Moreover, the Debtor proposes to provide adequate protection to the Lender and any other party asserting a lien on cash or accounts in the form of a replacement lien of the same extent, priority and validity as existed pre-petition.

14. The Debtor believes that the request to use cash collateral is proper, reasonable and necessary to continue the Debtor's operations.

15. Approval of the Debtor's request to use cash collateral is in the best interest of the Debtor and creditors of the Debtor's estate.

16. In order to maintain the Debtor's usual operations, the Debtor requires the use of cash collateral for the payment of expenses as more specifically set forth in Budget. Through the payment of the expenses detailed in the budget, the Debtor will be able to maintain the status quo while also facilitating a reorganization and enhancing the value of the collateral. Specifically, the Debtor must immediately focus on preparations for going to market in the first quarter of 2018 which necessitates the design and production of sample dresses and styles.

**REQUEST FOR EXPEDITED CONSIDERATION**

17. The Debtor requests expedited treatment in connection with the Motion because it requires the immediate use of cash collateral to fund ongoing operations mentioned in the Motion. Accordingly, the Debtor requests that a hearing on use of cash collateral through November 30, 2017 be held at the convenience of the Court but no later than November 17, 2017.

18. As of the filing of this Motion, no trustee, examiner or creditor's committee has been appointed in the Debtor's Chapter 11 case. Notice of this Motion has been given via facsimile or electronic mail to the Office of the United States Trustee and counsel for the Lender as well as the Debtor's Top Twenty Unsecured Creditors, which include the Non-Traditional Lenders, and taxing authorities to which the Debtor owes or may owe money (the "Taxing Authorities"). The Debtor submits that no other notice need be given in light of the exigencies of the circumstances and the irreparable harm to the Debtor, its bankruptcy estate, and all parties in interest that would ensue if the relief requested herein is not granted.

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

20. Prior to filing this Motion, proposed counsel for the Debtor contacted Counsel for the Office of the United States Trustee and Counsel for the Lender to advise them of the request for an expedited hearing and the relief requested therein. As of the filing of this Motion, the undersigned has received no objection to the proposed expedited consideration of the Motion.

**WHEREFORE**, the Debtor respectfully requests that this Court enter an Order in the form attached hereto and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

CIARDI CIARDI & ASTIN

Dated: November 15, 2017

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