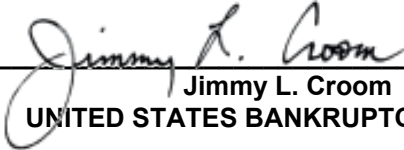




**Dated: October 19, 2017**  
**The following is SO ORDERED:**

  
\_\_\_\_\_  
Jimmy L. Croom  
UNITED STATES BANKRUPTCY JUDGE

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**IN THE UNITED STATES BANKRUPTCY  
COURT FOR THE WESTERN DISTRICT OF  
TENNESSEE EASTERN DIVISION**

**In Re:**

**REPLOGLE ENTERPRISES, G.P.,**

**Debtor.**

**Chapter 11**

**Case No. 17-bk-12173**

**Judge Croom**

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**INTERIM ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL  
AND (II) GRANTING ADEQUATE PROTECTION**

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Upon the Motion<sup>1</sup> of the above-captioned Debtor and Debtor in possession (the “Debtor”), pursuant to Sections 363 of the United States Bankruptcy Code (the “Bankruptcy Code”) and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) to use Cash Collateral in the above Chapter 11 case; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and notice of the Motion having been adequate and appropriate under the circumstances; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtor, its creditors,

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<sup>1</sup> Any capitalized terms not defined herein shall have the meaning attributed to them in the Motion.

and all parties in interest; and upon the Motion and all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore, it is hereby ORDERED:

A. Commencement of Case. On September 29, 2017 (the “Petition Date”), the Debtor commenced this case (the “Chapter 11 Case”) by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtor has continued in the possession, management, and operation of its assets and business in accordance with Sections 1107 and 1108 of the Bankruptcy Code.

B. No Trustee, Statutory Committee. As of the date of this Interim Order, no trustee has been appointed herein, and no official committee of unsecured creditors (the “Committee”) has been appointed in this case.

C. Jurisdiction. This Court has jurisdiction over this Chapter 11 Case and the Motion pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a “core” proceeding as defined in 28 U.S.C. § 157(b)(2).

D. TN BIDCO Loan. Pursuant to that certain Promissory Note dated April 15, 2010, in the original principal amount of \$4,800,000.00 (collectively, and with all amendments and extensions thereto, the “TN BIDCO Loan”)<sup>2</sup> with Tennessee Business and Industrial Development Corporation (“TN BIDCO”). TN BIDCO asserts a lien as is secured by Commercial Security Agreements dated as of November 15, 2013, December 23, 2015 and June 15, 2016, through which the Debtor pledged all assets. These interests were perfected a UCC filings on April 23, 2010 (which was followed by a continuation filing on April 8, 2015) and on May 17, 2010 (which was followed by a continuation filing on March 9, 2015). According to the UCC Statement filed to perfect security interests associated with the TN BIDCO Loan, the obligations thereunder are

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<sup>2</sup> The current balance is believed to be \$3,514,467.29

secured by all fixtures, equipment, office systems and equipment, machinery, furniture, furnishings, appliances, inventory, goods, building and construction materials, supplies and articles of personal property, all accounts, permits, and licenses (the “Cash Collateral.”)

F. Notice of Interim Hearing Sufficient. The Court considered the evidence submitted at an expedited interim hearing held before the Court on October 12, 2017 (the “Interim Hearing”) and granted this Order (the “Interim Order”). Notice of the Interim Hearing was given in accordance with Bankruptcy Rules 4001 and 9014 and has been deemed sufficient under the circumstances; and all objections, if any, to the relief requested in this Interim Order were either withdrawn, resolved, or overruled by the Court as set forth herein.

G. Cash Collateral Need. The Debtor’s need to use Cash Collateral is immediate and critical to enable the Debtor to administer its Chapter 11 Case generally, continue to operate its business in the normal course, and preserve the value of its estate for all stakeholders. The ability of the Debtor to pay employees requires the availability of working capital from the use of Cash Collateral, the absence of which would immediately and irreparably harm the Debtor, its estate, and its stakeholders. The Debtor does not have sufficient available sources of working capital and financing to pay employees in the ordinary course of business without the authorized use of Cash Collateral.

H. Motion Granted. Based upon the foregoing findings and conclusions, the record made before this Court by the Debtor at the Interim Hearing and good and sufficient cause appearing therefor,

IT IS THEREFORE ORDERED:

1. Cash Collateral Authorization.

(a) The Debtor is authorized to continue its use of the Cash Collateral through October

26, 2017 (the “Cash Collateral Period”), solely on the terms, for the purposes, and in the amounts set forth in the Budget attached hereto and made a part hereof as Exhibit A (as modified and as it may be extended from time to time in accordance with this Interim Order, the “Budget”). In furtherance of the Debtor’s authorization to use the Cash Collateral subject to the limitations contained in the Budget and this Interim Order, the Debtor shall not in any event be authorized to use Cash Collateral in excess of 110% of the aggregate amount shown on the Budget during the Cash Collateral Period, without further approval from the Court.

(b) Unless sooner terminated in accordance with the terms of this Interim Order, the Debtor’s right to use the Cash Collateral shall terminate (“Termination”) on October 27, 2016. Upon Termination, the Debtor shall immediately cease using the Cash Collateral; however, nothing herein shall be deemed a waiver of (i) the Debtor’s right to seek authority to continue its use of the Cash Collateral beyond Termination, in accordance with §§ 361 and 363 of the Bankruptcy Code, or (ii) the right of the Secured Creditors to object thereto.

2. Adequate Protection. In consideration of the Debtor’s use of the Collateral and Cash Collateral in accordance with the Budget and the other terms and provisions of this Interim Order, TN BIDCO shall be granted the following “adequate protection” pursuant to Section 361 of the Bankruptcy Code (collectively, the “Adequate Protection”) in consideration for the use of their Collateral and Cash Collateral from and after the Petition Date, including any diminution in the value thereof:

(a) TN BIDCO is hereby granted a replacement lien (collectively, the “Adequate Protection Lien”), which shall attach to the same extent and with the same priority as enjoyed prior to the Petition Date, to the extent of any diminution in value of the Collateral and Cash Collateral, in all of the Debtor’s post-petition assets of the same kind and description as the

Collateral (“Post-Petition Collateral”). The Adequate Protection Lien shall be supplemental to the security interest that TN BIDCO possesses pursuant to its Loan Documents.

(b) The Adequate Protection Lien granted pursuant to this Interim Order shall constitute valid and duly perfected security interests and liens, and TN BIDCO shall not be required to file or serve financing statements, notices of lien or similar instruments which otherwise may be required under federal or state law in any jurisdiction, or take any action, including taking possession, to validate and perfect such security interests and liens; and the failure by the Debtor to take any action or execute any documentation relating to the Adequate Protection Lien shall in no way affect the validity, perfection, or priority of such replacement liens.

(c) The Adequate Protection Lien shall continue in full force and effect until TN BIDCO receives payment in full of their allowed secured claims and, to the extent authorized by the Court pursuant to § 506(b) of the Bankruptcy Court, such interest, fees, costs, and expenses, including reasonable attorneys’ fees, whether currently existing or hereafter accrued and incurred, as provided for by the applicable loan documents.

(d) Nothing in this Order shall be construed as an improvement of the value of TN BIDCO’s pre-petition security or security interest as of the date of the filing of the petition.

(e) Nothing in this Order shall be construed to be an adjudication as to the extent, validity, and priority of TN BIDCO’s pre-petition security or security interest as of the date of the filing of the petition.

3. Insurance. The Debtor shall maintain all necessary insurance (including, without limitation, fire, hazard, comprehensive, public liability, and workmen’s compensation) for its business and assets including, but not limited to, the Collateral and Post-Petition Collateral, in

accordance with the obligations under the TN BIDCO Loan and as may be required under any applicable operating guidelines of the United States Trustee.

4. Termination of Cash Collateral Usage. Upon Termination, the Debtor shall be prohibited from using the Cash Collateral, absent further order of this Court.

5. Without Prejudice. This Interim Order is without prejudice to: (a) any subsequent request by a party in interest (including, but not limited to TN BIDCO) for modified adequate protection or restrictions on use of Cash Collateral; or (b) any other right or remedy which may be available to TN BIDCO.

6. Cash Collateral Account. The Debtor is authorized use its account at Commercial Bank & Trust or First Bank for the deposit of revenues. The Debtor will be authorized to distribute these funds to pay expenses in the ordinary course of business, including payroll and employee benefits authorized by Court order, provided such expenses are within the Budget as provided above.

7. United States Trustee Fees. This Order provides that quarterly fees due to the United States Trustee are deemed an ordinary use of Cash Collateral and may be paid as such with those Cash Collateral funds. Additionally, the United States Trustee quarterly fees are being added as a line item to the proposed Budget (in an approximate amount).

8. Miscellaneous.

(a) The provisions of this Interim Order, and any actions taken pursuant hereto, shall survive entry of any order which may be entered (a) confirming any plan of reorganization in the Chapter 11 Case, (b) converting the Chapter 11 Case to a Chapter 7 case, or (c) dismissing the Chapter 11 Case, and the terms and provisions of this Interim Order as well as the Adequate Protection Lien, granted pursuant to this Interim Order shall continue in full force and effect

notwithstanding the entry of such order.

(b) The Debtors are authorized to perform all acts that are deemed reasonably necessary by the Debtors to effectuate the terms and conditions of this Interim Order.

9. Notice. Any notice or correspondence required to be sent hereunder shall be forwarded by email at the addresses set forth below, and by first class mail, and shall be deemed given upon the earlier of (a) successful email transmission or (b) two days after being deposited in the United States Mail, postage pre-paid, and addressed as follows:

If to TN BIDCO:

TN BIDCO  
1301 East Wood Street  
Paris, TN 38242

With a copy to:

Paul Nowak  
Yost, Robertson, Nowak, PLLC  
P.O. Box 681346  
Franklin, TN 37068-1346

If to the Debtor:

Replogle Enterprises, G.P.,  
Attn: Melissa Wright  
2040 Lumber Road  
Henry, Tennessee 3231

With a copy to:

Phillip G. Young, Jr.  
Thompson Burton, PLLC  
6100 Tower Circle, Suite 200  
Franklin, TN 37067  
[phillip@thompsonburton.com](mailto:phillip@thompsonburton.com)

10. Final Hearing. A final hearing on the approval of the Motion is scheduled for October 26, 2016, at 9:30 a.m. before this Court, 111 S. Highland Ave., Jackson, TN 38301. The

Debtor shall serve this Interim Order (which shall constitute adequate notice of the Final Hearing) within three business days from the date of entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(1)(C), plus any other party that has filed a request for notices with the Court and to the Office of the United States Trustee. Any party in interest objection to the relief sought in the Motion shall submit any objection in writing no later than October 24, 2017, at 12:00 p.m.

THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY  
AS INDICATED AT THE TOP OF THE FIRST PAGE

APPROVED FOR ENTRY:

THOMPSON BURTON PLLC

/s/ Justin T. Campbell  
Phillip Young (021087)  
Ronald G. Steen, Jr. (020536)  
David Canas (016623)  
Justin T. Campbell (031056)  
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Franklin, TN 37067  
Phone: (615) 465-6000  
Email: [phillip@thompsonburton.com](mailto:phillip@thompsonburton.com)  
[ronn.steen@thompsonburton.com](mailto:ronn.steen@thompsonburton.com)  
[david@thompsonburton.com](mailto:david@thompsonburton.com)  
[justin@thompsonburton.com](mailto:justin@thompsonburton.com)

Counsel to Debtor