

Lusky & Associates, P.C.
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

PAUL'S AUTO CENTERS, LP
Debtor.

CASE NO. 17-34657-hdh
Chapter 11

MOTION FOR AUTHORITY TO USE OF CASH COLLATERAL

COMES NOW Paul's Auto Centers, LP the Chapter 11 Debtor in the above styled and referenced bankruptcy case (the "Debtor"), and files this Motion for Use of Cash Collateral pursuant to 11 U.S.C. § 363 of the Bankruptcy Code and in support of same would respectfully show the following:

1. On December 14, 2017, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor is now operating its business and managing its property as a debtor in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner and no official committee has yet been appointed.

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The Debtor owns and operates an automobile leasing and sales business

4. Three (2) creditors may assert liens against all or various account receivable streams of the debtor.

- a. Small Dealer Assistance (“SDA”) holds, as collateral, certain notes receivable. These notes are for vehicles purchased from the debtor and are, themselves, secured by the vehicles.
 - i. The debtor remits approximately \$1,200 weekly to SDA.
 - ii. The debtor currently collects approximately \$1,000 weekly from its note payors.
- b. AFC Funding Corporation financed the purchase of a part of the debtor’s rental inventory. Its collateral is shown on Exhibit “B 22b” attached hereto and incorporated herein.
 - i. AFC is paid per each vehicle based on a formula of monthly payments 2.5% of the original balance plus interest at the rate of Wall Street Journal Prime plus 2.75% plus a monthly “invoice fee” of \$20.00 per vehicle.
 - ii. The balance owing to AFC is approximately \$105,016.39.
 - iii. The liquidation value of AFC’s collateral is estimated to be \$40,550.00.
- c. NextGear Capital, Inc. (“NextGear”) financed the purchase of a part of the debtor’s rental inventory. Its collateral is shown on Exhibit “B 22a” attached hereto and incorporated herein.
 - i. NextGear is paid per each vehicle based on a formula of monthly payments 2.5% of the original balance plus interest at the rate of Wall Street Journal Prime plus 2.75% plus a monthly “invoice fee” of \$20.00 per vehicle.
 - ii. The balance owing to NextGear is approximately \$341,505.47.
 - iii. The liquidation value of NextGear’s collateral is estimated to be \$186,025.00.

5. The Debtor must have cash to make payroll, utility, rent and operating expenses. Operating expenses include the upkeep and maintenance of the rental vehicle inventory. To this end, the debtor uses outside contractors and shops and pays

them as the work is performed. Therefore, cash is necessary to continue the upkeep and maintenance on the collateral

6. The Debtor seeks to use the cash collateral to make payroll and continue operations.

7. Shown, attached as Exhibit "A," is a monthly budget showing projected income and expenditures.¹

8. Of the debtor's receivables, the breakdown is as follows:

- a. Approximately \$4,333 is due from the notes receivable secured by SDA.
- b. Approximately \$35,664 is due from rentals and sales.

9. The debtor requests that it be allowed to use its accounts receivable for the purposes of funding its operations as shown on Exhibit "A." Since the debtor's rental income may vary from month to month (with the current winter months being the slowest), it needs to hold some in reserve. Therefore, the debtor would show that it can pay monthly adequate protection payments to the secured creditors as follows:

- a. \$2,000 to SDA;
- b. \$3,000 to AFC;
- c. \$6,000 to Next Gear;
- d. \$541.16 to Ally²;
- e. \$465.13 to Ally³; and

¹ While the budget shows a shortfall of \$110.29, that is only approximately 0.275% of the total budgeted. Many of the expenses being monthly estimates, the debtor is confident that it can make up this small amount.

² This is the normal vehicle payment on the Equinox.

³ This is a "crammed down" payment on the Silverado based on a value of \$20,000, an interest rate of 5.5% and a 48-month term that the debtor will propose in its Chapter 11 Plan.

f. \$454 to Mantis⁴.

10. Upon the filing of the filing of the petition for relief, the debtor ceased using any of the its funds. All payments necessary to pay current expenses, taxes and maintenance of its creditors' collateral were paid by the debtor's principal, Paul Hamiter, Jr. The debtor has funds on hand sufficient to make the above adequate protection / secured creditor payments and to reimburse its principal for the out of pocket expenses that he has expended on the debtor's behalf since the filing of the petition for relief.

WHEREFORE, PREMISES CONSIDERED, Debtor requests that this matter be set for an Expedited Hearing and that upon hearing, this Court enter an Interim Order for Use of Cash Collateral and for such other and further relief to which the Debtor may show itself justly entitled.

Respectfully Submitted,

LUSKY & ASSOCIATES, PC.

/s/ Herman A. Lusky

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⁴ This is the normal payment on the equipment loan.

CERTIFICATE OF SERVICE

I certify that on the date filed, I served a true and correct copy of the above and foregoing on the United States Trustee via ECF Notification System and on the parties in interest shown below and on any attached matrix.

<u>Name</u>	<u>Service Address</u>
AFC Funding	Attn. Jeremy M. Dunn, Corporate Counsel 13085 Hamilton Crossing Blvd., Ste. 310 Carmel, IN 46031-1431 Jeremy.dunn@autofinance.com
NextGear Capital	1320 City Center Dr., Ste. 100 Carmel, IN 46032-3816 Mandy.Stafford@coxautoinc.com
Small Dealers Assistance	2060 Mt. Paran Rd., NW, Ste. 101 Atlanta, GA 30327 Email: cash@sdainc.net Fax: 404-352-9937

/s/ Herman A. Lusky

Herman A. Lusky

PAUL'S AUTO CENTERS, LTD
CASE NO. 17-34657-HDH-11

MONTHLY BUDGET

Income	\$40,000.00
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Expenses

Advertising	\$400.00
Bldg. & Shop Maint.	\$700.00
Manager's Draw	\$6,000.00
Fuel	\$750.00
Insurance	\$800.00
Office	\$1,000.00
Outside Repairs, parts & Labor	\$10,000.00
Rent	\$4,000.00
Towing & Transport	\$1,000.00
Utilities	\$1,000.00
Taxes (prop., TTL, Sales & VIT)	\$2,000.00

Secured Creditors / Adeq. Prot

Next Gear Capital	\$6,000.00
Automotive Finance	\$3,000.00
Small Dealers Assistance	\$2,000.00
Ally	\$1,006.29
Mantis Financial	\$454.00

Total Expenses	\$40,110.29
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Next Gear Capital

STK #	MMR	Principal Balance	Original Buy Price
132	3925.00	4910.00	8570.00
134	1775.00	4319.89	7540.00
135	5875.00	5989.97	10455.00
136	3150.00	3890.19	6790.00
137	4875.00	5643.37	9850.00
138	3500.00	5442.85	9500.00
139	2125.00	4328.49	7555.00
140	3000.00	3884.47	6780.00
141	3700.00	5394.14	9415.00
142	4025.00	4173.81	7285.00
143	2625.00	3408.93	5950.00
144	3425.00	5350.29	9105.00
145	3900.00	3807.20	6479.00
146	2700.00	5179.87	8815.00
147	3675.00	4715.68	8025.00
148	5650.00	4880.18	8305.00
149	2975.00	4880.18	8305.00
150	2025.00	3411.14	5805.00
151	3425.00	4909.58	8355.00
152	3350.00	3264.26	5555.00
153	3850.00	5326.76	9065.00
154	3875.00	5464.88	9300.00
155	5075.00	5053.55	8600.00
156	1800.00	4179.79	6428.00
157	1400.00	3529.55	5428.00
158	3350.00	4234.95	6350.00
159	3850.00	5502.09	8250.00
160	4150.00	5994.76	8123.00
161	4350.00	6498.08	8805.00
162	2450.00	5377.94	7105.00
163	2975.00	5529.31	7305.00
164	3200.00	4242.55	5605.00
165	2450.00	4318.25	5705.00
166	2975.00	6346.51	8175.00
167	2700.00	6074.79	7825.00
169	3900.00	6501.76	8375.00
170	2800.00	5803.07	7475.00
171	5925.00	7045.20	9075.00
172	3225.00	6680.31	8605.00
173	5150.00	5903.99	7605.00
174	5850.00	6835.59	8805.00
176	1700.00	4099.02	5280.00
178	2775.00	5030.61	6480.00
179	4100.00	7247.04	9335.00
182	3075.00	5803.07	7475.00
183	4225.00	6967.56	8975.00
184	5600.00	7674.02	9885.00

186	3650.00	4801.30	6030.00
187	3125.00	5517.92	6930.00
188	4550.00	5438.29	6830.00
189	2675.00	4880.93	6130.00
190	2650.00	4306.05	5408.00
191	6075.00	6254.43	7855.00
192	2825.00	5756.78	7230.00
193	3450.00	5119.79	6430.00
194	3650.00	5557.72	6980.00
195	1800.00	4443.01	5580.00
196	2150.00	3774.16	4740.00
197	3175.00	4201.12	5280.00
198	1550.00	4092.65	5140.00
199	1400.00	6174.82	7755.00
200	2550.00	6333.15	7755.00
201	2775.00	5659.40	6930.00
202	3275.00	5822.73	7130.00
203	3075.00	6013.48	7000.00
209	1525.00	2305.27	9510.00

Total	225,625.00 ¹	341,505.47	500,601.00
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66 vehicles

1. The MMR is the estimate auction value per the Manheim Auto Auction -- the auto auction authority in this area. Since the vehicles are rental units and are in the hands of the renters, they will have to be re-claimed, cleaned, made ready for auction and delivered to the auction site. The debtor estimates that this cost would be at \$600 per vehicle, reducing the real value upon liquidation to about \$186,025.

AFC

STK #	MMR	Principal Balance	Original Buy Price
1	3500.00	3250.00	14,233.00
2	3500.00	3250.00	14,155.00
3	3500.00	3250.00	14,155.00
4	3500.00	3250.00	14,155.00
11	1000.00	2247.95	9,480.00
12	1500.00	2247.95	9,620.00
18	1275.00	2185.00	9,865.00
20	1400.00	2322.95	9,000.00
21	1275.00	2322.95	8,985.00
22	1350.00	2359.76	7,600.00
23	1175.00	2359.76	8,600.00
24	1650.00	2392.12	9,820.00
26	1650.00	2389.24	8,600.00
27	1000.00	2389.24	8,400.00
28	1575.00	2412.06	9,000.00
29	1275.00	2412.06	8,765.00
30	1200.00	2412.06	7,200.00
31	1375.00	2437.31	8,805.00
34	1200.00	4444.25	6,130.00
35	825.00	2965.25	4,090.00
36	1200.00	2767.50	3,690.00
37	825.00	2442.88	8,765.00
39	1875.00	2442.88	8,600.00
40	1100.00	2442.88	8,600.00
41	1475.00	3742.50	4,990.00
42	1975.00	3892.50	5,190.00
43	1875.00	3997.50	5,330.00
44	800.00	3142.50	4,190.00
45	2550.00	4072.50	5,430.00
46	2725.00	4673.25	6,030.00
47	2725.00	4828.25	6,230.00
48	975.00	4712.00	6,130.00
49	1025.00	3596.00	4,690.00
50	3825.00	2484.17	9,430.00
51	1475.00	2484.17	9,100.00
Total	61,550.00¹	105,016.39	296,103.00

1. The MMR is the estimate auction value per the Manheim Auto Auction -- the auto auction authority in this area. Since the vehicles are rental units and are in the hands of the renters, they will have to be re-claimed, cleaned, made ready for auction and delivered to the auction site. The debtor estimates that this cost would be at \$600 per vehicle, reducing the real value upon liquidation to about \$40,550.