




CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 17, 2018


United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

In Re:	§	
	§	Case No. 18-20127-rlj-11
Circle W of Dimmit, Inc.,	§	
	§	Chapter 11
Debtor.	§	

In Re:	§	Case No. 18-20126-rlj-11
	§	
Waggoner Cattle, LLC,	§	Chapter 11
	§	
Debtor.	§	

**AGREED ORDER ON MOTIONS FOR INTERIM USE OF CASH COLLATERAL AND
FOR AUTHORITY TO PAY PRE-PETITION EMPLOYEE COMPENSATION**

On April 13, 2018, came on for consideration Circle W of Dimmitt, Inc.'s ("Circle W") and Waggoner Cattle, LLC's ("Waggoner Cattle") *Motion for Interim Use of Cash Collateral* [Dkt. Nos. 10]¹ ("CC Motions") and *Motion for Authority to Pay Pre-Petition Employee*

¹ Waggoner Cattle and Circle W filed the exact same CC Motion in both cases. Because the agreement announced Agreed Order Motion for Relief from Stay and Third Motion for Use of Cash Collateral

Compensation [Dkt. No. 12] (“Wage Motion”). Counsel for Circle W and counsel for Lone Star State Bank of West Texas (“Lone Star”) appeared and announced that the parties have reached an agreement on both the CC Motions and the Wage Motion (collectively, the “Motions”) and the relief requested thereunder. The Court finds that: it has jurisdiction to consider the Motions and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b); venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; due and proper notice of the Motions and the hearing on the Motions was provided to the United States Trustee’s Office, Lone Star, Rabo Agrifinance, Inc., any parties receiving notice of same through the Court’s CM/ECF system, and all parties on the matrix on file with the Bankruptcy Clerk’s office in the above styled case; Circle W has the rights, powers, and duties of a Debtor-in-Possession and continues to operate its business with authority of the Bankruptcy Code pursuant to 11 U.S.C. §§ 1107 and 1108; Lone Star holds a lien against the collateral sought by Circle W and Waggoner Cattle to be used in the CC Motions; and the parties agreement is in the best interests of the estates and their creditors. Accordingly, the Court hereby GRANTS the Motions on an interim basis as provided herein.

IT IS THEREFORE ORDERED that the Wage Motion is GRANTED, and Circle W is authorized to pay the employees listed on Exhibit A to the Wage Motion in accordance with the schedule set forth therein and in the total amount of \$26,912.23. Because Circle W does not have the cash on hand to pay the employee compensation required under the Wage Motion, Lone Star is hereby authorized to advance to Circle W \$26,912.23 for the purposes of paying the employee wages;

IT FURTHER ORDERED that the CC Motions are GRANTED as modified herein. Circle

W is not authorized to use any cash collateral it receives from Waggoner Cattle in the form of feed bill receivables; however, Circle W may use cash collateral it receives from customers other than Waggoner Cattle in accordance with and to pay the expenses shown in Exhibit A to the CC Motion;

IT IS FURTHER ORDERED that all cattle of Waggoner Cattle in the Circle W feed yard, including without limitation both cattle in pens (the “Grow Cattle”) and cattle in calf hutches (the “Hutch Cattle”), all cattle of Waggoner Cattle in the Dean Cluck Feedyard Dimmitt, TX and Western Feeders, Lockney, Texas (together with the Grow Cattle and the Hutch Cattle, collectively, the “Cattle Collateral”), all of which are subject to Lone Star’s liens, shall be treated as customer cattle of Lone Star. Lone Star shall pay the standard daily fee of \$2.25 per day per head to care for the Grow Cattle and the Hutch Cattle located in Circle W’s feed yard until such time as those cattle are sold. All decisions regarding the timing and terms of sale of the Cattle Collateral shall be made solely by Lone Star, provided that Lone Star will honor any sales contracts for the Cattle Collateral that were entered into prior to the filing of these bankruptcy cases;

IT IS FURTHER ORDERED that while the Grow Cattle and the Hutch Cattle remain in the Circle W feed yard, Lone Star may designate a consultant of its choosing to monitor the care and feeding of the Grow Cattle and the Hutch Cattle on a daily basis so long as the Grow Cattle and the Hutch Cattle remain in the custody of Waggoner Cattle or Circle W. Lone Star, and its employees, agree to maintain confidential any proprietary information it might acquire through its consultant. Lone Star agrees that its consultant will be required to enter into a confidentiality agreement with Waggoner Cattle and Circle W regarding the disclosure of proprietary information of Waggoner Cattle and Circle W before the consultant can monitor the care and

feeding of the cattle; provided, however, Lone Star shall not be held responsible or liable in any way should the consultant violate any confidentiality agreement between the consultant, Waggoner Cattle, and Circle W. If there is any disagreement regarding the care and feeding of the Grow Cattle and Hutch Cattle, Lone Star's consultant and Quint Waggoner, or such other person as shall be designated by Quint Waggoner, shall discuss such disagreement and try in good faith to resolve any such disagreements. If they are unable to resolve any disagreements, Lone Star may seek emergency relief from the Court to move the affected cattle from the Circle W feed yard to another location. Circle W and Waggoner Cattle can respond to the relief requested by Lone Star, and the Bankruptcy Court will decide, after a hearing, whether such relief will be granted;

IT IS FURTHER ORDERED that Waggoner Cattle is not authorized to use any cash collateral generated from the sale of Cattle Collateral of Lone Star in its operations, and Waggoner Cattle cannot sell the Cattle Collateral for its own account and is not authorized to purchase any new cattle with any proceeds from the sale of the Cattle Collateral. All proceeds from the sale of Cattle Collateral shall be separately accounted for and turned over to Lone Star upon the sale of the Cattle Collateral. Waggoner Cattle and Lone Star shall enter into an agreed motion and order on the lifting of the stay imposed by Section 362(a) of the Bankruptcy Code so that upon the sale of the Cattle Collateral, the sales proceeds can be turned over to Lone Star as provided herein and applied against Loan No. *****7463 and then to Loan No. *****7471. The agreed motion and order regarding the stay shall apply only to the Cattle Collateral and the sales proceeds;

IT IS FURTHER ORDERED that on account of Circle W's need to acquire distillers grain and feed specifically formulated for the feed and care of the Cattle Collateral and customer

cattle in the calf hutches and Circle W feed yard, Lone Star is authorized to advance on April 13, 2018 no more than \$38,086.27 to White Plains Energy for the payment of distillers grain provided by White Plains Energy and no more than \$41,101.00 to Hi Pro Feeds for feed provided by Hi Pro Feeds. These payments are to assure that Circle W can continue to purchase the specifically formulated distillers grain and feed from these two vendors which are necessary for the feed and care of the Cattle Collateral and customer cattle in the Circle W feed yard;

IT IS FURTHER ORDERED that Lone Star shall be granted an administrative expense claim under Section 503(b)(1)(A), and (3)(D) in the amounts of the advance described herein to cover the employee compensation of \$26,912.23, the advances to White Plains Energy and Hi Pro Feeds in the aggregate amount of \$79,187.27, and all payments to Circle W for the feed and care of the Cattle Collateral (“Lone Star’s Administrative Claim”). Lone Star’s Administrative Claim shall be against the bankruptcy estates of Waggoner Cattle, Circle W, Bugtussle Cattle, LLC, and Cliff Hanger, LLC, but shall only be entitled to one satisfaction from these bankruptcy estates;

IT IS FURTHER ORDERED that this Order shall be sufficient and conclusive evidence of Lone Star’s Administrative Claim and that Lone Star shall not be required to file Lone Star’s Administrative Claim in the bankruptcy cases of Waggoner Cattle, Circle W, Bugtussle Cattle, LLC, and Cliff Hanger, LLC to perfect its interest in Lone Star’s Administrative Claim against these bankruptcy estates;

IT IS FURTHER ORDERED that Circle W, Waggoner Cattle, Bugtussle Cattle, LLC, and Cliff Hanger, LLC, and their principals shall cooperate with Lone Star to allow and enable inspections, appraisals and inventory counts of the Cattle Collateral and all other collateral of Lone Star, including but not limited to the inventory, books, and records, upon reasonable advance notice, and provided further that, Lone Star and its representatives shall take reasonable

steps to avoid any unnecessary interference with operations in the course of conducting same;

IT IS FURTHER ORDERED that the findings of fact and conclusions of law of this Court pursuant to this Order shall be deemed effective upon the entry of this Order. To the extent that such findings may constitute conclusions, and vice versa, they hereby are deemed as such. Such findings are solely for the purpose of this Order, which was entered upon an emergency basis, solely to allow the interim use of cash collateral as is necessary to maintain Circle W's and Waggoner Cattle's operations;

IT IS FURTHER ORDERED that Circle W, Waggoner Cattle, Bugtussle Cattle, LLC, and Cliff Hanger Cattle, LLC shall not engage in operations or sales outside of the normal course of business or on terms materially different from pre-petition terms;

IT IS FURTHER ORDERED that the relief granted herein is granted on an interim basis, and the interim relief and agreements of the parties set forth herein are subject to final order of the Court;

IT IS FURTHER ORDERED that a hearing on the Circle W's and Waggoner Cattle's request for continued use of cash collateral is set on Monday, April 30, 2018, (the "Hearing Date") in the U.S. Bankruptcy Courtroom located in Room 314, 1205 Texas Avenue, Lubbock, Texas, at 1:30 p.m.

###End of Order###

AGREED TO AND ENTRY REQUESTED BY:

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