

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

IN RE	§	CASE NO. 17-70386
MISSION CRANE SERVICE, LLC	§	
Debtor	§	CHAPTER 11

DEBTOR'S EXPEDITED MOTION FOR USE OF CASH COLLATERAL; REQUEST FOR
TEMPORARY RELIEF; AND
REQUEST FOR HEARING

THIS MOTION SEEKS ENTRY OF AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY-ONE (21) DAYS FROM THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF REQUESTED MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THIS MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

EXPEDITED RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EXPEDITED OR EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EXPEDITED OR EMERGENCY CONSIDERATION IS NOT WARRANTED; YOU SHOULD FILE AN IMMEDIATE RESPONSE.

DEBTOR REQUESTS A HEARING ON JANUARY 12, 2018 AT 9:00 A.M. IN THE UNITED STATES BANKRUPTCY COURTHOUSE, 10TH FLOOR, 1701 W. BUSINESS HWY 83, McALLEN, TEXAS 78501.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE JUDGE EDUARDO V. RODRIGUEZ:

Debtor-in-Possession MISSION CRANE SERVICE, LLC, (the "Debtor"), files this Expedited Motion for Interim Order Authorizing the Use of Cash Collateral; Request for

Temporary Relief; and Request for a Further Hearing on Use of Cash Collateral ("Motion"), pursuant to 11 U.S.C. §363(c)(2), and in support of the Motion, the Debtor respectfully shows as follows:

A. Introduction

1. On October 2, 2017, (the "Petition Date"), Debtor filed a voluntary petition (the "Petition") for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §101 *et seq.* (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of Texas, McAllen Division (the "Court").

2. As of the Petition Date, Debtor has continued in possession of its properties and operation of its home health services business as Debtor-in-Possession, pursuant to 11 U.S.C. §1107 and §1108. This Court has not appointed a Trustee or Examiner no has an official committee been established in this Chapter 11 proceeding.

3. The Court has jurisdiction over this case pursuant to 28 U.S.C. §1334. This is a core proceeding under 28 U.S.C. §157. Venue of this case is proper in this district pursuant to 28 U.S.C. §1408.

B. Background

4. Prior to the commencement of this proceeding, Debtor was engaged, and continues to be engaged in providing transportation and crane services to oilfield servicing companies.

5. Debtor's business includes accounts receivable and equipment, all of which (except equipment subject to leases or purchase money security interests) are believed to be subject to security interests and liens granted by Debtor to various creditors listed in its

bankruptcy schedules. Specifically, Flash Funding, LLC (“Flash”) holds a perfected security interest in Debtor’s accounts receivables by virtue of the UCC-1 filed with the Texas Secretary of State as Filing No. 160021567755 in amount of \$33,879.90, as evidenced in Flash’s Proof of Claim filed on December 12, 2017 (“Claim 8”).

6. The Debtor does not have sufficient unencumbered cash or other assets with which to continue to operate its business in Chapter 11. The Debtor requires immediate authority to use cash collateral, as defined herein, in order to continue its business operations without interruption toward the objective of formulating an effective plan of reorganization. Debtor’s use of cash collateral, to the extent and on the terms and conditions set forth herein, is necessary to avoid immediate and irreparable harm to the estate. The amount of cash collateral authorized to be used is not to exceed the amounts reflected in the Debtor’s budget, attached as Exhibit “A” and incorporated herein for all purposes (the “Cash Collateral Budget”).

C. Relief Requested

7. The funds generated in the ordinary course of Debtor’s oilfield transportation services business constitute cash collateral as that term is defined in 11 U.S.C. §363¹. Debtor requests the use of the cash collateral on an interim basis and requests further hearing for the Court’s determination of this request.

¹ “Cash Collateral” as defined by Section 363(a) of the Bankruptcy Code means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents, whenever acquired in which the estate and an entity other than the estate have an interest and includes post-petition proceeds, products, offspring, rents, or profits of property and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties subject to a security interest as provided in Section 552(b) and as the term “proceeds” is described in UCC Section 9-306.

8. Specifically, the Debtor seeks authorization to use cash collateral to meet the ordinary cash needs of the Debtor (and for such other purposes as may be approved in writing by the Secured Creditors) for the payment of:

- a. reasonable and necessary operating expenses;
- b. maintenance and preservation of property of the estate;
- c. property taxes; and
- d. payment of expenses associated with this Chapter 11 case, including United States Trustee's fees and professional fees and expenses.

9. The Debtor agrees to granting Flash, as applicable and necessary, a replacement lien on all inventory and accounts receivable acquired by the Debtor since the Petition Date, and Debtor hereby ratifies and confirms the UCC-1 filed on the Debtor's inventory, accounts and fixtures perfected by Flash prior to the Petition Date and affirms that such lien and replacement lien shall continue until further Order of this Court or confirmation of a Plan of Reorganization.

D. Arguments and Authorities

10. Pursuant to 11 U.S.C. §363(c)(2), Debtor may not use, sell or lease cash collateral unless each entity that has an interest in such cash collateral consents or, the Court, after notice and hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

11. Section 361 addresses adequate protection payments. Specifically, 11 U.S.C. §361 provides:

“When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by--

(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

12. The revenue from the operation of the oilfield transportation services is the Debtor's only source of income. If Debtor is not permitted to use those funds to manage, maintain and operate the business, it cannot exist.

13. Specifically, Debtor requests the use of the cash collateral to continue operating its oilfield transportation services business and paying those expenses listed in Exhibit "A" will effectively result in: (i) the maintenance and preservation of the Bankruptcy Estate; and (ii) provide the foundation for Debtor's successful reorganization.

14. Debtor must have a preliminary hearing on this Motion to avoid the loss of its ability to manage and maintain its business. Debtor requests that the Court shorten the FRBP 2002 deadline for responses and objections to this motion for a period of seven (7) days and set the hearing on this Motion for Friday, January 19, 2018 at 9:00 a.m. in the 10th Floor Courtroom, United States Federal Courthouse, 1701 West Business Highway 83, McAllen, Texas.

15. In the event Debtor is authorized to use such cash collateral, lien holders are adequately protected by the value of the oilfield transportation services business and the cash payments. Debtor will provide continuing post-petition liens to the lienholders to the extent the lienholders have valid pre-petition security interests in the cash collateral.

E. Prayer

FOR THESE REASONS, Debtor respectfully requests that this Court enter an Order:

A. Shortening the deadline shorten the FRBP 2002 deadline for responses and objections to this motion for a period of seven (7) days: January 11, 2018;

B. Scheduling a hearing on this Motion for Friday, January 12, 2018 at 9:00 a.m. in the 10th Floor Courtroom, United States Federal Courthouse, 1701 West Business Highway 83, McAllen, Texas;

C. Authorizing Debtor's continued use of cash collateral and management of its oilfield transportation business/operations based on the 90-day projected budget reflected in Exhibit "A"; and

D. For such other and further relief as is just and equitable.

Dated: January 4, 2018

Respectfully submitted,
MARCOS D. OLIVA. P.C.
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ATTORNEYS FOR DEBTOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the 4th day of January 2018, on all parties and counsel of record in the manner indicated below.

/s/ Marcos D. Oliva

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All other creditors of notice.