

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**IN RE:**

<b>BISON GLOBAL LOGISTICS, INC.</b>	§	<b>Case No. 17-11154-tmd</b>
<b>Debtor</b>	§	<b>(Chapter 11)</b>

**DEBTOR’S EXPEDITED MOTION FOR USE OF CASH COLLATERAL**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COME NOW, Bison Global Logistics, Debtor herein, and file this Expedited Motion for Use of Cash Collateral, and in support thereof would show the following:

1. By this Motion, the Debtor seeks interim and final relief allowing it to use cash collateral in the continuing operation of its business.

**JURISDICTION AND PROCEDURAL BACKGROUND**

2. On September 14, 2017 (the “Petition Date”), Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Western District of Texas, Austin Division (“Court”), thereby commencing this chapter 11 case (“Case”). Debtor continues in possession of its property and it is operating and managing its business as a debtor in possession pursuant to the provisions of 11 U.S.C. §§ 1107(a) and 1108.

3. No trustee or examiner has been appointed in the Debtor’s Chapter 11 Case, nor has a creditors’ committee or other official committee been appointed pursuant to 11 U.S.C. § 1102.

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The basis for the relief herein is primarily grounded in 11 U.S.C. §§ 105(a) as supplemented and amplified by Fed. R. Bank. P. 6003.

**THE DEBTOR’S BUSINESS**

**Overview**

6. Bison Global Logistics, Inc. (“Bison”) is a corporation based in Austin, Texas, which has been involved in the trucking business since 1991. As of the Petition Date, the Debtor had leased locations in Austin, Dallas and San Antonio, Texas.

**Financial Information**

7. Bison does not own any real property. Its locations are leased. The Debtor owns a fleet of trucks and trailers which it values at \$5,251,000.00. The Debtor has additional equipment, such as forklifts, computers and office equipment. As of the Petition Date, the Debtor held \$62,225.84 in its bank accounts and was owed accounts receivable in the amount of \$620,170.91.

8. Excluding ad valorem tax liabilities, the Debtor has the following secured debts:

Creditor	Claimed Debt Amount	Collateral	Source of Perfection
Equify Financial	\$55,000.00	2016 International Harvester (VIN ending 0257)	Lien on title UCC1 Financing Statement
Frontier Bank	\$20,022.78	2007 Freightliner (VIN ending 8478)	Lien on title
Frontier Bank	\$107,205.08	Trailers	Lien on title
Frontier Bank	\$150,069.00	Trailers	Lien on title
PACCAR Financial	\$10,000.00	2012 Kenworth VIN ending 0119)	UCC1 Financial Statement and lien on title
People’s United Equipment Finance	\$1,738,000.00	Numerous trucks and trailers; subordinate lien on all of Debtor’s assets	UCC1 Financial Statement and lien on title
People’s Bank of Alabama dba	\$7,700,000.00	Accounts, accounts receivable, general	UCC1 Financing Statement

ProBilling		intangibles, returned goods together with all amounts to Debtor's credit and on deposit with Secured Party	
RBank	\$670,000.00	2012 Kenworth (VIN ending 2954)	
TLC Tonerland, LP		Specific office equipment	UCC1 Financing Statement
Toyota Financial Services	\$26,180.00	2016 HINO (VIN ending 4830) Forklifts	UCC1 Financing Statement
Volvo Financial Services	\$1,158,000.00	Multiple vehicles	UCC1 Financing Statement

**Reasons for Filing Bankruptcy**

9. Bison filed its petition on September 14, 2017 after its factor, People's Bank of Alabama d/b/a ProBilling uncovered a scheme to submit fraudulent invoices. The company's operations were shut down following injunctive relief obtained by ProBilling. The fraudulent scheme is believed to have been concocted by Nicolette Osborne, the company's former Chief Financial Officer. The company filed chapter 11 in order to gain a respite from its creditors, re-start operations, liquidate excess property and maximize value for creditors.

**Post-Bankruptcy Operations**

10. Since filing bankruptcy, the Debtor has been faced with five motions for relief from stay filed by landlords, equipment lenders and ProBilling. The Debtor has obtained new premises in Dallas through an affiliate, Bison Freight Solutions and is in the process of moving moving its Austin location as well. The Debtor has obtained insurance for its fleet of trucks and trailers and is currently operating two or three trucks at this time. The Debtor is also generating income from storage operations. The Debtor is also in the process of employing Dan Bensimon as Financial Advisor.

11. Attached as Exhibit A is a list of financial transactions through November 2, 2017. The Debtor began the case with \$62,225.85, received a rebate check for \$5,067.64 and was paid storage fees in the amount of \$25,184.11 bringing the total funds available to \$92,467.60. The Debtor has expended \$70,020.00, with the main expenditures being for rent, insurance and recovering trailers from storage. These payments left the Debtor with cash of \$22,447.50. The Debtor has generated revenue from operating trucks and trailers but those funds have not been received.

### **Going Forward**

12. Attached hereto as Exhibit B is Debtor's pro forma for the period from October 24, 2017 to February 28, 2018. The Debtor projects that it will generate positive cash flow beginning in November and will have gradually increasing funds available to pay adequate protection to lenders.

### **NECESSITY FOR REQUESTED RELIEF**

13. Debtor generates Cash Collateral from the operation of its business when it receives cash, generates accounts receivable and sale of assets. The assets likely to give rise to Cash Collateral consist of the cash and accounts receivable on hand on the day of the petition. On the other hand, it is Debtor's contention that furniture, fixtures, equipment, computers, trucks and trailers do not give rise to Cash Collateral. Until a plan of reorganization is confirmed in this case, Debtor must obtain approval for the use of the Cash Collateral. It is critical for Debtor to have access to its cash and other business property to continue to operate in the ordinary course of business and to pay normal operating expenses.

14. The primary party with an interest in cash collateral is People's Bank of Alabama, which holds the first lien upon the Debtor's cash and accounts receivable. People's United

Equipment Company, Inc. holds a junior lien upon these assets. However, the amount of the People's Bank debt so exceeds the cash and accounts receivable that People's United Equipment is unsecured as to these assets.

15. Debtor can meet its ongoing post-petition obligations only if it borrows funds post-petition or obtains authority for use of Cash Collateral. It believes the former will decrease the value of its business. Debtor believes the latter is preferable as it has generated multiple projections and believes it is able to cash flow post-petition if it has the funds available from or generated by its pre-petition cash collateral to pay its post-petition expenses. Thus, in order to continue operations as normal and to preserve the value of the estate pending confirmation of a plan of reorganization, Debtor needs immediate authority to use the Cash Collateral.

**ARGUMENTS AND AUTHORITIES IN SUPPORT OF REQUEST  
FOR TEMPORARY AND FINAL USE OF CASH COLLATERAL**

16. Debtor requires immediate authority from the Court to use the Cash Collateral in the ordinary course of its business and on an interim basis until there is a final hearing on this Motion.

17. Debtor requests the authority to use cash collateral to operate its business.

18. Under 11 U.S.C. §363(c)(2), the Debtor may not use, sell, or lease the Cash Collateral without the Court's authority or consent. Section 363(e) allows the Court to grant this authority upon the provision of adequate protection to the secured parties.

19. Debtor requires the continued authority to use Cash Collateral beyond the interim period in order to continue its business and maintain the Property until it is sold and to confirm a plan of reorganization as quickly as possible. Debtor's need to use the Cash Collateral will continue during the pendency of this bankruptcy case. Debtor also needs retroactive approval for those amounts which were expended prior to the filing of this motion.

20. Debtor also requests that this Court schedule a hearing for final approval on the use of Cash Collateral, on notice to creditors and parties in interest, in the event an objection is filed to the terms of the interim order.

21. The immediate and temporary approval for the use of the Cash Collateral is consistent with (i) Bankruptcy Code requirements for maintaining the going concern of a debtor's business operations; (ii) the law under 11 U.S.C. §§ 363 and 361 as to the use of cash collateral and adequate protection; and (iii) facilitating a successful reorganization under chapter 11 of the Bankruptcy Code.

22. The failure to authorize the immediate use of Cash Collateral on which the secured parties hold liens will result in a swift and significant deterioration of Debtor's business. Failure to gain authority to use, sell, or lease such collateral will result in a cessation of Debtor's business activities, which would expose Debtor to additional liability and would leave unsecured creditors with little hope of distribution in this case.

23. The Bankruptcy Code contemplates a debtor's use of collateral during the reorganization of its business. Sections 102(1) and 363 of the Bankruptcy Code provide that collateral may be used upon notice and opportunity for a hearing appropriate in the particular circumstances. Relief may be authorized without an actual hearing if there is insufficient time available and adequate protection has been provided. 11 U.S.C. § 363(e). The combination of Debtor's emergency needs to satisfy pending obligations and current operating needs, together with the provision of adequate protection are sufficient to authorize the interim use of the collateral as set forth herein.

24. Section 361 of the Bankruptcy Code sets forth various types of adequate protection which Debtor may provide:

- a. making periodic cash payments to the extent that the creditor suffers a decrease in the value of its interest in such property;
- b. granting replacement liens in collateral to compensate the creditor for any decrease in the value of the creditor's interest in such property; or
- c. granting other relief as will result in the realization of the indubitable equivalent of the creditor's interest in collateral.

25. Debtor proposes to provide adequate protection to all parties with an interest in Cash Collateral in the following manner:

a. All creditors with an interest in Cash Collateral will be granted a replacement lien to the same extent, priority and validity as its pre-petition lien. The amount of the replacement lien is anticipated to be \$62,225.84 because that is the amount of cash collateral which existed on the Petition Date. While the Debtor believes that ProBilling is the sole party with a lien on this cash collateral, any other party claiming an interest in cash collateral could assert a claim to the replacement lien. The replacement lien would attach to Debtor's post-petition property as well as being secured by a junior lien on Debtor's tangible assets.

b. The Debtor will continue to operate its business in the ordinary course of business thus generating additional Cash Collateral.

c. Debtor will maintain insurance upon the property giving rise to the Cash Collateral.

26. Debtor requests permission to pay its usual and customary operating expenses of the same type and approximate amounts set forth on the attached budget for the months of November through February 2018..

### **REQUEST FOR EMERGENCY HEARING**

27. Debtor requests that the Court schedule an emergency hearing on the Motion.

WHEREFORE, Debtor requests that the Court authorize the use, sale, or lease of Cash Collateral on an interim basis and, upon setting and conducting a final hearing, issue a final order authorizing the use, sale, or lease of such cash collateral with the adequate protection to the

secured parties as set forth herein; and grant any other and further relief to which Debtor is entitled

Respectfully Submitted,

**BARRON & NEWBURGER, P.C.**

7320 N. Mopac Expy, Suite 400

Austin, Texas 78731

(512) 649-3243

(512) 476-9253 Facsimile

/s/ Stephen Sather

Stephen Sather

State Bar No 17657520

**ATTORNEY FOR DEBTOR,  
BISON GLOBAL LOGISTICS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 6, 2017 a true and correct copy of the above and foregoing *Expedite Motion for Cash Collateral* was served upon the parties on the attached Matrix by United States Mail, first class, postage prepaid, or by electronic transmission through the Court's ECF noticing system to those parties-in-interest registered to receive such service.

/s/ Stephen Sather

Stephen Sather



**FIRST MASTER SERVICE LIST**  
*(September 27, 2017)*

**United States Trustee:**

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Attn: Tommy Love  
1201 S. Heatherwilde Blvd  
Pflugerville, TX 78660

**Proposed Professionals for Debtor:**

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Stephen W. Sather  
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[ssather@bn-lawyers.com](mailto:ssather@bn-lawyers.com)

**Secured Creditors (cont'd):**

People's United Equip Finance  
PO Box 181  
Brattleboro, VT 05302

Probilling Funding & Service  
401 Lee St, Suite 500 NE  
Decatur, AL 35601

R Bank  
3600 E. Palm Valley Blvd  
Round Rock, TX 78665

**Secured Creditors:**

Equify Financial  
777 Main Street  
Ft. Worth, TX 76102

Frontier Bank  
PO Box 551  
Elgin, TX 78621

PACCAR Financial Corp.  
PO Box 1518  
Bellevue, WA 98004

Toyota Financial Services  
PO Box 650686  
Dallas, TX 75265

Volvo Financial Services  
PO Box 7247  
Philadelphia, PA 19170

**Twenty Largest Unsecured Creditors:**

Internal Revenue Service  
Attn: Special Procedures  
300 E. 8<sup>th</sup> Street, Stop 5026 AUS  
Austin, TX 78701

Perdue Brandon  
1616 S. Kentucky, Suite 200 Bldg. D  
Amarillo, TX 79102

Xtra Lease  
662 N. WW White Rd  
San Antonio, TX 78219

Bank Direct Capital Finance  
150 N. Field Drive, Suite 190  
Lake Forest, IL 60045

**Twenty Largest Unsecured Creditors**  
**(cont;d):**

Fleet One  
MSC 30425  
PO Box 415000  
Nashville, TN 37241-5000

Echo Global Logistics  
600 West Chicago Ave  
Chicago, IL 60654

Jordan 55  
2435 Burbank St  
Dallas, TX 75235

Fred R. Langley & Companies  
520 W. Summit Hill Dr., Suite 1201  
Knoxville, TN 37902

All-Ways Leasing  
10650 Culver's Rd #104-508  
San Antonio, TX 78251

Frontier Bank  
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Dallas, TX 75356

Rusty Tomasek  
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Belton, TX 76513

City of Austin  
PO Box 2267  
Austin, TX 78768-2267

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Receivables Mgt  
6160 Mission George Rd., Suite 300  
San Diego, CA 92120

Tex-Con Oil  
1701 Grand Ave Pkwy  
Pflugerville, TX 78660

FreightPros  
3307 Northland Drive, Suite 360  
Austin, TX 78731

LNO Tire Company  
PO Box 65181  
San Antonio, TX 78265

Bexar County Tax Collector  
PO Box 839950  
San Antonio, TX 78282-3950

Stratton Wright & Ziemer Ins  
5712 Colleyville Blvd., Suite 240  
Colleyville, TX 76034

Taylor Oil  
3701 N. Sylvania Ave  
Ft. Worth, TX 76137

McGuire Tire, LLC  
603 S. 1<sup>st</sup> Street  
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## Exhibit A

## Description

## Debtor in Possession Account

## Consolidation of accounts:

Operating Account	\$	52,699.44
MM account		<u>\$9,526.41</u>
	\$	62,225.85

## Pre petition activity payment

Dallas rebate check	\$	5,057.64
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Storage trailers	\$	1,850.00
	\$	1,450.00
	\$	1,609.31
	\$	135.00
	\$	175.00
	\$	74.80
	\$	865.00
	\$	1,000.00
	\$	1,050.00
	\$	2,700.00
	\$	<u>14,275.00</u>

Total storage	\$	25,184.11
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Total receipts including Beg Bal	\$	92,467.60
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damage payment	\$	9,373.00
Moving	\$	1,000.00
operating Expenses	\$	9,607.64
Rent	\$	33,500.00
Insurance	\$	7,582.06
towing and getting trailers from storage	\$	7,188.54
Bank Fees	\$	1,443.86
Trustee fees	\$	<u>325.00</u>
	\$	70,020.10

Balance 11-2	\$	22,447.50
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Exhibit B

		Cash Collateral Cash Flow					
		10-24-to 10-31-2017	November	December	January	February	Total
Beginning cash	10/24/2017	\$46,675.82	\$18,476.44	\$17,235.11	\$27,861.77	\$100,101.77	\$46,675.82
Add Deposits to be had		\$0.00					
Income activities		\$12,000.00	\$77,858.67	\$111,226.67	\$166,840.00	\$166,840.00	\$534,765.33
average truck per month		\$20,000.00					\$20,000.00
Receivables not yet collected		-\$30,000.00					-\$30,000.00
Rental activity		\$0.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$100,000.00
Total Income activity		\$2,000.00	\$102,858.67	\$136,226.67	\$191,840.00	\$191,840.00	\$624,765.33
Moving Expenses		\$7,505.00					\$7,505.00
Salaries		\$2,462.40	\$32,000.00	\$32,000.00	\$32,000.00	\$32,000.00	\$130,462.40
Rent:							
Austin		\$0.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$44,000.00
San Antonio		\$7,000.00	\$7,700.00	\$7,700.00	\$7,700.00	\$7,700.00	\$37,800.00
Dallas		\$6,000.00	\$6,600.00	\$6,600.00	\$6,600.00	\$6,600.00	\$32,400.00
Internet/ Phone		\$40.00	\$600.00	\$600.00	\$600.00	\$600.00	\$2,440.00
I.T. programs		\$0.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$4,800.00
Supplies		\$0.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$6,000.00
CPA to prepare taxes			\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$12,000.00
Admin/ Insurance		\$3,000.00	\$3,500.00	\$5,500.00	\$5,500.00	\$5,500.00	\$23,000.00
Trustee and Legal Exp		\$345.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$50,345.00
In house financial advisor				\$12,000.00	\$6,000.00	\$6,000.00	\$24,000.00
Purchase of Maintenance parts			\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00	\$48,000.00
Towing		\$3,846.98					\$3,846.98
Moving			\$5,000.00	\$5,000.00			\$10,000.00
Total Expense		\$30,199.38	\$96,600.00	\$110,600.00	\$99,600.00	\$99,600.00	\$436,599.38
Net Cash flow		-\$28,199.38	\$6,258.67	\$25,626.67	\$92,240.00	\$92,240.00	\$188,165.95
Ending Cash Flow Before Adequate protection		\$18,476.44	\$24,735.11	\$42,861.77	\$120,101.77	\$192,341.77	\$234,841.77
Amount for adequate protection			\$ 7,500.00	\$ 15,000.00	\$ 20,000.00	\$ 20,000.00	\$62,500.00
Cash after adequate protection		\$ 18,476.44	\$ 17,235.11	\$ 27,861.77	\$ 100,101.77	\$ 172,341.77	\$ 172,341.77
Assumption							
Average truck per month							
November		7					
December		10					
January		15					
February		15					

Description						Inc. per truck/day
Trips to Dallas						\$450.00
Trips from Dallas						\$650.00
						<hr/>
						\$1,100.00
Factoring recovery						\$990.00
	miles	Trip	Total Miles	Cost per mile		
Cost of Driver		200	2	400	0.38	\$167.20
	MPG	Cost per Gallon		Gallons round trip		
Gasoline per trip		6	2.35	400	66.66666667	\$156.67
	Cost per mile					
Maintenance per trip		0.15		400		\$60.00
Contingency						\$50.00
Total cost						\$433.87
Net cash flow per day						\$556.13
Days Per month						20.00
Gross profit per truck per month						\$11,122.67

**FIRST MASTER SERVICE LIST**  
*(September 27, 2017)*

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Deborah Bynum  
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[deborah.a.bynum@usdoj.gov](mailto:deborah.a.bynum@usdoj.gov)

**Debtor:**

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Attn: Tommy Love  
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Pflugerville, TX 78660

**Proposed Professionals for Debtor:**

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People's United Equip Finance  
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Brattleboro, VT 05302

Probilling Funding & Service  
401 Lee St, Suite 500 NE  
Decatur, AL 35601

R Bank  
3600 E. Palm Valley Blvd  
Round Rock, TX 78665

**Secured Creditors:**

Equify Financial  
777 Main Street  
Ft. Worth, TX 76102

Frontier Bank  
PO Box 551  
Elgin, TX 78621

PACCAR Financial Corp.  
PO Box 1518  
Bellevue, WA 98004

Toyota Financial Services  
PO Box 650686  
Dallas, TX 75265

Volvo Financial Services  
PO Box 7247  
Philadelphia, PA 19170

**Twenty Largest Unsecured Creditors:**

Internal Revenue Service  
Attn: Special Procedures  
300 E. 8<sup>th</sup> Street, Stop 5026 AUS  
Austin, TX 78701

Perdue Brandon  
1616 S. Kentucky, Suite 200 Bldg. D  
Amarillo, TX 79102

Xtra Lease  
662 N. WW White Rd  
San Antonio, TX 78219

Bank Direct Capital Finance  
150 N. Field Drive, Suite 190  
Lake Forest, IL 60045

**Twenty Largest Unsecured Creditors**  
**(cont;d):**

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MSC 30425  
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Echo Global Logistics  
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Chicago, IL 60654

Jordan 55  
2435 Burbank St  
Dallas, TX 75235

Fred R. Langley & Companies  
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Knoxville, TN 37902

All-Ways Leasing  
10650 Culver's Rd #104-508  
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San Diego, CA 92120

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Pflugerville, TX 78660

FreightPros  
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Austin, TX 78731

LNO Tire Company  
PO Box 65181  
San Antonio, TX 78265

Bexar County Tax Collector  
PO Box 839950  
San Antonio, TX 78282-3950

Stratton Wright & Ziemer Ins  
5712 Colleyville Blvd., Suite 240  
Colleyville, TX 76034

Taylor Oil  
3701 N. Sylvania Ave  
Ft. Worth, TX 76137

McGuire Tire, LLC  
603 S. 1<sup>st</sup> Street  
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**FIRST MASTER LIMITED SERVICE LIST**

*(September 27, 2017)*

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