

So Ordered.

Dated: September 22nd, 2017



Frank L. Kurtz
Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WASHINGTON AT YAKIMA**

In re:

47 HOPS LLC,

Debtor.

No. 17-02440

AGREED ORDER APPROVING SECOND
INTERIM USE OF CASH COLLATERAL,
GRANTING REPLACEMENT LIENS,
APPOINTING EXAMINER AND SETTING
FINAL HEARING

THIS MATTER having been presented to the above-signed Judge of the above-entitled Court upon the Debtor's Motion to Approve Final Use of Cash Collateral, Grant Replacement Liens, and Set Final Hearing. The Debtor's secured lender Columbia State Bank objected. This agreed order resolves the objection of Columbia State Bank. Now, Therefore,

The Court finds as follows:

A. On August 11, 2017 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the "Code"). No trustee has been requested or appointed. Debtor is currently operating its business and managing its property as a debtor-in-possession under Sections 1107 and 1108 of the Code.

1 B. The Debtor asserts that on or about August 24, 2015, the Debtor executed and
2 delivered to Columbia State Bank (the "Bank") a Business Loan Agreement and Commercial
3 Line of Credit Agreement and Note (the "Note") with an initial credit limit of \$2,500,000.00,
4 subsequently modified by a Change in Terms Agreement dated June 13, 2016 which increased
5 the credit limit to \$4,000,000.00 and subsequently modified by a Change in Terms Agreement
6 dated April 25, 2017 which increased the credit limit to \$4,500,000.00.

7 C. The Debtor asserts that as security for the Note, the Debtor executed and
8 delivered to the Bank a Commercial Security Agreement pursuant to which it granted the Bank
9 an interest in all inventory and accounts (the "Prepetition Collateral"). The Bank asserts it
10 properly perfected its security interest on September 1, 2015 by filing financing statement
11 number 2015-244-8573-5 with the Washington Department of Licensing.

12 D. The Bank asserts the Debtor's obligations under the Note were unconditionally,
13 absolutely and irrevocably guaranteed by Douglas MacKinnon and Anastasia McKinnon
14 pursuant to Unlimited Continuing Payment Guaranties.

15 NOW THEREFORE IT IS HEREBY ORDERED as follows:

16 1. That the Debtor may spend the amounts contained in Exhibit A through the date
17 of the Final Hearing, which amounts are asserted to be the cash proceeds of the Bank's collateral
18 (the "Cash Collateral") unless earlier terminated by order of this court, in accordance with the
19 provisions of this Order, and the amounts spent may not vary therein by more than 10% for
20 each line item and in aggregate on a monthly basis.

21 2. Within thirty (30) days of entry of this Order, the Debtor shall provide the Bank,
22 the Unsecured Creditors' Committee, and the U.S. Trustee, with the following:

23 (a) 1st and 2nd Quarter 2017 Financials, including a balance sheet, profit &
& loss statement, A/R & A/P Aging reports and inventory reports;

(b) June, July and August 2017 Financials, including a balance sheet, profit
& loss statement, A/R & A/P Aging reports and inventory reports; and

1 (c) A complete accounting of the prepaid inventory listed in the Debtor's
2 SOFA including inventory fully purchased by brewers/buyers; inventory held for
3 brewers/buyers which has not been paid for; storage fees being received by the Debtor for
4 holding prepaid inventory; and shipment dates for prepaid inventory.

5 3. On or before fourteen (14) days after the end of each month, the Debtor shall
6 provide the Bank, the Unsecured Creditors' Committee, and the U.S. Trustee, with a report
7 comparing, on a cumulative and aggregate basis, the Debtor's actual income and expenses to
8 Budget. In addition, on or before fourteen (14) days after the end of each month, the Debtor
9 shall provide the Bank and the Committee with the financials for such month including a
10 balance sheet, profit & loss statement, A/R & A/P Aging reports and inventory reports.

11 4. The Debtor shall cooperate with Bank and the Committee in providing full and
12 reasonable access to information respecting the Bank's Collateral and Cash Collateral, and the
13 Debtor's financial conditions, assets and liabilities, including without limitation, permitting the
14 Bank and the Committee to inspect upon reasonable notice the Bank's Collateral and
15 replacement collateral and the Debtor's books and records.

16 5. As adequate protection for any Cash Collateral used by the Debtor, the Bank is
17 hereby granted, pursuant to Sections 361(1), 361(2) and 363(e) of the Bankruptcy Code,
18 replacement security interests and perfected liens upon all property acquired by the Debtor after
19 the Petition Date of the same type, kind, character and description as the property in which the
20 Bank held a lien or security interest on the Petition Date, with the same validity and priority
21 and to the same extent that it had valid, enforceable liens and security interests prior to the
22 Petition Date (the "Replacement Lien") in and to the following (collectively the "Postpetition
23 Collateral"): (a) all proceeds from the disposition of all or any portion of the Prepetition
Collateral, (b) all property of the Debtor and the Debtor's estate of the same kind, type and
nature as the Prepetition Collateral that is acquired after the Petition Date, and (c) all proceeds
of the foregoing. The Replacement Liens are and shall be in addition to the asserted prepetition

1 liens evidenced by the Commercial Security Agreement, and shall remain in full force and
2 effect notwithstanding any subsequent conversion or dismissal of this case. The Replacement
3 Lien granted to the Bank shall have the same priority position as existed in the Prepetition
4 Collateral prior to the Petition Date and shall be valid and enforceable as of the Petition Date.
5 The granting of such Replacement Lien shall be in addition to Lender's rights in the Prepetition
6 Collateral, and nothing contained herein shall constitute a waiver of Lender's rights and priority
7 in the Prepetition Collateral. The Replacement Liens shall secure the prepetition obligations
8 owed to the Bank and adequately protect it from any diminution in value of its interests in
9 property of the Debtor's estate as a result of the use of the Cash Collateral as authorized by this
10 Order. Nothing herein shall prevent the Unsecured Creditors' Committee from investigation
11 and/or challenging the validity, perfection, or other issues pertaining to the Bank's liens and
security interests in the Prepetition Collateral and Additional Collateral.

12 6. As further adequate protection, the Debtor grants to the Bank a lien (the
13 "Additional Lien") on (a) the Debtors' contracts with brewers for the sale of hops, (b) the
14 Debtor's pellet mill and line, and (c) the promissory note owed by Doug MacKinnon to the
15 Debtor (the "Additional Collateral"). The Additional Lien shall secure only the amount of the
16 diminution in the value of the Bank's collateral, if any, as compared to the value as of the
Petition Date that occurs as a result of the Debtor's use of such Cash Collateral.

17 7. This Order shall be deemed to constitute a security agreement with respect to
18 the Replacement Lien under the applicable provisions of the Uniform Commercial Code
19 ("UCC") in effect in states where the Debtor (a) is domiciled, (b) operates its business, and (c)
20 maintains its principal place of business. Subject to the rights of the Unsecured Creditors'
21 Committee set forth above in Paragraph 5, the Replacement Lien granted hereby shall be a
22 valid, perfected and enforceable security interest and lien on the property of the Debtor and the
23 Debtor's estate without further filing or recording of any document or instrument or any other
action, but only to the extent of the enforceability of the Bank's security interests in the

1 Prepetition Collateral. Notwithstanding the foregoing, the Debtor is authorized and directed to
2 execute and deliver to the Bank such financing statements, instruments and other documents as
3 the Bank may deem necessary or desirable from time to time. To the extent necessary, the
4 automatic stay in effect pursuant to 11 U.S.C. § 362 is hereby modified and lifted to permit the
5 granting of the Replacement Lien as set forth herein.

6 8. The Debtor shall at all times keep the Prepetition Collateral and Additional
7 Collateral and the properties to which the Replacement Lien and Additional Liens attach free
8 and clear of all other liens, encumbrances and security interests, other than those in existence
9 on the Petition Date, and shall pay and discharge when due all taxes, levies and other charges
10 arising or accruing from and after the Petition Date.

11 9. As additional adequate protection, the Debtor will make a monthly adequate
12 protection payment to the Bank in the amount of \$18,750.00 per month, with the first payment
13 to be made on or before September 20, 2017, and continuing so long as this Order is in effect,
14 and, the amount of the adequate protection payments may be ordered to be increased by the
15 Court in an amount deemed reasonable and not burdensome to the Debtor, in the event that, in
16 the Court's opinion, the Debtor's revenues and cash flow have deviated substantially higher
17 than the amounts shown on Exhibit A.

18 10. Within ten (10) days of the date of entry of this Order, the Bank and the Debtor
19 shall propose amendments to the budget that will provide for payment to professionals such as
20 Debtor's counsel, Debtor's accounting firm, the examiner and the attorneys for the unsecured
21 creditors committee. If the foregoing professionals are unable to reach agreement on the
22 amended budget, the Court will consider a motion to approve same on shortened notice.

23 11. An examiner shall be appointed pursuant to 11 U.S.C. § 1104(c). The examiner
is hereby directed to review the Debtor's books, records and record-keeping processes, and,
with respect to the time period from January 1, 2015 to the present, report to the Bank upon (i)
the sources and uses of revenue generated by the Debtor, including any direct or indirect

1 transfers of such revenue to and transactions with the Debtor's affiliates; (ii) the sources and
2 uses of funds borrowed or loaned by the Debtor, including funds loaned directly or indirectly
3 to the Debtor's affiliates, and (iii) the amount, ownership and sources of the Debtor's inventory
4 including the Debtor's prepaid inventory to determine whether all or any portion of the prepaid
5 inventory listed in the Debtor's SOFA constitutes property of the estate and prepetition
6 collateral of the Bank. The examiner, on his or her own motion, may move to request expansion
7 of the examiner's duties.

8 12. No payments to professionals can be made except pursuant to approved fee
9 applications. No salary payments shall be made to the Debtor's principals until the notice
10 provisions of the local rules are satisfied.

11 13. In the event Debtor defaults on any of its obligations under this Order and such
12 default is not timely cured, the Bank may seek relief from the Court to terminate Debtor's
13 authority to use all or any portion of the Cash Collateral.

14 14. Unless earlier terminated or extended by further Court order, the Debtor's
15 authorization to use Cash Collateral pursuant to this Order shall expire on the close of business
16 on the date set for the Final Hearing; provided, however, that all rights and interests created or
17 preserved hereunder shall survive such termination.

18 15. The provisions of this Order and the effect of any actions taken hereunder shall
19 survive issuance and entry of any order converting this case to one under Chapter 7 of the
20 Bankruptcy Code or dismissing this Chapter 11 case. The priorities, liens and security interests
21 granted herein shall continue in this or any superseding case under the Bankruptcy Code, and
22 any such liens and security interests shall maintain their priority as provided herein until
23 satisfied and discharged subject to the Bankruptcy Code.

16. A hearing on the Debtor's Motion to Approve Final Use of Cash Collateral shall
be set for December 5, 2017 commencing at 9:00 a.m., in open court, at the U.S. Bankruptcy

1 Court, 402 E. Yakima Avenue, Yakima, WA, and that notice sent within two business days of
2 the entry of this Order shall be deemed sufficient.

3 */// End of Order ///*

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7 Presented by:

8 WENOKUR RIORDAN PLLC

9 */s/ Nathan T. Riordan*

10 Nathan T. Riordan, WSBA #33926
11 Attorney for Debtor
12 600 Stewart St., Suite 1300
13 Seattle, WA 98101

14 Agreed as to form:

15 FARLEIGH WADA WITT

16 */s/ Jason Ayres*

17 Jason Ayres, WSBA #39141
18 Attorney for Columbia State Bank
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Exhibit A
(Interim Budget)

47HOPS	2017	2017
60-Day Budget	SEPT/OCT	OCT/NOV
HOP SALES REVENUE	\$200,000	\$300,000
ADMINISTRATIVE EXPENSES		
Salary - Doug	\$7,500	\$7,500
Salary - Anastasia	\$7,500	\$7,500
Salary - Office	\$16,000	\$16,000
Salary - Warehouse	\$10,000	\$10,000
Wage Tax	\$4,510	\$4,510
Employee Health Insurance	\$3,600	\$3,600
SUBTOTAL	\$49,110	\$49,110
DELIVERY EXPENSES		
Shipping & Handling	\$25,000	\$25,000
Prior Shipping Expenses	\$15,000	\$0
Packaging Materials	\$1,000	\$1,000
SUBTOTAL	\$41,000	\$26,000
OPERATING EXPENSES		
Accounting & Legal	\$8,000	\$8,000
Unsecured Creditors' Committee Legal	\$8,000	\$8,000
Advertising & Marketing	\$4,000	\$4,000
B&O Tax	\$3,000	\$3,000
Insurance	\$0	\$0
LOC Interest Payment	\$18,750	\$18,750
Misc. Expense	\$500	\$500
Office Expenses	\$1,500	\$1,500

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Office Lease	\$4,000	\$4,000
Repairs, Maintenance & Fuel	\$3,000	\$2,500
Travel, Meals & Entertainment	\$1,500	\$500
Utilities	\$11,000	\$11,000
Warehouse Lease	\$20,000	\$20,000
SUBTOTAL	\$83,250	\$81,750
Total expenses	\$173,360	\$156,860
Projected Gross Profit	\$26,640	\$143,140