

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:** )  
 )  
**PIN OAK PROPERTIES, LLC** ) **CASE NO.: 17-bk-00608**  
**Debtor.** ) **CHAPTER 11**

**MOTION FOR ORDER AUTHORIZING THE DEBTOR'S  
USE OF CASH COLLATERAL**

TO THE HONORABLE PATRICK M. FLATLEY, U.S. BANKRUPTCY JUDGE:

1. Debtor is the debtor in possession. It commenced its case on June 7, 2017, by filing a petition for relief under Chapter 11, Title 11 of the United States Code.

2. Debtor was formed in State of West Virginia to own and operate as Pin Oak Properties, LLC, and is the sole owner of Pin Oak Properties, LLC.

3. Debtor's major source of funds with which to operate is from rental income from leased property of the Middletown Mall located at 9429 W Mill St, White Hall, Marion County, West Virginia 26554.

4. As of January 30, 2012, Debtor's major assets had the following approximate value:

Real Estate: \$18,000,000.00

General Acquisitions, LLC currently holds a security interests through a Third Restated Modification Agreement dated September 30, 2016, pursuant to a December 22, 2005, A Purchase Money Credit Line Deed of Trust and Security Agreement in favor and to secure Branch, Banking and Trust Company (BB&T) on 29.64 acres, 0.637 acres, and 0.944 acres of real estate located at and comprising the Middletown Mall in

White Hall, Marion County, West Virginia. General Acquisitions also holds an Assignment of Leases and Rents from the Middletown Mall that it acquired from BB&T.

5. The Middletown Mall is leased to twenty-two (22) tenants at different rental rates payable per calendar month (Rental Income).

6. Since January 2017, General Acquisitions has been receiving the Rental Income from the tenants at the Middletown Mall pursuant to the Assignment of Leases and Rents.

7. Prior to the Debtor filing its bankruptcy petition General Acquisitions had noticed the Debtor that it was in default of the secured loan agreement and had scheduled a June 8, 2017, foreclosure date.

8. Based on information provided by the Debtor the anticipated Rental Income collections per calendar month from tenants (if paid on time) at the Middletown Mall are approximately One Hundred Twenty-Two Thousand Nine Hundred Ninety-two Dollars (\$122,992.00). It is the Debtor's position that this Rental Income is the cash collateral requested in this Motion.

9. Based on information provided by the Debtor, its anticipated average monthly expenses range from One Hundred Seven Thousand Five Hundred Ninety-Six Dollars (\$107,596.00) to One Hundred Fifteen Thousand Ninety-Six Dollars (\$115,096.00) which includes an Eighty-Thousand Eight Hundred and Eight Dollar (\$80,808.00) payment to General Acquisitions based on an 8.06% interest rate.

10. With General Acquisitions receiving the Rental Income from the Middletown Mall tenants it is extremely difficult for the Debtor to meet its related financial obligations consistent with operating in the ordinary course of business, i.e.

employee payroll, federal and state taxes, utilities, maintenance and supervision of the Middletown Mall property, unemployment compensation, and workers' compensation insurance.

11. If the Debtor is unable to receive and use the Rental Income as cash collateral during this bankruptcy to pay its financial obligations in the ordinary course of business it could be forced to terminate its operations. In short, without use of the cash collateral, the Debtor's ability to reorganize would be severely and adversely affected and its estate could suffer immediate, and irreparable injury within the meaning of the Bankruptcy Code 4001(b)(2).

12. A debtor in possession is authorized to use cash collateral in the ordinary course of its business operations under Sections 363(c)(2) and 1107 of the Bankruptcy Code, provided that upon a request of a party that has an interest in the cash collateral, the Court shall condition such use as is necessary to provide adequate protection of such interest.

13. If necessary the Debtor seeks to provide General Acquisitions with adequate protection of their interest through the cash collateral as collected from the Rental Income in accordance with 11 U.S.C. §§ 361 and 363.

14. On June 7, 2017, and June 15, 2017, Debtor's counsel had telephone conversations with attorneys for General Acquisitions expressing the Debtor's understanding that adequate protection payments may be required for the Debtor to receive the Rental Income as cash collateral and to confirm any adequate protection payment amount that would be required.

15. At the time of the filing of this motion, Debtor's counsel has not received an adequate protection payment amount from General Acquisitions for purposes of this motion and potentially an agreed order permitting the use of the cash collateral. However, based on upcoming ordinary course of business expenses of the Debtor it filed this Motion to move this issue forward before the Court.

WHEREFORE, Debtor requests that this Court enter an Order:

1. Authoring the Debtor to use the Rental Income generated by the Middletown Malls' tenant's lease payments as cash collateral as follows:

a. for payment of the Debtor's business expenses arising in the ordinary course of business, up to and including, employee payroll, federal and state taxes, utilities, maintenance and supervision of the Middletown Mall property, unemployment compensation, and workers' compensation insurance.

b. for payment of adequate protection in accordance with 11 U.S.C. §§ 361 and 363 as required by any subsequent Court order.

2. Granting such other relief as is appropriate.

**DATED:** June 16, 2017

**GIANOLA, BARNUM, BECHTEL & JECKLIN, L.C.**

s/ David M. Jecklin  
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David M. Jecklin, Esquire  
W.V. Bar No. 9678  
Gianola, Barnum, Bechtel & Jecklin, L.C.  
1714 Mileground  
Morgantown, WV 26505  
304-291-6300

### CERTIFICATE OF SERVICE

I, David M. Jecklin, certify that I served the foregoing Motion for Order Authorizing Use of Cash Collateral upon the parties listed below, by e-filing or mailing a true copy by United States First Class Mail, postage prepaid, this 16<sup>th</sup> day of June 2017.

Aaron's  
56319 National Road  
Bridgeport, OH 43912

Deep Valley, LLC  
24 Arrow Lane  
Mannington, WV 26582

Advance Refrigeration, Inc.  
689 Fairchance Road  
Morgantown, WV 26508

Diane's Hallmark  
9357 Middletown Mall  
Fairmont, WV 26554

BB&T  
127 W Webster Street  
Whiteville, NC 28472

Dietrich Steve Fansler  
3120 Fairway Drive  
Morgantown, WV 26508

Bioscript Infusion Services, LLC  
100 Clearbrook Road, 3rd Fl  
Elmsford, NY 10523

Michael R. Proctor, Esq.  
David M. Thomas, Esq.  
Dinsmore & Shohl, LLP  
215 Don Knotts Blvd., Suite 310  
Morgantown, WV 26501

City Neon, Inc.  
c/o Michael L. Solomon  
Solomon & Solomon  
330 Chestnut Street  
Morgantown, WV 26505

Dolgencorp, LLC  
Attn: Director of Lease Renewals  
Re: Store #900  
100 Mission Ridge  
Goodlettsville, TN 37072

City of Fairmont  
P.O. Box 182304  
Columbus, OH 43218

Don Burrito of Fairmont, Inc.  
Attn: Francisco Guerrero  
57 Norway Loop Road  
Fairmont, WV 26554

Clear Mountain Bank  
P.O. Box 205  
Bruceton Mills, WV 26525

FK Everest, Inc  
140 Business, Park Dr,  
Fairmont, WV 26554

CW Stickley  
69 Middletown Road  
White Hall, WV 26554

G.S.A.  
U.S.G.S.A.  
The Strawbridge's Building  
20 North Eight Street  
Philadelphia, PA 19107

D & S Collectibles  
9479 Middletown Mall  
White Hall, WV 26554

D&M Properties, LLC  
c/o Martin A. Burdoff  
21 New England Circle  
Fairmont, WV 26554

General Acquisitions, LLC  
6200 Mid Atlantic Drive  
Morgantown, WV 26508

Gianola, Barnum, Bechtel & Jecklin, LC  
1714 Mileground  
Morgantown, WV 26505

Hardee's  
7490 Clubhouse Rd.  
Boulder, CO 80301

High Life Lounge  
9723 Mall Loop  
White Hall, WV 26554

Internal Revenue Service  
P.O. Box 145595  
Cincinnati, OH 45250

Jackson Kelly, PLLC  
P.O. Box 553  
Charleston, WV 25322

Lee's Drywall  
243 Hidden Meadow Lane  
Swanton, MD 21561

K.B. & B. Associates, Inc.  
dba Mattress Warehouse  
Legal Department  
2982 Winfield Road  
Winfield, WV 25213

Marion County Sheriff Tax Office  
200 Jackson St 101  
Fairmont, WV 26555

Master Cuts #4926  
7201 Metro Boulevard  
Minneapolis, MN 55439

Mercantile Realty, Inc.  
Chelsae Richmond  
Robinson & McElwee, PLLC  
P.O. Box 1791  
Charleston, WV 25326

Morgantown Security & Fire  
P.O. Box 645353  
Pittsburgh, PA 15264

Peoples Gas  
P.O. Box 645345  
Pittsburgh, PA 15264

R.D. Wilson Sons & Company  
P.O. Box 1486  
Clarksburg, WV 26301

RDR Properties  
6200 Mid Atlantic Drive  
Morgantown, WV 26508

Robert L. Shuman, Esq.  
Reeder & Shuman  
256 High Street  
Morgantown, WV 26507

Regis Corp  
7201 Metro Boulevard  
Minneapolis, MN 55439

Rosso Roofing  
121 Railroad Street  
Uniontown, PA 15401

Security Systems of America  
500 Admore Blvd  
Pittsburgh, PA 15221

SNS Foods, Inc.  
Attn: Tom Jamieson  
107 Regency Drive  
Uniontown, PA 15401

Northern Air  
P.O. Box 4205  
Lynchburg, VA 24502

State of WV Tax Dept.  
P.O. Box 2745  
Charleston, WV 25330

Subway Store No. 11204  
9547 Middletown Mall  
Fairmont, WV 26554

The Jewelers Bench  
9329 Middletown Mall  
Fairmont, WV 26554

Town of White Hall  
3 Timrod Dr, Fairmont  
Fairmont, WV 26554

Travelers  
P.O. Box 361136  
Columbus, OH 43236

United States of America Baltimore Dist.  
U.S. Army Engineer Dist.  
City Crescent Building  
Seventh Floor, Ste 7600  
Baltimore, MD 21201

Water Warner & Harris  
P.O. Box 1716  
Clarksburg, WV 26302

West Virginia State Tax Department  
Bankruptcy Division  
P.O. Box 766  
Charleston, WV 25323

WorkForce WV Legal Section  
112 California Avenue  
Charleston, WV 25305

WV Insurance Commissioner  
P.O. Box 50540  
Charleston, WV 25305

WV Unemployment Compensation Div.  
P.O. Box 2573  
Charleston, WV 25301

s/ David M. Jecklin  
David M. Jecklin, Esquire  
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