


U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED
THE DATE OF ENTRY IS
ON THE COURTS DOCKET
TAWANA C. MARSHALL, CLERK


Russell F. Nelms
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

In re:	§	
	§	CASE NO. 09-45785-rfn-11
LEWIS EQUIPMENT COMPANY, INC.,	§	
<i>ET AL</i> ,	§	(Jointly Administered)
	§	
Debtors	§	

ORDER AUTHORIZING INTERIM USE OF CASH COLLATERAL

CAME ON FOR HEARING on the 4th day of March, 2010, the *Trustee's Emergency Motion to Approve Limited Authorization for the Use of Cash Collateral* (the "Motion"), filed by Scott Seidel, the Chapter 11 trustee in this bankruptcy case. Having considered the Motion, finding notice and service thereof to be sufficient, and finding that cause exists for granting the relief requested in the Motion, and based on the agreement of The Frost National Bank ("Frost") as embodied in this Order, the Court hereby grants the Motion as follows

On December 22, 2009, the Court entered its *Final Order Authorizing Debtors' Use of Cash Collateral* [docket no 327] (the "Final Order"), pursuant to which the Court authorized the debtors to use Frost's cash collateral under the terms and protections stated therein.

On February 19, 2010, the Court ordered the appointment of the Trustee, and the Court immediately terminated the debtors' usage of cash collateral under the Final Order.

Upon his appointment, the Trustee negotiated with Frost in good faith and through arm's length negotiations the terms upon which the Trustee would obtain Frost's agreement for the resumed usage of cash collateral, with such terms embodied in this Order, and which terms the Court finds appropriate, reasonable, fair, and in the best interests of the estate

The Trustee has demonstrated a critical need for the immediate usage of cash collateral and that, absent the entry of this Order, the estate will suffer immediate and irreparable injury.

Therefore, based on the findings of fact and conclusions of law contained in the Final Order with respect to the validity, priority, extent, and non-avoidability of Frost's claims, liens, and security interests in this bankruptcy case, including with respect to Cash Collateral (as defined in the Final Order), and based on the additional findings above and the record of this bankruptcy case and the Court's familiarity therewith, it is hereby:

ORDERED that the Trustee shall immediately pay \$3 million to Frost, which Frost is immediately authorized to setoff and apply from funds of the estate on account with Frost, and which shall be applied by Frost to the debtors' debt as otherwise appropriate; it is further

ORDERED that the Trustee shall be permitted to use Cash Collateral of the estate remaining after such pay down, for the period March 1, through March 31, 2010 (the "Interim Period"), only upon the terms and provisions of this Order; it is further

ORDERED that, during the Interim Period, the Trustee is authorized to use Cash Collateral only for the approved expenses that are listed on the Budget listed below, with no more than a 10% variance for any line item in the Budget; it is further

ORDERED that all provisions of the Final Order governing: (i) the deposit of Cash Collateral into one or more segregated accounts, (ii) the grant of replacement liens to Frost; (iii)

the grant of a superpriority claim to Frost; (iv) the validity, perfection, and non-avoidance of Frost's claims, liens, and security interests, including the rights of any taxing authorities; (v) the lack of prejudice to any intercreditor agreement; (vi) the Court's retention of jurisdiction; and (vii) any other provision not inconsistent with this Order, shall apply with full force to the Trustee's usage of Cash Collateral during the Interim Period the same as though such usage was governed by the Final Order, except that said usage during the Interim Period shall be limited to the Budget as provided above; it is further

ORDERED that any fees and expenses subject to the carveouts provided by paragraphs 7 and 8 of the Final Order, and not already paid, shall continue to attach to Cash Collateral during the Interim Period under the limits imposed by the Final Order, it is further

ORDERED that, in addition to said carveouts, Frost's replacement liens and superpriority claim shall be subject to the following carveout for fees and expenses during the Interim Period: (i) US Trustee fees; and (ii) Court approved fees and expenses of the Trustee and his professionals incurred during the Interim Period, capped at the amount(s) specified on the Budget; it is further

ORDERED that the Trustee shall comply with all obligations and duties of the debtors under the Final Order as though the Trustee were the debtors in said order; it is further

ORDERED that a hearing is hereby set before this Court for March 29 at 1:30 to consider any continuation of the Trustee's usage of Cash Collateral or the entry of a final order granting the same, or denying the same

END OF ORDER

BUDGET

<u>Approved Expenses</u>	<u>Weekly</u>
Payroll, Payroll Tax & Benefits	\$190,000.00
Contract Operating Expenses	\$80,000.00
Credit Card Expenses	\$15,000.00
Taxes	\$20,000.00
Insurance	\$16,000.00
Personal Property Leases	\$10,000.00
Trustee Professional Fees	\$55,000.00
General Operating	\$22,500.00
Real Estate Leases	\$25,125.00
Subtotal	\$433,625.00
Adequate Protection Payments	to be determined on case by case basis and separately authorized by order of Court or agreement of Frost