

claim that arose during the pendency of the bankruptcy case but was not timely reported. Motion, Docket 22 ¶ 2.

Gabriel P. Herrera, a Attorney of Kronick, Moskovitz, Tiedemann & Girard, testifies that he will serve as Trustee's general counsel to "assist the Trustee in investigating and liquidating estate assets, including assisting in the investigation of certain personal injury claims and obtaining potential recoveries on account of such claims." Decl., Docket 24 ¶ 2. Herrera testifies he and the firm do not represent or hold any interest adverse to Debtor or to the Estate and that they have no material connections with Debtor, creditors, the U.S. Trustee, any party in interest, or their respective attorneys, that would create a conflict of interest. *Id.* at ¶¶ 7-12.

Pursuant to § 327(a), a trustee or debtor in possession is authorized, with court approval, to engage the services of professionals, including attorneys, to represent or assist the trustee in carrying out the trustee's duties under Title 11. To be so employed by the trustee or debtor in possession, the professional must not hold or represent an interest adverse to the estate and be a disinterested person.

Section 328(a) authorizes, with court approval, a trustee or debtor in possession to engage the professional on reasonable terms and conditions, including a retainer, hourly fee, fixed or percentage fee, or contingent fee basis. Notwithstanding such approved terms and conditions, the court may allow compensation different from that under the agreement after the conclusion of the representation, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of fixing of such terms and conditions.

Taking into account all of the relevant factors in connection with the employment and compensation of Counsel, considering the declaration demonstrating that Counsel does not hold an adverse interest to the Estate and is a disinterested person, the nature and scope of the services to be provided, the court grants the motion to employ Kronick, Moskovitz, Tiedemann & Girard as Counsel for the Chapter 7 Estate on the terms and conditions set forth in the Hourly Fee Agreement filed as Exhibit A, Dckt. 25. Approval of the commission is subject to the provisions of 11 U.S.C. § 328 and review of the fee at the time of final allowance of fees for the professional.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Employ filed by Nikki B. Farris ("Trustee") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Employ is granted, and Trustee is authorized to employ Kronick, Moskovitz, Tiedemann & Girard as Counsel for Trustee on the terms and conditions as set forth in the Hourly Fee Agreement filed as Exhibit A, Dckt. 25.

The Chapter 7 Trustee, Nikki B. Farris (“Trustee”), seeks dismissal of the case on the grounds that Nina Younan Tarvirdi and Albert Tarvirdi (“Debtor”) did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341.

Alternatively, if Debtor’s case is not dismissed, Trustee requests that the deadline to object to Debtor’s discharge and the deadline to file motions for abuse, other than presumed abuse, be extended to sixty days after the date of Debtor’s next scheduled Meeting of Creditors, which is set for 3:00 p.m. on April 10, 2024. If Debtor fails to appear at the continued Meeting of Creditors, Trustee requests that the case be dismissed without further hearing.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 11, 2024. Dckt. 17. In response to missing the required meeting, Debtor states “Debtor did not know how to use zoom.” *Id.*

DISCUSSION

Debtor did not appear at the Meeting of Creditor’s. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 707(a)(1). Debtor explains she missed the meeting because she did not know how to use Zoom; however, this is not a good excuse for failing to attend the 11 U.S.C. § 341 Meeting.

At the hearing, **XXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 7 case filed by The Chapter 7 Trustee, Nikki B. Farris (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is **XXXXXXX**.

~~**IT IS FURTHER ORDERED** that the deadlines set in the Notice of Filing Bankruptcy, Dckt. 8, for filing the following actions against the Debtor are extended to and including **June 24, 2024**,~~

~~You must file a complaint:~~

~~• if you assert that the debtor is not entitled to~~

March 28, 2024 at 10:30 a.m.

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_____ receive a discharge of any debts under any of the
_____ subdivisions of 11 U.S.C. § 727(a)(2) through (7),
_____ or

_____ • if you want to have a debt excepted from discharge
_____ under 11 U.S.C. § 523(a)(2), (4), or (6):

_____ You must file a motion:

_____ • if you assert that the discharge should be denied
_____ under § 727(a)(8) or (9):

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, other parties in interest, and Office of the United States Trustee on October 20, 2023. By the court's calculation, 20 days' notice was provided. 14 days' notice is required. FED. R. BANKR. P. 4001(b)(2) (requiring fourteen days' notice).

The Motion for Authority to Use Cash Collateral was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor in Possession, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

No opposition was stated at the hearing.

The Motion for Authority to Use Cash Collateral is granted, and continued to **xxxx a.m. on xxxx, 2024, to consider a Supplement to the Motion to extend the authorization to use cash collateral.**

Supplemental Pleadings shall be filed by Movant two weeks prior to the continued hearing date.

March 28, 2024 Hearing

A review of the Docket on March 25, 2024 reveals that the Plan Administrator (Focus Management Group, Inc.) and SBN V Ag I LLC uploaded a new Stipulation and proposed budget to extend the use of cash collateral. Docket 1968.

In the Stipulation the Plan Administrator and SBV address the use of cash collateral, but there is no outline of how the cash collateral will be used to complete the confirmed plan (confirmation order entered September 15, 2019; Dckt. 970). As reflected in the Civil Minutes from the last Post-Confirmation Status Conference conducted on January 25, 2024:

At the Status Conference, counsel for the Plan Administrator reported that not a lot new to report at this point. The parties need to regroup on the Filbin Land and Cattle matters, with there being no resolution at this point in time.

Counsel for the Plan Administrator requested the that the Status Conference be continued 6 months. Counsel for Creditor Summit and the continuance of the Status Conference.

Civ. Minutes; Dckt. 1961.

There were prior disputes concerning the asserted dissolution of the related entity Filbin Land and Cattle Co. (Though it does not appear to be in dispute as to who owns 100% of the member interest in Filbin Land and Cattle Co.)

As this Case is now in its Seventh (7th) Year of Existence and this Plan is now in its Sixth (6th) Year of Performance, it could well be that the court's attempts to insure that all parties prosecuting cases in good faith were not deprived of such opportunity (in Chapter 11, 12,13, and even 7 cases), created the appearance that the *status quo* would be the norm and that actually litigating disputes was not expected.

The proposed budget, set forth below, provides for the use of cash collateral as follows:

Arambel Cash Budget		Actual	Actual						
Plan of Conversion of Remaining Assets		Jan. 2024	February	March	April	May	June		
		52	53	54	55	56	57		
Starting Cash		\$ 3,396,626	\$ 3,388,439	\$ 3,375,102	\$ 3,361,172	\$ 3,332,602	\$ 3,313,932		
Cash-In									
Summit Funding		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
MetLife Funding		-	-	-	-	-	-		
FLCC Deposit		-	-	-	-	-	-		
Additional Funding/LBA Settlement		-	-	-	-	-	-		
Farm Equipment Auction Net Proceeds		-	-	-	-	-	-		
Property Tax Refunds - Stanislaus County		-	-	-	-	-	-		
Crop Retainage/Coop Patronage		-	-	-	-	-	-		
IRS/CA Tax Refunds		-	-	-	-	-	-		
Rental Income		-	-	-	-	-	-		
Property Sales		-	-	-	-	-	-		
Total Cash-In		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Cash-Out									
Personal Expenses									
Total Personal		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Farm Expenses									
Lot Line Adj and Other Asset Admin		144	170	170	170	170	170		
Reorganizing Debtor's Professionals		-	-	-	-	-	-		
Total Farm		\$ 144	\$ 170	\$ 170	\$ 170	\$ 170	\$ 170		
Plan Expenses									
Insurance		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Property Taxes		-	-	-	-	9,400	-		
Accountant		975	5,195	2,070	1,000	1,000	1,000		
Plan Administrator's Attorneys		2,981	3,195	1,318	10,000	10,000	10,000		
US Trustees Fees		500	-	-	500	-	-		
Plan Administrator Fees		3,587	4,777	10,372	7,500	7,500	7,500		
Contingency Reserve		-	-	-	-	-	-		
Total Plan		\$ 8,043	\$ 13,167	\$ 13,760	\$ 28,400	\$ 18,500	\$ 18,500		
Sub-Total		\$ 8,187	\$ 13,337	\$ 13,930	\$ 28,570	\$ 18,670	\$ 18,670		
Accrued Professional Fees		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
2022 Income Tax		-	-	-	-	-	-		
Unpaid Utilities		-	-	-	-	-	-		
Class 2 Pre-Petition Property Taxes		-	-	-	-	-	-		
Class 3 Cure Payments		-	-	-	-	-	-		
Sub-Total		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Property Sale Disbursements									
Payment on Debt - Brighthouse		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Payment on Debt - Summit		-	-	-	-	-	-		
Sale Expenses (Title, Escrow, Recording)		-	-	-	-	-	-		
Property Taxes		-	-	-	-	-	-		
Other Costs (Carve Out Unsecureds)		-	-	-	-	-	-		
Sub-Total		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Total Cash-Out		\$ 8,187	\$ 13,337	\$ 13,930	\$ 28,570	\$ 18,670	\$ 18,670		
Ending Cash		\$ 3,388,439	\$ 3,375,102	\$ 3,361,172	\$ 3,332,602	\$ 3,313,932	\$ 3,295,262		
Period Ending Cash Balance:									
PA Operating Account		\$ 267,363	\$ 254,196	\$ 240,437	\$ 212,287	\$ 1,693,787	\$ 1,675,287		
PA Filbin Account		454	454	454	204	204	204		
PA U.S. Trustee Fees Reserve		-	-	-	-	-	-		
PA 10% Holdback after \$2M to Summit		-	-	-	-	-	-		
PA Tax Reserve Account		3,120,622	3,120,452	3,120,282	3,120,112	1,619,942	1,619,772		
RD Checking/Petty Cash		-	-	-	-	-	-		
Period Ending Cash Balance		\$ 3,388,439	\$ 3,375,102	\$ 3,361,172	\$ 3,332,602	\$ 3,313,932	\$ 3,295,262		

Under the extension provision of the previous stipulation (Docket 1947 at ¶ 3) between Plan Administrator and Summit, the terms surrounding the use of cash collateral have been extended by the terms of the new stipulation through June 30, 2024. Docket 1968 at ¶ 3.

At the hearing, **XXXXXXX**

~~————— Counsel for the Movant shall prepare and lodge with the court a proposed order consistent with this Ruling.~~

REVIEW OF THE MOTION

Focus Management Group, Inc., the duly appointed Plan Administrator (“Plan Administrator”), moves for an order approving the use of cash collateral pursuant to its stipulation with SBN V AG I LLC (“Summit”) for the period of October 1, 2023 through December 31, 2023. Plan Administrator requests the use of cash collateral to fund the plan budget, which is a budget setting forth the anticipated expenses of administration of the Plan for a period of time that is prepared by the Plan Administrator and approved by the Oversight Committee. Exhibit 1, Dckt. 1930, p. 2. Summit’s cash collateral constitutes the sole source of funds to operate Debtor’s business under the Plan.

Plan Administrator proposes to use cash collateral in accordance with the plan budget, which is as follows as set forth in the Budget filed as Exhibit A, Dckt. 1930.

Proposed Stipulation

Summit entered into a stipulation with the Plan Administrator detailing how Summit’s cash collateral may be used to fund the Plan. The stipulation is filed as Exhibit 1, Docket 1930. The stipulation proposes the Plan will be funded by Summit’s cash collateral, and Summit is willing to consent to the Plan Administrator’s use of the cash collateral to fund the plan budget. Stipulation, Exhibit 1, Dckt. 1930, p. 3. The stipulation shall automatically terminate on December 31, 2023, unless Summit agrees to an extension in writing. *Id.*

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves as the trustee in the Chapter 11 case when so qualified under 11 U.S.C. § 322. When a debtor is not qualified to operate as a debtor in possession, the court may appoint a trustee pursuant to 11 U.S.C. § 1104. 11 U.S.C. § 1108 gives the trustee authority to operate the business. In operating the business, the trustee can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

(I) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b)(2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

DISCUSSION

Plan Administrator has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for administering the Plan, including paying employees, taxes, professional fees, and other business expenses. The Motion is granted, and Plan Administrator is authorized to use the cash collateral for the period October 1, 2023 through December 31, 2023, in accordance with the plan budget and stipulation. The court does not pre-judge and authorize the use of any monies for “plan payments” or use of any “profit” by Plan Administrator. All surplus cash collateral is to be held in a cash collateral account and accounted for separately by Plan Administrator.

The court continued the hearing to 10:30 a.m. on January 11, 2024, for Plan Administrator to file a Supplement to the Motion to extend authorization. That Supplemental pleadings shall be filed and served on or before December 21, 2023, with any opposition to be presented orally at the continued hearing.

January 11, 2024 Hearing

A review of the Docket on January 8, 2024 reveals that the Plan Administrator (Focus Management Group, Inc.) uploaded a new stipulation to extend the use of cash collateral. Docket 1947, DCN. FWP-29. Under the extension provision of the previous stipulation (Exhibit 1, Docket 1930 at ¶ 3) between Plan Administrator and Summit, the terms surrounding the use of cash collateral have been extended by the terms of the new stipulation through March 31, 2024. Docket 1947 at ¶ 3.

At the hearing, the court grants the Motion and sets a continued hearing on March 28, 2024, with supplemental pleadings filed by Movant two weeks prior thereto.

4. [23-90551-E-7](#) **BLANCA BECERRA ESTERS AND RICHARD ESTERS** **ORDER TO SHOW CAUSE - FAILURE TO PAY FEES**
Pro Se 2-21-24 [33]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter. If the court’s tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), and Chapter 7 Trustee as stated on the Certificate of Service on February 23, 2024. The court computes that 34 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$34.00 due on February 5, 2024.

The Order to Show Cause is sustained, and the case is dismissed.

The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$34.00.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), and Chapter 7 Trustee as stated on the Certificate of Service on March 2, 2024. The court computes that 26 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$338.00 due on October 18, 2023.

The Order to Show Cause is sustained, and the case is dismissed.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$338.00.

The Trustee's March 19, 2024 Docket Entry Report states that Debtors did not appear at the March 13, 2024 continued 341 Meeting.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

FINAL RULINGS

6. [22-90160-E-11](#) [DDM-5](#) **EAGLE LEDGE FOUNDATION, INC.**
Kathleen DiSanto **CONTINUED MOTION TO USE CASH COLLATERAL AND/OR MOTION TO GRANT REPLACEMENT LIENS , MOTION FOR ADEQUATE PROTECTION, MOTION/APPLICATION TO APPROVE DIP BUDGET**
6-1-22 [35]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion.

Local Rule 9014-1(f)(4) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on creditors and Office of the United States Trustee on June 1, 2022. The court set the hearing for June 7, 2022. Dckt. 42.

The Motion to Use Cash Collateral and/or Motion to Grant Replacement Liens, Motion for Adequate Protection, and Motion/Application to Approve DIP Budget O.S.T. was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(4). Debtor, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

The Motion to Use Cash Collateral and/or Motion to Grant Replacement Liens, Motion for Adequate Protection, and Motion/Application to Approve Debtor in Possession Budget is granted on an interim basis.

The hearing on this Motion is continued to 10:30 a.m. on April 11, 2024, to be conducted in conjunction with the Confirmation Hearing for the proposed Chapter 11 Plan.

March 28, 2024 Hearing
(The Civil Minutes for all prior hearing can be reviewed

as part of the Civil Minutes for the September 28, 2023
Hearing; Dckt.275.)

The court previously scheduled a hearing for March 21, 2024, to coincide with the hearing on confirmation of the Chapter 11 Plan to consider the relief requested in this Cash Collateral Motion on a final basis. On January 9, 2024, the court rescheduled the hearing to March 28, 2024 at 10:30 a.m. Docket 343.

On January 11, 2024, the court entered an Order authorizing the use of Cash Collateral on an interim basis continuing through April 30, 2024. Order, Docket 345, p. 2:16-18. This Order is effective retroactively to September 28, 2023 on an interim basis as set forth in the Order. *Id.* at 2:13-15.

On March 15, 2024 Debtor in Possession filed a Supplement to Debtor’s Cash Collateral Motion, requesting the entry of an order (a) granting the Cash Collateral Motion; (b) authorizing the Debtor’s continued use of Cash Collateral, granting the replacement liens and adequate protection, and approving the DIP budget on an interim basis; (c) scheduling a final hearing to coincide with the hearing on confirmation of the Chapter 11 Plan to consider the relief requested in this Cash Collateral Motion on a final basis; and (d) for such other and further relief the Court deems appropriate. Docket 375 ps. 2:26-3:5. The proposed budget is as follows:

	Apr 2024	May 2024	June 2024	July 2024	Aug 2024	Sept 2024	Oct 2024	TOTAL
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6		
Beginning Balance ¹	520,000.00	510,751.32	471,753.32	460,954.64	451,705.96	442,707.28	433,708.60	680,866.00
Cash Receipts ²	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	10,500.00
Rental Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL SOURCES	521,500.00	512,251.32	473,253.32	462,454.64	453,205.96	444,207.28	435,208.60	691,366.00
Expenses								
Bank Fees	10.00	10.00	10.00	10.00	10.00	10.00	10.00	70.00
Copies/Postage	50.00	50.00	50.00	50.00	50.00	50.00	50.00	350.00
Insurance - Professional Liability ³	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Insurance - Property Insurance ⁴	0.00	30,000.00	0.00	0.00	0.00	0.00	0.00	30,000.00
Officer Salaries/ Payroll Taxes	6,145.00	6,145.00	6,145.00	6,145.00	6,145.00	6,145.00	6,145.00	43,015.00
Office Supplies ⁵	25.00	25.00	1,825.00	25.00	25.00	25.00	25.00	1,975.00
Phone/Internet/Software Subscriptions	218.68	218.00	218.68	218.68	218.68	218.68	218.68	1,530.08
Property Management Fees/Costs	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	10,500.00
TMI Loan Servicing and Escrow Fees	950.00	950.00	950.00	950.00	950.00	950.00	950.00	6,650.00
TMI Collateral Agent Monitoring Fees	600.00	600.00	600.00	600.00	600.00	600.00	600.00	4,200.00
U.S. Trustee Fees	250.00	0.00	0.00	250.00	0.00	0.00	250.00	750.00
Legal ⁶	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Accounting Fees	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	7,000.00
Indiana Avenue Property ⁷	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL USES	10,748.68	40,498.00	12,298.68	10,748.68	10,498.68	10,498.68	10,748.68	106,040.08
ENDING BALANCE	510,751.32	471,753.32	460,954.64	451,705.96	442,707.28	433,708.60	424,459.92	585,325.92
NET CASH FLOW								-95,540.08

No opposition having been asserted, the court grants the Motion on an interim basis, and continues the hearing to be conducted in conjunction with the Motion to Confirm the Chapter 11 Plan in this case.

The hearing on this Motion is continued to 10:30 a.m. on April 11, 2024, to be conducted in conjunction with the Confirmation Hearing for the proposed Chapter 11 Plan.

REVIEW OF THE MOTION

Eagle Ledge Foundation, Inc., as the Debtor in Possession seeks to use cash collateral, provide adequate protection, grant replacement liens, and get an operating budget approved.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves in the place of a bankruptcy trustee as the fiduciary to the bankruptcy estate in the Chapter 11 case when so qualified under 11 U.S.C. § 322. As a debtor in possession, the debtor in possession can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

(I) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b)(2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

DISCUSSION

The Bankruptcy Estate includes the Debtor's pre-petition business and property. Debtor states that there are currently five active loans which total in the aggregate \$719,394.36. Motion, p. 4:14-15; Dckt. 35.

Upon receiving payments on these loans, the monies are deposited in interest bearing accounts, after

deducting servicing fees, “for the benefit of the Debtor.” *Id.*, p. 4:16-22.

Not more than two times per month, Debtor can request disbursements from the accounts. The Motion then states:

16. The Debtor believes the funds held by TMI and that will be collected on a postpetition basis by TMI may constitute cash collateral, and that the Collateral Agent may assert an interest in such funds for the benefit of the Certificate Holders, as such amounts represent proceeds of the mortgages held by the Debtor and the notes payable to the Debtor.

Id., ¶ 16. In a footnote, Debtor states that it does not admit any lien or secured claim. However, on the Schedules Debtor states that the Certificate Holders have claims secured by all of Debtor’s assets, excluding the real property.

It is then further asserted that only the Collateral Agent is a person who can assert an interest in the property constituting cash collateral. It appears that this “Collateral Agent” is asserting the liens of the Certificate Holders.

Adequate Protection

In the Motion Debtor states having \$761,165.00 in its Operating Account. Debtor does not believe that these monies are subject to Creditor liens. The source of these monies is not identified in the Motion. However, on Schedule D, it is stated that the Collateral Agent for the Certificate Holders has a lien in all “cash, liquid security, and mortgage loan investments” of the Debtor.

To provide adequate protection for the Certificate Holders having claims (as stated on Schedule F for which it’s Collateral Agent has a lien to secure their claims) totaling (\$4,043,001) (computed by deleting out the non Certificate creditors listed on Schedule F), Debtor states in the Motion:

24. As adequate protection of any interest the Collateral Agent may have in the loan proceeds collected on a post-petition basis, the Debtor proposes provide the Collateral Agent with monthly written reporting as to the status of collections and disbursements, in addition to complying with the reporting requirements under the Bankruptcy Code and Bankruptcy Rules (such as monthly operating reports).

25. To provide further adequate protection of the interests of any secured creditor, the Debtor proposes to open a third debtor-in-possession account (the “Collateral Account”) and to the extent the balance of the Cash Proceeds in the Servicing Account exceeds \$75,000.00 on the last business day of the month, the Debtor, on or before the tenth day of next month, will direct TMI to transfer the funds in excess of \$75,000.00 to the Collateral Account.

However, it appears that the “adequate protection” is to merely a report of the status of the collateral and to transfer some of the existing collateral to the Collateral Agent.

Looking at Debtor’s non-real property assets, it appears that the (\$4,043,001) is secured by personal property having a value, as stated by Debtor, of \$1,402,423. The purported adequate protection is to just hold part of the existing collateral as the collateral is reduced. Summary of Assets, Part 1; Dckt. 24.