



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA—LOS ANGELES DIVISION

In re: Corporate Colocation, Inc.,
Debtor.

Case No.: 2:21-bk-12812-ER
Chapter: 11

**MEMORANDUM OF DECISION
GRANTING IN PART AND DENYING IN
PART DEBTOR'S MOTION FOR
CONTINUED AUTHORIZATION TO USE
CASH COLLATERAL**

[RELATES TO DOC. NO. 189]

[No hearing required pursuant to Federal Rule
of Civil Procedure 78(b) and Local Bankruptcy
Rule 9013-1(j)(3)]

Before the Court is the motion of Corporate Colocation, Inc. (the “Debtor”) for continued authorization to use cash collateral. *See* Bankr. Doc. No. 189 (the “Cash Collateral Motion”). Concurrently with the issuance of this Memorandum of Decision, the Court has issued an *Order Requiring the Debtor to Show Cause Why the Case Should Not Be Dismissed Pursuant to § 1112(b)* (the “Order to Show Cause”). InMotion Hosting, Inc. (“InMotion”) filed a limited objection to the Cash Collateral Motion. Pursuant to Civil Rule 78(b) and LBR 9013-1(j)(3),¹ the Court finds this matter to be suitable for disposition without oral argument.² For the reasons set

¹ Unless otherwise indicated, all “Civil Rule” references are to the Federal Rules of Civil Procedure, Rules 1–86; all “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037; all “Evidence Rule” references are to the Federal Rules of Evidence, Rules 101–1103; all “LBR” references are to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California, Rules 1001-1–9075-1; and all statutory references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532.

² The Court has reviewed the following pleadings in adjudicating this matter:

forth below, the Cash Collateral Motion is **GRANTED IN PART** and **DENIED IN PART**. The hearing on the Cash Collateral Motion, set for March 22, 2022 at 10:00 a.m., is **VACATED**.

I. Background

The Debtor filed a voluntary Chapter 11 petition on April 7, 2021 (the “Petition Date”). The Debtor owns and operates a server farm that provides website services to approximately 25 customers. The Debtor operates its business from space leased from the Landlord located at 530 West Sixth Street, Los Angeles, CA 90014 (the “Property”). Victor Goodman (“Victor”)³ is the Debtor’s Chief Executive Officer and holds a 90% interest in the Debtor. Jonathan Goodman (“Jonathan,” and together with Victor, the “Goodmans”) is the Debtor’s president and holds a 10% interest in the Debtor.

On June 17, 2021, the Court entered an order authorizing the Debtor to use cash collateral. *See* Bankr. Doc. No. 37 (the “Cash Collateral Order”). The Cash Collateral Order authorized the use of cash collateral through and including August 10, 2021. The Court subsequently approved five stipulations providing for the continued use of cash collateral. Under the most recent stipulation⁴ and order thereon,⁵ the Debtor’s authority to use cash collateral expires on March 22, 2022.

InMotion, the Debtor’s largest customer, filed a limited objection to the Cash Collateral Motion. InMotion does not object to the Debtor’s continued use of cash collateral, but asserts that the “Debtor has routinely been paying the personal expenses of the Goodmans.”⁶ InMotion objects to the use of estate funds for non-business expenses. The Debtor disputes InMotion’s assertion that it has used cash collateral to pay the Goodmans’ personal expenses.

II. Findings of Fact and Conclusions of Law

Section 363(c)(2) requires court authorization for the use of cash collateral unless “each entity that has an interest in such cash collateral consents.” In the Ninth Circuit, satisfaction of §363(c)(2)(A) requires the “affirmative express consent” of the secured creditor; “implied consent,” resulting from the failure of the secured creditor to object to use of cash collateral, does not satisfy the requirements of the statute. *Freightliner Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368–69 (9th Cir. 1987). Absent affirmative express consent, the Debtors “may not use” cash collateral absent the Court’s determination that the use

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- 1) Debtor’s Amended Motion for Authority to Continue: (A) Use of Cash Collateral on an Interim Basis Through August 31, 2022; and (B) Grant Replacement Liens [Bankr. Doc. No. 189];
 - 2) InMotion Hosting, Inc.’s Limited Objection to Use of Cash Collateral [Bankr. Doc. No. 226];
 - 3) Reply to InMotion’s Limited Opposition to Debtor’s Amended Motion for Authority to Continue: (A) Use of Cash Collateral on an Interim Basis Through August 31, 2022; and (B) Grant Replacement Liens [Bankr. Doc. No. 238].

³ A given name is used to distinguish Victor Goodman from Jonathan Goodman. No disrespect is intended.

⁴ Bankr. Doc. No. 170.

⁵ Bankr. Doc. No. 177.

⁶ Bankr. Doc. No. 226 at p. 2.

is “in accordance with the provisions” of Section 363—that is, that the secured creditor’s interest in the cash collateral is adequately protected. § 363(c)(2)(B) and (e).

A secured creditor’s interest is adequately protected if the value of its collateral is not declining; the secured creditor is not entitled to payment to compensate for its inability to foreclose upon the collateral during bankruptcy proceedings. *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

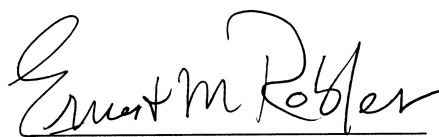
A hearing on the Court’s Order to Show Cause, at which the Debtor will be required to show why this case should not be dismissed pursuant to § 1112(b), is set for May 4, 2022 at 10:00 a.m. The Debtor is authorized to continue to use cash collateral, in accordance with the terms of the budget attached to the Cash Collateral Motion, through and including May 4, 2022. In the event that the case is not dismissed as a result of the Order to Show Cause, the Court will consider a further extension of the use of cash collateral.

On the record before it, the Court cannot determine whether the Debtor has been using cash collateral to pay the Goodmans’ personal expenses, as alleged by InMotion. However, it is important to note that many of the expenditures highlighted by InMotion do not appear to be related to the Debtor’s business. The Debtor is cautioned that the use of cash collateral to pay non-business expenses is not authorized.

The Court will enter an order consistent with this Memorandum of Decision.

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Date: March 21, 2022



Ernest M. Robles
United States Bankruptcy Judge