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

In re:	Chapter 11
BUDDY MAC HOLDINGS, LLC, *et al.*,	Case No. 25-34839
Debtors.[1]	(Joint Administration Requested)

[1] The debtors in these chapter 11 cases (each, a "Debtor" and collectively, the "Debtors"), along with the last four digits of each Debtor's federal tax identification numbers, are: Buddy Mac Holdings, LLC (1297); BMH RTO, LLC (9489); Buddy Mac Twenty-One, LLC (1269); Buddy Mac Twenty-Two, LLC (6474); Buddy Mac Twenty-Three, LLC (3668); Buddy Mac Twenty-Four, LLC (3328); Buddy Mac Twenty-Five, LLC (5604); Buddy Mac Twenty-Six, LLC (5425); Buddy Mac Twenty-Seven, LLC (1574); BMH-TNM 28, LLC (5391); BMH-TNM 29, LLC (0350); BMH-TNM 30, LLC (5692); BMH-TNM 31, LLC (5137); BMH-TNM 32, LLC (3430); BMH-TNM 33, LLC (8037); BMH-RCL 34, LLC (7055); BMH-RCL 35, LLC (7332); BMH-RCL 36, LLC (4707); BMH-RCL 37, LLC (4598); BMH-RCL 38, LLC (7218); BMH-RCL 39, LLC (5340); BMH-RCL 40, LLC (8100); BMH-RCL 41, LLC (5735); BMH-RCL 42, LLC (3438); BMH-FAN 43, LLC (8956); BMH-FAN 44, LLC (9133); BMH-FAN 45, LLC (1642); BMH-FAN 46, LLC (1756); BMH-FAN 47, LLC (7435); BMH-FAN 48, LLC (7860); BMH-FAN 49, LLC (8079); BMH-FAN 50, LLC (8219); BMH-FAN 51, LLC (5786); BMH-FAN 52, LLC (6191); BMH-FAN 53, LLC (6281); BMH-FAN 54, LLC (6340); BMH-SM 79, LLC (9545); BMH-SM 80, LLC (9640); BMH-SM 81, LLC (9709); BMH-SM 82, LLC (0107); BMH-SM 83, LLC (0236); BMH-SM 84, LLC (0340); BMH-SM 85, LLC (2526); BMH-SM 86, LLC (2731); BMH-SM 87, LLC (2817); Buddy Mac One, LLC (0935); BMH One RE, LLC (4305); BMH 95 RE Caruthersville, LLC (1264); and BMH 96 RE Marion, LLC (0659). The Debtors' service address is 400 E. Centre Park Blvd., Suite 101, DeSoto, Texas 75115.

OBJECTION OF PHONIX RBS LLC TO (1) DEBTORS' EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS: (I) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION; (III) MODIFYING THE AUTOMATIC STAY; (IV) SCHEDULING A FINAL HEARING; AND (V) GRANTING RELATED RELIEF; (2) DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK ACCOUNTS AND BUSINESS FORMS AND HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (B) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF; AND (3) OTHER "FIRST DAY" PAPERS

Phonix RBS LLC ("Phonix"), by and through its undersigned counsel, respectfully objects (this "Objection") to (1) *Debtors' Emergency Motion for Entry of Interim and Final Orders: (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection; (III) Modifying the Automatic Stay; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* [Docket No. 5] (the "Cash Collateral Motion"); (2) *Debtors' Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts and Business Forms and Honor Certain Prepetition Obligations Related to the Use Thereof, and (B) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief* [Docket No. 8] (the "Cash Management Motion"),[2] and (3) the other "first day" papers filed by the Debtors, states as follows:

PRELIMINARY STATEMENT

1. Phonix is a prepetition secured lender to the Debtors. The Debtors filed these cases without giving Phonix ***any*** prior notice or engaging in ***any*** negotiations with Phonix over the terms on which the Debtors can use Phonix's cash collateral. The Debtors' decision to file these cases without notice to Phonix is particularly surprising given that, for many weeks leading up to the

[2] Capitalized terms used, but not defined herein shall have the meanings ascribed to them in the Cash Collateral Motion and Cash Management Motion, as applicable.

filing of these cases, the parties had been engaged in negotiations over events of default that had occurred under the relevant loan documents.

2. The Debtors seek non-consensual use of Phonix's cash collateral and represent that Phonix is adequately protected. However, even on the inadequate notice that was provided, it is clear that Phonix is not adequately protected. Rather, the Debtors propose replacement liens, super-priority claims, and a deeply underfunded budget ostensibly to operate their business and preserve their "going concern value" as adequate protection for Phonix. But in reality, without access to sufficient cash or credit to appropriately stock their stores with inventory, the Debtors are unable to generate enough cashflow to sustain their business. As a result, the Debtors' non-consensual use of cash collateral serves only to dissipate Phonix's cash collateral for the benefit of junior creditors, including landlords, insiders, and professionals. Such usage will not generate value for Phonix, will not help the Debtors successfully reorganize, and will not attract prospective purchasers.

3. And to add insult to injury, the Debtors do not recognize Phonix's interest in cash collateral of the Limited Recourse Guarantors (defined below), pay not a cent of adequate protection to Phonix, tie its hands in the event of a default under their liberal thirty day cash collateral bridge for two weeks before Phonix can act to protect itself, attempt therefore to stifle Phonix's rights to seek additional adequate protection, and propose to "carve-out," *inter alia*, all pre-carve-out trigger notice professional fees and $250,000 of post-trigger professional fees from their anemic revenues and Phonix cash collateral to fund such fees without any Phonix agreement or even any consideration for Phonix (including Bankruptcy Code sections 506(c) surcharge waiver, 552(b) equities exception waiver, or marshalling waivers). To be crystal clear, Phonix does not consent to cash collateral usage, does not agree to any carve-out, and intends to file necessary papers this week to assert its rights under applicable bankruptcy law, including Bankruptcy Code

sections 362 and 363. Phonix is also considering the state of Debtor governance and reserves its rights in connection therewith.

4. Accordingly, a continued, near term hearing at the Court's earliest convenience must be scheduled on the Cash Collateral Motion to allow the parties time to fully brief the issues for the Court. Until such hearing, Phonix's cash collateral must be protected to the maximum extent possible from dissipation. Additionally, the Cash Management Motion (to which Phonix raises separate objections below) and other "first day" papers filed by the Debtors should not be approved on a final basis. Due to the inadequate notice provided and risk of prejudice, Phonix requires a meaningful opportunity to review such papers and present any appropriate objections before they can be granted on a final basis.

BACKGROUND

I. PREPETITION LOAN DOCUMENTS.

5. Debtor BMH RTO, LLC, as borrower ("BMH RTO"), and (other than Buddy Mac Holdings, LLC ("Holdings"), Buddy Mac One, LLC ("Buddy Mac One"), and the Limited Recourse Guarantors (as defined below)) each of its Debtor affiliates, as guarantors (collectively, the "Subsidiary Guarantors" and together with BMH RTO, collectively, the "RTO Debtors") are party to a *Loan, Security and Guaranty Agreement* ("LSGA"), dated as of February 28, 2025, evidencing and securing a certain loan to BMH RTO (the "Subject Loan"), as amended by that certain *First Amendment to the LSGA* (the "First Amendment"), dated as of August 8, 2025, between INTRUST Bank, N.A., as predecessor in interest to Phonix.

6. Pursuant to the LGSA, BMH RTO and each of the Subsidiary Guarantors have granted first priority security interests in, and liens on, substantially all of their respective assets to Phonix as collateral to secure their obligations under the LGSA.

7. Debtors BMH One RE, LLC ("BMH One"), BMH 95 RE Caruthersville, LLC ("BMH 95"), and BMH 96 RE Marion, LLC ("BMH 96") as guarantors (collectively, the "Limited Recourse Guarantors") are party to a *Limited Recourse Guaranty* (the "Limited Recourse Guaranty"), dated as of August 8, 2025, pursuant to which each of the Limited Recourse Guarantors guaranteed to Phonix, as successor in interest to INTRUST Bank, N.A., payment and performance of all of the obligations of BMH RTO and the Subsidiary Guarantors under the LSGA and the First Amendment, to the extent of the value of the collateral pledged by each such Limited Recourse Guarantor.

8. The obligations of the Limited Recourse Guarantors are secured by mortgages and/or deeds of trust, assignments of leases and rents, security agreements, and fixture filings (collectively, the "Mortgages and Deeds of Trust") granted by each of the Limited Recourse Guarantors to, or for the benefit of, Phonix, with respect to (a) BMH One's 56.43% co-tenancy interest in and to in the real property and premises situated in Smith County, Texas, (b) BMH 95's interest in and to the real property and premises situated in Pemiscot County, Missouri, (c) BMH 96's interest in and to the real property and premises situated in Williamson County, Illinois, and (d) in each case, such Debtor's equipment, inventory, and other personal property located thereon and all rents derived therefrom that are assigned to Phonix.

9. Debtor Holdings, as guarantor, is party to an *Amended and Restated Springing Limited Recourse Guaranty* (the "Parent Guaranty"), dated as of February 28, 2025, pursuant to which Holdings guaranteed to Phonix, as successor in interest to INTRUST Bank, N.A., payment and performance of all of the obligations of BMH RTO and the Subsidiary Guarantors under the LSGA and the First Amendment.

10. The LGSA, the First Amendment, the Limited Recourse Guaranty, the Parent Guaranty, and related documents, agreements, and instruments, and the Debtors' obligations thereunder were assigned to Phonix on September 2, 2025, pursuant to a *Loan Sale Agreement* and *Assignment and Assumption of Loan Documents*.

11. The obligations of the Debtors (collectively, the "Secured Obligations") matured on August 31, 2025, prior to the assignment of such indebtedness to Phonix, and are in default. The Secured Obligations total at least $12,792,674.70 (the "Guaranteed Obligation"), plus accruing interest on the Guaranteed Obligation (accrues from October 23, 2025, at a *per diem* rate of $3,326.21) and expenses and fees, including Phonix attorneys' fees to date.

II. FORECLOSURE AND RECEIVERSHIP ACTIONS.

12. After attempting to engage with the Debtors regarding the maturity of the Subject Loan and having failed to obtain any meaningful response from the Debtors regarding their material, perseverant defaults, and specifically, in light of the Debtors' default under the Secured Obligations, Phonix served notices of foreclosure on the real properties subject to the Mortgages and Deeds of Trust (collectively, the "Foreclosure Actions").

13. On October 23, 2025, Phonix filed a receivership and enforcement action (the "Receivership Action") in respect of the RTO Debtors in the Eighteenth Judicial District Court, Sedgwick County, Kansas. After commencement of the Receivership Action, the Debtors engaged in a negotiation over a consensual surrender of assets and asset purchase agreement with Phonix that failed to close within the enforcement parameters associated with the proposed surrender. Phonix was prepared to move forward in Kansas to obtain a receiver for the RTO Debtors on December 2, 2025, when they noticed a removal of the Receivership Action to the United States

District Court for the District of Kansas, which removal is baseless and is opposed by Phonix on an expedited basis due to a clear lack of diversity between the parties.

14. On December 4, 2025, Phonix filed an action against William Ian MacDonald, the Debtors' ultimate principal, in connection with the failed transaction and otherwise in the 95th Judicial District Court in Dallas County, Texas, asserting claims for damages to Phonix against Mr. MacDonald sounding in fraud, negligent misrepresentation, and similar causes of action.

III. THE CHAPTER 11 CASES.

15. On December 1, 2025, Buddy Mac One and the Limited Recourse Guarantors filed their respective chapter 11 cases staying the Foreclosure Actions and, on December 4, 2025, the remaining Debtors filed their respective chapter 11 cases. The Debtors did not provide Phonix with prior notice of any of the chapter 11 filings even though the parties were consistently communicating over the prior months regarding the Subject Loan.

16. All cash of the RTO Debtors and all rents and other cash proceeds of collateral granted to Phonix by the Limited Recourse Guarantors under the Mortgages and Deeds of Trust, wherever located, represents either proceeds of the Subject Loan or proceeds of Phonix collateral. Phonix has valid, duly perfected, first-priority liens upon and security interest in and to all of the cash of such Debtors, and these funds, along with the proceeds of Phonix's collateral, constitute "cash collateral" within the meaning of section 363(a) of the Bankruptcy Code (all such cash, cash proceeds, and other "cash collateral," the "Cash Collateral") of Phonix.

17. On December 4, 2025, the Debtors filed the Cash Collateral Motion and Cash Management Motion, as well as an *Emergency Motion for Authority to Pay Prepetition Wages, Compensation, and Employee Benefits* [Docket No. 6] (the "Wages Motion") among other "first

day" papers. The Debtors did not attempt to negotiate with Phonix terms for the consensual use of its Cash Collateral or otherwise provide any prior notice of the papers to Phonix.

ARGUMENT

I. THE DEBTORS HAVE NOT ESTABLISHED THAT PHONIX IS ADEQUATELY PROTECTED AND THEREFORE ARE NOT ENTITLED TO USE PHONIX'S CASH COLLATERAL.

18. Debtors are prohibited from using Phonix's Cash Collateral unless Phonix consents, or this Court, after notice and a hearing, authorizes such use. 11 U.S.C. §§ 363(c)(2), (e) and (p). If the Debtors cannot offer adequate protection, then this Court must prohibit the Debtors' use of Phonix's Cash Collateral absent its consent because adequate protection of a secured lender's interest in cash collateral is ***mandatory***. 11 U.S.C. § 363(e) ("[A]t any time . . . the court, with or without a hearing, shall prohibit or condition such use . . . as is necessary to provide adequate protection of such interest."); 3 *Collier on Bankruptcy* ¶ 363.05 (16th ed. 2023) ("[I]f a trustee seeks to use cash collateral and cannot obtain the consent of the entity with an interest in the collateral, adequate protection must be furnished before the cash collateral can be used.").

19. As set forth more fully below, the Debtors do not have Phonix's consent to use its Cash Collateral and the adequate protection the Debtors propose to give to Phonix is inadequate to protect its interests in its collateral.

A. Under Bankruptcy Code Section 363, The Debtors May Not Use Phonix's Cash Collateral Without Its Consent Unless They Show That Phonix Is Adequately Protected.

20. Although the Bankruptcy Code does not define adequate protection, section 361 of the Bankruptcy Code states that it is intended to protect a secured creditor against a decrease in the value of its collateral resulting from the imposition of the automatic stay under Bankruptcy Code section 362(a) or the use, sale, or lease of such collateral, including, without limitation, cash collateral. 11 U.S.C. § 361; *see also In re Reagor-Dykes Motors, LP*, Case No. 18-50214, 2019

WL 259732, at *2 (Bankr. N.D. Tex. Jan. 17, 2019) ("A debtor-in-possession must, during the pendency of a chapter 11 case, protect a secured creditor's interest in its collateral."). In other words, "[t]he purpose of providing 'adequate protection' is to insure that a secured creditor receives in value essentially what he bargained for." *In re Sharon Steel Corp.*, 159 B.R. 165, 169 (Bankr. W.D. Pa. 1993) (citation omitted); *see also In re Dunes Casino Hotel*, 69 B.R. 784, 793 (Bankr. D.N.J. 1986) ("Adequate protection is designed to preserve the secured creditor's position at the time of the bankruptcy.").

21. This restriction on use of cash collateral is critical "for the obvious reason[] that cash collateral is highly volatile, subject to rapid dissipation and requires special protective safeguards in order to assure that a holder of a lien on 'cash collateral' is not deprived of its collateral through unprotected use by the Debtor." *In re Earth-Lite, Inc.*, 9 B.R. 440, 443 (Bankr. M.D. Fla. 1981). Cash is the highest, best and most secure form of collateral. *See, e.g.*, *In re Berens*, 41 B.R. 524, 527 (Bankr. D. Minn. 1984) ("[I]f the Debtor is allowed to use the cash collateral, the creditors' security—the collateral—is gone."). In other words, any order authorizing a debtor's use of cash collateral absent the secured party's consent must specifically address whether the secured party is adequately protected by such use and, if not, how the cash collateral use should be conditioned so that it is. *See Chrysler Credit Corp v. Ruggiere (In re George Ruggiere Chrysler-Plymouth, Inc.)*, 727 F.2d 1017 (11th Cir. 1984).

22. Adequate protection may be furnished in a variety of forms and section 361 of the Bankruptcy Code provides an illustrative guide. *See* 11 U.S.C. § 361. In short, because Phonix does not consent to the Debtors' use of its Cash Collateral, the Debtors must make compensatory payments to Phonix, provide Phonix with additional or replacement liens, and/or provide the Phonix with the indubitable equivalent of its interest in the property. *See, e.g.*, *In re EQK*

Bridgeview Plaza, Inc., 447 B.R. 775, 784 (Bankr. N.D. Tex. 2011) ("Among the list of what might constitute adequate protection is periodic cash payments in some appropriate amount, replacement liens or additional liens, or something else that might result in the realization of the indubitable equivalent of the entity's interest in the property being sold, used or leased.").

B. The Debtors Have Not Established that Phonix is Adequately Protected.

23. The Debtors bear the burden of proposing an adequate protection package. 11 U.S.C. § 363(p)(1) ("[T]he [debtor in possession] has the burden of proof on the issue of adequate protection"); *see also In re Cafeteria Operators, L.P.*, 299 B.R. 400, 406 (Bankr. N.D. Tex. 2003) ("[T]he debtor-in-possession has the burden of proof of the issue of adequate protection."); 3 *Collier*, *supra*, ¶ 363.05. "[T]he standard of adequate protection to be afforded a creditor when its cash collateral is being used should be a high one." *Berens*, 41 B.R. at 528. The standard in cash collateral cases is high because cash, once spent, is permanently removed from a secured lender's collateral base. Cash is the highest, best, and most secure form of collateral. *See id*. at 527 ("[I]f the Debtor is allowed to use the cash collateral, the creditor's security—the collateral—is gone."); 3 *Collier on Bankruptcy*, *supra*, ¶ 363.05 ("The special treatment afforded cash collateral recognizes its unique status as the highest and best form of collateral.").

24. Importantly, simply "needing" the use of cash collateral for continued operations is not a basis for allowing a debtor to use cash collateral. *See Wilhite Pure Oil Truck Stop, Inc. v. McCutchen (In re McCutchen)*, 115 B.R. 126, 133 (Bankr. W.D. Tenn. 1990) (denying use of cash collateral, holding that "mere need does not satisfy the requirements of sections 361 and 363"); *In re Goode*, 235 B.R. 584, 590 (Bankr. E.D. Tex. 1999) ("While the Court understands the ramifications of failing to get [cash collateral] authorization can be devastating to a debtor's case,

that fact alone simply cannot suffice as the sole means by which to justify the use of a creditor's cash collateral . . . .").

25. To satisfy its burden, a debtor's proof of adequate protection must be premised on facts or projections with a firm evidentiary basis, as opposed to mere speculation. *See Lincoln Bank v. High Sky, Inc. (In re High Sky, Inc.)*, 15 B.R. 332, 336 (Bankr. M.D. Pa. 1981) ("[T]he value determination cannot be based on conjecture and mere speculation."); *In re LightStyles, Ltd.*, Case No. 12-03711, 2012 WL 3115902, at *4 (Bankr. M.D. Pa. July 27, 2012) (denying debtor's motion to use cash collateral on a non-consensual basis for a limited duration of thirty days, where the request was "based on the thinnest of evidence"). "An offer of adequate protection based on the speculative possibility that the funds will materialize simply does not constitute adequate protection." *Alpine Bank v. Lakota Canyon Ranch Development, LLC (In re Lakota Canyon Ranch Development, LLC)*, Case No. 11-26157, 2012 WL 243741, at *3 (Bankr. D. Colo. Jan. 25, 2012).

26. The determination of whether there is sufficient adequate protection is "basically tantamount to a collateral valuation issue which focuses on an equity cushion or replacement lien which protects the secured creditor's interests. Most importantly, the adequate protection analysis must be based 'on facts or on projections grounded on a firm evidentiary basis.'" *In re Grupo HIMA San Pablo, Inc.*, Case No. 23-02510, 2023 WL 5498101, at *6 (Bankr. D.P.R. Aug. 24, 2023) (quoting *In re Mosello*, 195 B.R. 277, 292 (Bankr. S.D.N.Y. 1996)); *see also In re Samshi Homes, LLC*, Case No. 10-37643, 2011 WL 3903054, at *3 (Bankr. S.D. Tex. Sept. 6, 2011) ("In determining whether a secured creditor's interest is adequately protected, courts analyze the property's 'equity cushion'").

27. A determination of whether an equity cushion exists necessarily depends on the value of a secured party's collateral. *In re Phoenix Steel Corp.*, 39 B.R. 218, 224 (Bankr. S.D.N.Y.

1984). The Bankruptcy Code does not delineate the standard of valuation, and the legislative history provides that the standard of valuation is to be determined on a case-by-case basis. *Id*. "It has been held that the value ascribed to collateral before the bankruptcy court should be the value that the secured creditor is likely to realize if obtained possession of the collateral and moved forward with a commercially reasonable liquidation under commercially practical and reasonable circumstances." *In re Keystone Camera Prods. Corp.*, 126 B.R. 177, 184 (Bankr. D.N.J. 1991).

28. Courts have employed valuation standards ranging between going-concern or fair market value and liquidation value. *Phoenix Steel*, 39 B.R. at 224. "Valuation in a given case depends on that calculation which properly reflects a secured creditor's true state of protection," and "[t]he concept of adequate protection does not envision a court stripping a secured creditor of the benefit of its bargain." *Id*. Where there are potential risks to a secured party's collateral, it is inappropriate to use going concern or fair market value. *Id*. at 225–26 (determining that the appropriate valuation in the case before it was the mean of liquidation value and going concern value where, based on projections, there was a possibility of a payoff to the secured creditor, but also potential risks that the collateral would be imperiled). In addition, when valuing receivables courts have applied a discount rate due to fluctuations in receivable levels and uncertainty regarding collectability. *See, e.g.*, *id*. at 230 (applying a discount rate of approximately 20% after finding that the debtor's proposed discount rate of 10% was insufficient); *Keystone Camera*, 126 B.R. at 181–82 (excluding ineligible and old and stale receivables, and applying a 20% discount rate when valuing the "current or prime" receivables).

29. In assessing the sufficiency of an equity cushion, the U.S. Court of Appeals for the Fifth Circuit has noted that "[c]ase law has almost uniformly held that an equity cushion of 20% or more constitutes adequate protection." *In re Mendoza*, 111 F.3d 1264, 1272 (5th Cir. 1997); *see*

also In re Knight Energy Corp., Case No. 09-32163, 2009 WL 1851739, at *3 (Bankr. N.D. Tex. Jun. 26, 2009) ("The Court merely finds that the totality of the evidence does not suggest that there is anywhere close to a 20% equity cushion…."); *In re Haydel Properties, LP*, Case No. 16-51259, 2017 WL 1155690, at *2 (Bankr. S.D. Miss. Mar. 27, 2017) (referencing the "20% minimum equity cushion"); *In re Las Torres Dev., L.L.C.*, 413 B.R. 687, 697 (Bankr. S.D. Tex. 2009) (noting that "case law is clear that an equity cushion of 20% or more constitutes adequate protection").

30. ***The Debtors have not met their burden of substantiating that Phonix is adequately protected.*** Indeed, the Cash Collateral Motion and its primary supporting declarations are devoid of any evidence of the value of Phonix's collateral. Nor have Debtors offered any analysis to suggest that Phonix has an equity cushion, much less a sufficient equity cushion.

31. Thus, the Debtors appear to rely entirely on the proposed replacement liens, super-priority claim, reporting requirements, and the unsupported notion that the use of Phonix's Cash Collateral to preserve "preserv[e] . . . the Debtors' overall going concern value by operating during the restructuring process," to provide Phonix with the requisite adequate protection. *See* Cash Collateral Mot. ¶¶ 18–22.

32. However, as stated above, the mere need for use of cash collateral to operate does not overcome the need to provide adequate protection. Moreover, it is evident from the Debtors' five-week budget attached to the Cash Collateral Motion that their forecasted operations will not preserve any purported "going-concern value" that will protect Phonix.

33. Phonix understands that the Debtors require at least $2.5 million of inventory purchases during the five-week budget period from the commencement of these cases through January 3, 2026—and realistically such purchases are required immediately, in order to create sufficient inventory for the Debtors to rent to customers and generate cash and receivables during

the holiday season to continue to generate revenues at levels similar to those in the forecast or consistent with recent historical performance. If the Debtors fail to acquire enough inventory to generate a minimum number rentals during the holiday season, the critical period in their year, while they already are operating at a severe competitive disadvantage in the market given their loss of the "Buddy's" flag and lack of financing, they will not have a sufficient number of customers obligated on new contracts early enough in 2026 to generate the liquidity necessary to fuel reasonable 2026 operations.

34. But the budget does not forecast that the Debtors will purchase anything close to $2.5 million of inventory. Instead, it shows they will only purchase approximately $175,000 of inventory ($5,000 per store as opposed to $80,000 per store). Nor do they have access to any financing (whether by DIP or trade) to purchase such inventory on credit. To the contrary, their schedules show substantial trade debt.

35. And even if the Debtors require less than the $2.5 million projection, the industry standard is that a company will use approximately 25% of its revenue to replace "sold" inventory. The budget projects $1.63 million of revenue for the five-week period, meaning the Debtors should at a minimum purchase approximately $400,000 of inventory during the same period. Even using this substantially smaller benchmark, the Debtors fall far short of what is needed to sustain their business.

36. Thus, the Debtors propose a deeply-underfunded budget. Accordingly, ***the Debtors will dissipate Phonix's cash collateral for the sole benefit of structurally junior creditors***, including landlords, insiders, and professionals, rather than generate value for Phonix or position the Debtors to succeed operationally or attract prospective purchasers. In light of the foregoing,

the replacement liens and super-priority claims the Debtors propose to grant to Phonix cannot provide adequate protection.

37. Critically, the budget shows that Phonix's Cash Collateral will be subject to significant dissipation during the short five-week period. The Debtors project only $289,600 of operating cash flow, which net of an inadequate projected level of administrative expense, leaves the Debtors entering January with only $14,600 in cash and no ability to generate top line cash from new inventory or from financing. Moreover, the budget items to pay non-Debtor affiliates rent, maintenance/repair, and corporate support in six figure amounts, appear to be for the benefit of insider Mr. MacDonald and his son, Aaron. As discussed below, Phonix's Cash Collateral under no circumstances should be dissipated in order to pay insiders and non-Debtor affiliates.

38. Accordingly, the Court cannot approve the Debtors' request for interim authority to use Phonix's Cash Collateral—especially on the proposed 30-day interim period. The parties should be allowed an opportunity to exchange information and properly brief these issues and Phonix's rights for the Court, and return to this Court promptly for a continued hearing for interim relief—this week if possible, but certainly before the holidays. In the meantime, the dissipation of Phonix's Cash Collateral must be minimized as much as possible.

C. The Proposed Interim Cash Collateral Order Is Objectionable for Other Reasons.

39. There are a number of other defects with the Debtors' proposed order granting their Cash Collateral Motion on an interim basis. While Phonix has not had an adequate and appropriate opportunity to review the order for all infirmities due to the Debtors' decision to file these cases with zero prior notice to or negotiation with their secured lender, the proposed order cannot be granted in its current form for at least the following additional reasons:

- The Carve Out Cannot Be Approved. The Debtors propose that the replacement liens and super-priority claim that they offer as adequate protection, which are already insufficient, would be junior in priority to the "Carve Out." The Carveout includes Statutory Fees, up to $50,000 of chapter 7 trustee fees as shown in the proposed order (the Cash Collateral Motion itself shows only $25,000), unpaid Professional Fees before delivery of a Carve-Out Trigger Notice, and up to $250,000 of Professional Fees after delivery of a Carve-Out Trigger Notice. Such Carve Out not only appears excessive for the needs of this case, but its approval is wholly inappropriate in the absence of a consensual use of Cash Collateral, the provision to Phonix of proper adequate protection, and Phonix agreement to such a structure supported by real consideration. Accordingly, the Court should not approve the Carve Out at the interim hearing.

- No Challenge Period. For similar reasons, the provisions creating a Challenge Period should be stricken from the proposed order. The order does not make any findings or acknowledgements concerning Phonix's claims or liens and grants no releases to Phonix. Accordingly, it is inappropriate to include a Challenge Period in the order.

- The Replacement Liens Are Too Narrow. The Replacement Liens currently extend to "substantially all" assets of the RTO Debtors. They must extend to all assets of the Debtors, wherever located and whenever acquired, including proceeds of all causes of action under chapter 5 of the Bankruptcy Code, in order to provide anything approximating adequate protection.

  In general, the order must protect Phonix's interests in all of its Cash Collateral, including the Cash Collateral of the Limited Recourse Guarantors, not just the RTO Debtors.

- Automatic Perfection. The order should provide that the Replacement Liens are automatically perfected without the need of any further order from the Court or the execution, filing, or recording of any other document, instrument, or agreement.

- The Budget Variance Covenants Are Not Protective. Paragraph 5 of the proposed order creates a Budget Variance covenant calculated based on a rolling four-week period commencing the third week after the Petition Date. This covenant does not provide adequate guardrails for the use of Phonix's cash collateral. It must be revised to commence immediately upon entry of any order approving the use of Phonix's Cash Collateral and be calculated based on a rolling two-week period.

- The Reporting Requirements Are Too Narrow. The proposed order only requires the Debtors to provide regular reporting to Phonix consisting of budget-to-actual variance reports and accounts payable detail. The order should be revised to also provide Phonix sales reports and accounts receivable detail, in addition to all other reporting it may be entitled to under the relevant loan documents. Furthermore, such reporting should be delivered to Phonix by Wednesday (not Friday) of each week for the immediately prior week.

- Events of Default Are Too Narrow. In addition to the limited Events of Default currently set forth in the proposed order, it should include other customary Events of Default, including Events of Default consistent with the parties' loan documents.

  Furthermore, the Event of Default at paragraph 10(d) giving the Debtors a grace period of three business days from request by Phonix for the reporting required under the order before failure to provide such reporting constitutes an Event of Default, must be revised to state the failure to provide the reporting when it is required to be delivered is an immediate Event of Default. Under the proposed order as drafted by the Debtors, the reporting would be required five business days after the reporting week, plus another three-business-day grace period, plus a five-business-day cure period *and* five-business day notice period (see below), such that Phonix would not be entitled to any relief for the Debtors' failure to provide reporting until (at the earliest) almost a month after the relevant reporting period.

- The Order Prevents Phonix from Obtaining Timely Relief Upon a Default. If an Event of Default occurs, paragraph 11 of the proposed interim order imposes *both* (1) a requirement that Phonix provide the Debtors a five-business-day Cure Period and (2) a five-business-day notice period following expiration of the Cure Period before it is entitled to a hearing to exercise rights under the Prepetition Loan Documents. Such terms are not market and severely and inappropriately constrain Phonix's ability to obtain relief, and exercise its rights and remedies, if the Debtors cause another Event of Default to occur post-petition.

  The Debtors' authority under the order to use Phonix's Cash Collateral should terminate, and the automatic stay should be lifted to allow Phonix to exercise all of its rights and remedies, immediately upon the occurrence of an Event of Default, subject to the right of the Debtors and/or any Committee to seek a hearing before this Court on up to three business days' notice to contest such Event of Default.

- The Order Appears to Impair Phonix's Adequate Protection and Permanently Restrict Phonix's Prepetition Rights and Remedies. Paragraph 8(d) of the proposed interim order states: "[t]he Lender shall have all the rights and remedies of a secured creditor in connection with the liens and security interests granted by this Interim Order, ***except to the extent that such rights and remedies may be affected by the Bankruptcy Code***." (Emphasis added.) The emphasized language must be stricken as it appears to effectively impair the (already illusory) adequate protection the Debtors offer to Phonix, as such adequate protection would be swallowed by the exception. Moreover, the language would render Phonix unable to enforce its prepetition claims if a postpetition Event of Default occurs and appears to only grant Phonix an adequate protection claim to the extent a factor external to the Debtors' chapter 11 cases causes a diminution in the value of Phonix's collateral. Such restriction and limitation are patently inconsistent with the protections afforded secured creditors under the Bankruptcy Code.

- Unsupported Findings. The proposed order contains numerous findings that are unsupported by any evidence in the record, including, without limitation, a finding

that "[t]he proposed adequate protection to Lender is proposed in good faith and sufficient to cover any projected postpetition diminution in value (if any) of the Lender's Prepetition Collateral, including Cash Collateral." Such gratuitous findings must be stricken from the order.

- Right to Seek Additional Protection and Stay Relief. The order should expressly recognize that Phonix is entitled to seek additional adequate protection and stay relief from this Court.

II. THE CASH MANAGEMENT MOTION CANNOT BE GRANTED ON A FINAL BASIS, AND THE DEBTORS MUST NOT BE PERMITTED TO TRANSFER PHONIX CASH COLLATERAL TO NON-DEBTOR AFFILIATES UNDER THE CASH MANAGEMENT ORDER; THE WAGES MOTION AND OTHER "FIRST DAY" PAPERS SHOULD BE GRANTED ON AN INTERIM BASIS ONLY AND A HEARING SHOULD BE SCHEDULED TO CONSIDER GRANTING FINAL RELIEF.

40. As stated above, the Debtors appear to request authority to make payments to non-Debtor affiliates and insiders under the Cash Management Motion. Such payments include, for example, the "corporate support" line item reflected in the budget attached to the Cash Collateral Motion. Additionally, the Debtors provide very little information concerning the "Debtor Intercompany Transactions," such that the unconditional approval of such transactions may risk inappropriate dissipation of Phonix Cash Collateral to non-Debtor affiliates and insiders. Accordingly, the Cash Management Motion cannot be granted without imposing appropriate controls to prevent leakage that would further diminish Phonix's Cash Collateral.

41. Furthermore, due to the lack of notice and the risk of prejudice, the Cash Management Motion should not be granted on a final basis. Any relief the Court authorizes should be on an interim basis only, to allow Phonix sufficient time to review the terms of the proposed cash management procedures and raise any other and further objections that may be necessary or appropriate to protect its interests in its Cash Collateral.

42. Further, all "first day" relief should be granted only on an interim basis to enable proper review by Phonix and other Debtor stakeholders and the Court itself.

RESERVATION OF RIGHTS

43. This Objection is submitted without prejudice to, and with a full reservation of, Phonix's rights to supplement and amend this Objection, including, without limitation, by filing exhibits or declarations in support thereof, to further object to the Cash Collateral Motion, Cash Management Motion, or any other "first day" paper filed by the Debtors, or to introduce evidence

at any hearing relating to this Objection or such papers prior to or at any such hearing, on any grounds that may be appropriate.

CONCLUSION

WHEREFORE, for all the foregoing reasons, (a) the Cash Collateral Motion should be denied, (b) the Cash Management Motion should not be granted on a final basis, should not be granted on an interim basis without addressing the issues set forth herein, and should be scheduled for a continued hearing, (c) the Wages Motion and other "first day" relief should not be granted on a final basis, (d) a continued hearing to consider further interim relief on the Cash Collateral Motion should be scheduled at the earliest appropriate opportunity to allow the parties an opportunity to negotiate the terms of consensual usage and raise and fully brief the issues concerning such usage, (e) a continued hearing to consider final relief on the Cash Management Motion, the Wages Motion, and other "first day" papers should be scheduled to allow Phonix an appropriate opportunity to raise and fully brief any potential objections to the relief requested therein, and (f) the Court should grant Phonix such other and further relief as is just an appropriate.

Dated: December 7, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 7, 2025, I electronically filed the foregoing document with the Clerk of the Court for the U.S. Bankruptcy Court for the Northen District of Texas, using the CM/ECF system. The ECF system will send a "Notice of Electronic Filing" to all counsel of record who have consented in writing to accept service of this document by electronic means.

/s/ David M. Clem
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