

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS - KANSAS CITY**

IN RE:)
)
SUNBRIDGE CAPITAL, INC.) **CASE NO. 09-20747**
)
ALLEGED DEBTOR)

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW Bank of Kansas City, N.A. (the "Bank") and for its Motion for Relief from the Automatic Stay states as follows:

FACTUAL BACKGROUND

1. On March 20, 2009 (the "Commencement Date"), the above-captioned involuntary bankruptcy case was filed against Sunbridge Capital, Inc. (the "Debtor") in the United States Bankruptcy Court for the District of Kansas.

2. Prior to the Commencement Date, the Debtor was in the business of leasing heavy equipment and vehicles to commercial entities such as construction companies.

3. To finance its operations, prior to the Commencement Date, the Debtor entered into certain loan documents with and in favor of the Bank as set forth on Exhibit A hereto (the "Loan Documents").

4. Under the Loan Documents, the Bank agreed to advance the Debtor up to \$97 million.

5. Repayment of the advances under the Loan Documents and all amounts owing thereunder was secured by a valid and perfected first priority security interest in the Debtor's personal property set forth on Exhibit B hereto (the "Collateral").

6. As of December 31, 2008, the Debtor was in default under the Loan Documents and the Bank ceased to advance funds to the Debtor thereunder.

7. Thereafter, the parties entered into negotiations and the Debtor determined that it was in its best interest and the best interest of the Bank to protect and liquidate the Bank's interest in the Collateral.

8. Consequently, as of January 30, 2009, the Debtor and the Bank executed a Settlement Agreement (the "Settlement Agreement" attached hereto and marked Exhibit C) pursuant to which the Bank foreclosed its security interest in the Collateral and as of that same date, transferred all right title and interest in and to the Collateral to the Bank's affiliate, BOKF Special Assets I, LLC (the "Designee").

9. Thus, as of January 30, 2009, the Debtor had no legal or equitable interest in any of the Collateral.

10. Thereafter, the Bank began the tasks of: (a) retitling certain of the Vehicles; (b) placing the Vehicles and other Equipment with a remarketer for repair, and ultimately re-sale or lease; (c) transitioning the records and systems related to the Paper to a new entity to service the leases; and (d) redesignating the bank account where lease payments were made in the name of the Bank and/or the Designee (collectively the "Transition Process").

11. To secure the Debtor's assistance in the Transition Process, the Bank, and six other lenders unrelated to the Bank, agreed to permit the Debtor to use certain funds pursuant to a budget attached to the Settlement Agreement until April 30, 2009.

12. As of the Commencement Date, the Transition Process was well underway, but not completed. For example, due to the sheer volume of vehicles at issue, not all titled vehicles were yet retitled by the state of Kansas in the name of the Designee.

13. As of the Commencement Date, the Bank was owed in excess of \$76 million as specifically set forth on Exhibit F to the Settlement Agreement (the "Debt"), and the Bank

believes that the value of the Collateral in the current market and economic circumstances is worth significantly less the Debt.

14. As of the Commencement Date, the Debtor in effect has only a skeleton staff to assist in the completion of the Transition Process and has no ongoing operations as it relates to the Collateral.

15. As a consequence of the Settlement Agreement, the Collateral is not property of the estate under § 541 of the Bankruptcy Code. In addition, the Debtor has no interest in any cash relating to the loans from the Bank and therefore, there is no cash collateral with respect to the Loan Documents under § 363 of the Bankruptcy Code.

16. In addition, in the Settlement Agreement, the Debtor, represented by counsel in the Settlement Agreement negotiation process, agreed that in the event a bankruptcy case was filed by or against the Debtor, the automatic stay of § 362 of the Bankruptcy Code would be modified to permit the Bank to enforce its rights and remedies in the Collateral and complete all facets of the Transition Process. See Settlement Agreement at paragraph 7.

17. Because the Debtor does not own an interest in the Collateral, the Bank does not believe that the remaining tasks to be completed under the Transition Process constitute acts against the Debtor or the Debtor's property; consequently, the automatic stay of § 362 of the Bankruptcy Code does not apply to the Transition Process or the Bank.

18. In an abundance of caution, however, and in light of the unforeseen event of the instant involuntary bankruptcy case, the Bank hereby requests that the Court enter an order granting the Bank relief from the automatic stay as set forth hereafter and thereby confirming and leaving no doubt the Transition Process can be completed as contemplated by the Settlement Agreement.

Count I: Enforcement of Settlement Agreement

19. The Bank incorporates paragraphs 1 through 18 above as though fully set forth herein.

20. The Settlement Agreement, paragraph 7, provides for the automatic lifting of the automatic stay.

21. In the Settlement Agreement, the Debtor conceded that the Collateral was not necessary to an effective reorganization, that it had no equity in the Collateral, and that as a result, in a bankruptcy case, the Bank would be entitled to the immediate entry of an order *ex parte* pursuant to § 362(f) of the Bankruptcy Code lifting the automatic stay.

22. The Settlement Agreement was signed by the Debtor with advice of competent and sophisticated counsel, was knowingly and voluntarily signed by the Debtor, and is completely enforceable.

23. As a consequence, the Court should enter an order granting the Bank relief from the automatic stay to permit the Bank to complete the Transition Process.

Count II - § 362(d)(1) of the Bankruptcy Code – Lack of Adequate Protection

24. The Bank incorporates paragraphs 1 through 23 above as though fully set forth herein.

25. The Debtor owns no interest in the Collateral, the Collateral is diminishing in value and the Debtor cannot provide the Bank with adequate protection.

26. The value of the Collateral is less than the Debt.

27. Therefore, based on § 362(d)(1) of the Bankruptcy Code, cause exists to modify the automatic stay to permit the Bank to protect its interest in the Collateral and to complete the Transition Process.

Count III: §362(d)(2) of the Bankruptcy Code – No Effective Reorganization

28. The Bank incorporates paragraphs 1 through 27 above as though fully set forth herein.

29. The value of the Collateral is less than the Debt. Therefore, the Debtor has no equity in the Collateral.

30. The Debtor has no operations and only a skeleton staff, has no access to cash to operate its business, and as a result, cannot reorganize within a reasonable period of time.

31. Therefore, based on § 362(d)(1) of the Bankruptcy Code, cause exists to modify the automatic stay to permit the Bank to protect its interest in the Collateral and to complete the Transition Process.

WHEREFORE, pursuant to §§ 362(d)(1) and (d)(2) of the Bankruptcy Code, and pursuant to the Settlement Agreement, the Bank prays that the Court enter an order: (a) modifying the automatic stay to permit the Bank to enforce its rights in and with respect to the Collateral, to take immediate possession and control of the Collateral, to complete the Transition Process, and to enforce its rights under applicable nonbankruptcy law and the Settlement Agreement, and (b) granting such other relief as is just and equitable.

Respectfully submitted,

STINSON MORRISON HECKER LLP

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ATTORNEYS FOR BANK OF KANSAS
CITY, N.A.

EXHIBIT A – LOAN DOCUMENTS

1. Loan and Security Agreement between SunBridge Capital, Inc. and Bank of Kansas City, National Association, dated December 19, 2007.
2. First Amendment Agreement between SunBridge Capital, Inc. and Bank of Kansas City, National Association, dated June 30, 2008.
3. Second Amendment Agreement between SunBridge Capital, Inc. and Bank of Kansas City, National Association, dated September 29, 2008.
4. Promissory Note by SunBridge Capital, Inc. as maker, payable to Bank of Kansas City, National Association, in the original principal amount of \$97,000,000.00 and dated December 19, 2007.
5. First Amended and Restated Promissory Note by SunBridge Capital, Inc. as maker, payable to Bank of Kansas City, National Association, in the original principal amount of \$75,500,000.00 and dated September 29, 2008.
6. Unlimited Continuing Guaranty by SunBridge Holding Corporation, Inc. in favor of Bank of Kansas City, National Association, and dated December 19, 2007.
7. Limited Continuing Guaranty by Jack Fingersh, individually and as Trustee of the trust created by that certain Fourth Amendment To and Restatement To the Indenture of Trust of Jack Fingersh Dated August 21, 1992, dated as of March 23, 2006, Paul Fingersh, individually and as Trustee of the trust created by that certain Indenture of Trust of Paul Fingersh dated December 5, 2003, and Irwin Blitt, individually and as Trustee of the trust created by that certain Eleventh Amendment To and Restatement of Trust Agreement of Irwin Blitt dated as of January 11, 2007, in favor of Bank of Kansas City, National Association, and dated December 19, 2007.
8. Assignment of Promissory Note and Loan Documents by and between Hillcrest Bank, a Kansas state banking corporation, and Bank of Kansas City, National Association, dated December 19, 2007.
9. Intercreditor Agreement by and between Hillcrest Bank and Bank of Kansas City, National Association, dated December 19, 2007.
10. Backup Servicing Agreement by and between SunBridge Capital, Inc. and Portfolio Financial Servicing Company, a Delaware corporation dated December 9, 2007.
11. Collateral Assignment of Backup Servicing Agreement between SunBridge Capital, Inc. and Bank of Kansas City, National Association, dated December 19, 2007.
12. Portfolio Interest Certificate dated December 19, 2007 and executed by Wilmington Trust Company, not in its individual capacity but solely as Owner Trustee of SunBridge Master Titling Trust, a statutory trust organized under the Delaware Statutory Trust Act pursuant to that certain Trust Agreement dated as of February 10, 2006 by and between Wilmington Trust Company, not individually but solely as Owner Trustee and as Custodian, and SunBridge Capital, Inc.
13. Loan Bifurcation Agreement by and between SunBridge Capital, Inc., Hillcrest Bank, a Kansas bank, and Bank of Kansas City, National Association, dated December 19, 2007.

14. UCC-1 financing statements

Exhibit B - Collateral Description

1. the motor vehicles set forth on Exhibit B to the Settlement Agreement (whether repossessed or still under lease) and any possessory, reversionary and beneficial rights and interests in such motor vehicles (the "Titled Vehicles");

2. inventory (the "Inventory");

3. chattel paper and leases (whether a lease of goods or otherwise), set forth on Exhibit B to the Settlement Agreement, and including all agreements related thereto such agreements in the nature of workout and forbearance agreements (collectively the "Paper");

4. all general intangibles (the "General Intangibles") including, without limitation (whether such interest is considered a "general intangible" or otherwise),

5. SunBridge's beneficial ownership interest in the Portfolio Assets (as defined in the Second Amended and Restated Trust Agreement dated November 16, 2006 (the "Trust Agreement")) identified under, allocated to and accounted for separately in, Portfolio Interest Account No. 075934-001 having the title "SMT / Bank of Kansas City Trust" (the "Portfolio Interest") represented by that certain Portfolio Interest Certificate dated December 19, 2007, as amended, Sunbridge's beneficial ownership interest in the Portfolio Interest, as the portion of the Master Titling Trust comprised of such Portfolio Assets, it being acknowledged by the parties that, among other things, the Bank has all rights given to a Lender under the Trust Agreement with respect to the Portfolio Interest (collectively referred to as the "Subtrust Interest");

6. the deposit account maintained at UMB Bank, N.A. ("UMB") and further described on Exhibit E to the Settlement Agreement (the "Deposit Account");

7. all receivables (as defined in the Loan Documents) (the "Accounts");

8. all contract rights relating to the foregoing including the extent of SunBridge's rights in retained investment and sold contracts as described on Exhibit D to the Settlement Agreement (the "Contract Rights"); and

9. all proceeds of the foregoing (the "Proceeds")

EXHIBIT C - SETTLEMENT AGREEMENT

See attached.

CERTIFICATE OF SERVICE

The undersign certifies that on March 26, 2009 and true and correct copy of the foregoing Motion for Relief from the Automatic Stay was served by the Court's ECF system.

/s/ Mark Shaiken
ATTORNEYS FOR BANK OF
KANSAS CITY, NA.