

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

**CBC RESTAURANT CORP., et al.,<sup>1</sup>**  
  
Debtors.

Chapter 11

Case No. 23-10245 (KBO)

(Jointly Administered)

Re: D.I. No. 18, 36, 89

**Continued Interim Hearing Date: TBD**

**NOTICE OF ENTRY OF STIPULATION AND AGREED BRIDGE ORDER: (A)  
EXTENDING DEBTORS' AUTHORIZED USE OF CASH COLLATERAL; AND (B)  
GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE THAT** on February 23, 2023, CBC Restaurant Corp. and its debtor affiliates, as debtors and debtors in possession (collectively, "Corner Bakery" or the "Debtors"), filed the *Motion of the Debtors for Entry of an Interim Order: (A) Authorizing the Debtors' Use of Cash Collateral; (B) Scheduling a Final Hearing; and (C) for Related Relief* (the "Motion") [D.I. No. 18] in the above-captioned case with the United States Bankruptcy Court for the District of Delaware (the "Court"). A copy of the Motion is attached hereto as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE THAT** the Debtors presented the Motion at a hearing before the Honorable Karen B. Owens on February 24, 2023. The Court granted interim relief on the Motion and entered the *Interim Order: (A) Authorizing the Debtors' Use of Cash Collateral; (B) Scheduling a Final Hearing; and (C) Granting Related Relief* [D.I. No. 36].

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938). The Debtors' service address is 121 Friends Lane, Suite 301, Newtown PA 18940.



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**PLEASE TAKE FURTHER NOTICE** that a continued hearing on the Motion was held on March 3, 2023. The Court granted further interim relief on the Motion and entered the *Stipulation and Agreed Bridge Order: (A) Extending Debtor's Authorized Use of Cash Collateral; and (B) Granting Related Relief* [D.I. No. 89] attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that a continued hearing on the Motion shall be scheduled on or before **March 17, 2023** to consider further interim relief. Any objections to entry of such order shall be in writing, filed with this Court, and served upon (a) the Debtors, Corner Bakery, 121 Friends Lane, Suite 301, Newtown PA 18940, Attn: Jay Pandya (jaypandya@rohangroup.net); (b) the Debtors' proposed counsel, Culhane Meadows PLLC, 3411 Silverside Road, Baynard Building, Suite 104-13, Wilmington DE 19810, Attn: Mette H. Kurth (MKurth@cm.law) and Lynnette R. Warman ([LWarman@cm.law](mailto:LWarman@cm.law)); (c) SSCP, the Debtor's prepetition lender, Ken Schwab (kschwab@sscpmanagement.com); (d) counsel to SSCP, Foley & Lardner LLP, 2021 McKinney Avenue, Suite 1600, Dallas, TX. 75201, Attn: Holland N. O'Neil (honeil@foley.com), Mark C. Moore (mmoore@foley.com), and Tim Mohan (tmohan@foley.com) and Ashby & Geddes, P.A, 500 Delaware Avenue, 8th Floor, P.O. Box 1150, Wilmington, DE. 19899, Attn: Ricardo Palacio (RPalacio@ashbygeddes.com); (d) the Office of the United States Trustee for the District of Delaware, Attn: Linda Casey (Linda.Casey@usdoj.gov); and (e) counsel for any statutory committee appointed in these Chapter 11 Cases, or if no such committee has been appointed, the holders of the 30 largest unsecured claims against the Debtors, in each case so as to be received no later than **4:00 p.m. (EST) on March 10, 2023**.

**PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE FINAL RELIEF REQUESTED BY THE MOTION WITHOUT FURTHER NOTICE OF HEARING.**

Dated: March 4, 2023  
Wilmington, Delaware

*/s/ Mette H. Kurth*

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*Proposed Counsel to the Debtors and Debtors In Possession*

**Exhibit A**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

**CBC RESTAURANT CORP., et al.,<sup>1</sup>**  
  
Debtors.

Chapter 11

Case No. 23-10245-KBO

(Joint Administration Requested)

**MOTION OF THE DEBTORS FOR ENTRY OF AN INTERIM  
ORDER: (A) AUTHORIZING THE DEBTORS' USE OF CASH COLLATERAL; (B)  
SCHEDULING A FINAL HEARING; AND (C) FOR RELATED RELIEF**

CBC Restaurant Corp. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, "Corner Bakery" or the "Debtors"), respectfully state the following in support of this motion (this "Motion").

**RELIEF REQUESTED**

1. Corner Bakery seeks entry of interim and final orders, in substantially in the form attached hereto as **Exhibit A** and **Exhibit B** (the "Interim Order" and "Final Order," respectively, and together, the "Cash Collateral Orders"): (a) authorizing the Debtors' use of cash collateral; and (b) scheduling a final hearing to consider entry of an order granting the relief requested in the Motion on a final basis. Corner Bakery has notified its secured lender of this Chapter 11 filing and is currently in discussions with the lender and seeking its consent to the use of cash collateral on the limited, short-term basis outlined herein.

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938). The Debtors' service address is 121 Friends Land, Suite 300, Newtown PA 18940.



## **JURISDICTION AND VENUE**

2. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012 (Sleet, C.J.).

3. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

## **BASIS FOR RELIEF**

5. The statutory predicates for the relief requested herein pursuant to Sections 105(a), 361, 363(b), and 363(c)(2) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”); Bankruptcy Rules 2002, 4001, and 9014; and Local Rule 4001-2

## **BACKGROUND**

### **A. The Business and Events Leading to These Bankruptcy Filings**

6. On February 22, 2023, Corner Bakery commenced cases under Chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no official committees have been appointed or designated.

7. A detailed description of the Debtors and their business, and the facts and circumstances giving rise to these Chapter 11 cases and supporting this motion, is set forth in detail in the Detailed descriptions of the Debtors and their business and the facts and circumstances supporting this Motion and the Debtors' chapter 11 cases are set forth in detail in the *Declaration of Jay Pandya, Chief Executive Officer and Chief Operating Officer of CBC Restaurant Corp. in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), which is incorporated herein by reference.

#### **B. Corner Bakery's Prepetition Capital Structure**

8. Pursuant to a certain Credit and Guaranty Agreement, dated as of November 10, 2017 (as amended or otherwise modified from time to time, the ("Credit Agreement")) by and among CBC Restaurant Corp., a Delaware corporation ("Company"), Corner Bakery Holding Company (f/k/a IFCB Holding Corporation), a Delaware corporation ("Holdings"), and certain subsidiaries of the Company, as Guarantors (Holdings and such other Guarantors, and together with Company, each a ("Credit Party") and collectively, the ("Credit Parties")), the Lenders party thereto from time to time and SSCP Restaurant Investors, LLC as the successor by assignment from Goldman Sachs Specialty Lending Group, L.P., as Administrative Agent and Collateral Agent (in each such capacity, "Agent"), the Lenders agreed to extend credit facilities in an aggregate amount not to exceed \$177,500,000, consisting of \$155,000,000 aggregate amount of Tranche A Term Loans, and \$22,500,000 aggregate principal amount of Revolving Commitments (subject to a \$9,500,000 sublimit for Revolving Loans and a \$13,000,000 sublimit for Letters of Credit (the "Credit Facility")). The Credit Facility was amended and/or extended as of September 11, 2019, March 31, 2020, April 16, 2020, June 30, 2020, August 7, 2020, September 10, 2020, October 21, 2020, October 28, 2020 and June 15, 2021.

9. Certain Credit Parties also entered into a Pledge and Security Agreement dated as of November 10, 2017 (as amended or otherwise modified from time to time, including the Pledge Supplement dated September 30, 2019, and a Trademark Security Agreement, also dated as of November 10, 2017, granted in connection with the Credit Facility. As of the Petition Date, the amount allegedly due under the Credit Agreement (and disputed by the Debtors) is approximately \$33.8 million.

### **C. Proposed Terms of Cash Collateral Usage**

10. By way of this Motion, Corner Bakery is seeking the use of cash collateral for the limited purpose of funding up to \$2.4 million for the purposes of paying its regular payroll due on February 23, 2023, as set forth in the accompanying *Motion of the Debtors for Entry of Interim and Final Orders: (1) Authorizing Debtors to Pay Prepetition Employee Obligations, Prepetition Withholding Obligations, and Postpetition Employee Obligations in the Ordinary Course; and (B) Authorizing Banks to Honor Related Transfers* and to make certain payments to essential post-petition food vendors in the amount of up to \$1 million (the "Critical Operating Expenses"). The Debtors are preparing a separate motion to be filed shortly seeking approval of debtor-in-possession financing and longer-term usage of cash collateral.

11. The following chart contains a summary of the material terms of the Interim Order, in accordance with Bankruptcy Rules 4001(b)(1) and Local Rule 4001-2.

<b>Material Terms</b>	<b>Summary of Material Terms</b>	<b>Paragraphs of the Interim Order</b>
<b>Cross Collateralization</b> <i>LBR 4001-2(a)(i)(A)</i>	None	N/A
<b>Findings re Validity/Perfection/Debt Amount/Challenge Period</b> <i>LBR 4001-2(a)(i)(B)</i>	None	N/A



<b>506(c) Waiver</b> <i>LBR 4001-2(a)(i)(c)</i>	None	N/A
<b>Prepetition Secured Creditor Liens</b> <i>LBR 4001-2(a)(i)(D)</i>	None	N/A
<b>Provisions Deeming Pre-Petition Debt to be Postpetition Debt</b> <b>Local Bankruptcy Rule</b> <i>LBR 4001-2(a)(i)(E)</i>	None	N/A
<b>Disparate Treatment for Committee Professionals from the Debtors' Professionals</b> <i>LBR 4001-2(a)(i)(F)</i>	None	N/A
<b>Non-Consensual Priming</b> <i>LBR 4001-2(a)(i)(G)</i>	None	N/A
<b>552(b) Waiver</b> <i>LBR 4001-2(a)(i)(H)</i>	None	N/A
<b>Purpose for the Use of Cash Collateral</b> <i>LBR 4001-2(a)(ii)</i>	The Debtors seek authority to use Cash Collateral to pay critical operating expenses during this Chapter 11 case, to be further supplemented by DIP financing to be submitted to this Court for approval roughly contemporaneously with the Final Hearing on this motion	¶[●]
<b>Budget</b>	Except as otherwise expressly provided in the Interim Order, Cash Collateral may be used	¶[●]

<i>LBR 4001(b)(1)(B)(ii)</i>	at the times, in the amounts, and for the purposes set forth herein.	
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### **THE USE OF CASH COLLATERAL IS NECESSARY AND APPROPRIATE**

12. Corner Bakery's need to use cash collateral is immediate and critical in order to continue to operate their business and to administer and preserve the value of their estates. The events leading up to the Debtors' financial circumstances are more fully described in the First Day Declaration. Corner Baker does not have sufficient sources of working capital or available without the authorized use of Cash Collateral.

#### **A. The Debtors' Use Of Cash Collateral.**

13. Bankruptcy Code section 363(a) defines cash collateral, which includes, *inter alia*, deposit accounts, whether existing before or after the commencement of a case under the Bankruptcy Code.

14. Section 363(c) further provides as follows:

(1) If the business of the debtor is authorized to be operated under section 721, 1108, 1203, or 1304 of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

(2) The Trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless –

- (A) each entity that has an interest in cash collateral consents; or
- (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provision of this section.

11 U.S.C. § 363(c)(1)-(2).

15. Notwithstanding the objection of a party with an interest in cash collateral, pursuant to section 363(e), the court may authorize the use of cash collateral if such creditor's interest in the cash collateral is adequately protected.

16. The Debtors' use of cash collateral to pay the Critical Operating Expenses under the circumstances of these Chapter 11 Cases is authorized pursuant to Bankruptcy Code section 363(c).

17. The principal purpose of adequate protection "is to assure that the lender's economic position is not worsened because of the bankruptcy case." *In re DeSardi*, 340 B.R. 790, 804 (Bankr. S.D. Tex. 2006). A secured creditor is "not entitled to adequate protection payments without a showing of economic depreciation." *In re Immenhausen Corp.*, 164 B.R. 347, 352 (Bankr. M.D. Fla. 1994) (citing *United Savings Ass'n v. Timbers of Inwood Forest Assoc., Ltd.*, 484 U.S. 365, 369-73 (1988)). The interest in property that is entitled to protection is value of the collateral securing such claim. *Id.* It follows therefore that where a secured creditor's interest and the value of the collateral is not diminishing by its use, sale or lease, the secured creditor's interest is adequately protected. *Id.* The Bankruptcy Code does not explicitly define adequate protection, but does provide a non-exclusive list of the means by which a debtor may provide adequate protection, including other relief resulting in the indubitable equivalent of the secured creditor's interest in such property. *See* 11 U.S.C. § 361. Because the term "adequate protection" is not defined in the Bankruptcy Code, the precise contours of the concept are necessarily determined on a case-by-case basis. *See, e.g., In re Swedeland Dev. Grp. Inc.*, 16 F.3d 552, 564 (3d Cir. 1994) (citing *In re O'Connor*, 808 F.2d 1393, 1396-97 (10th Cir. 1987)); *In re Martin*, 761 F.2d 472, 474 (8th Cir. 1995) (same); *In re Senior Care Props., Inc.*, 137 B.R. 527, 528 (Bankr. N.D. Fla. 1992) (same); *In re Family Place P'ship*, 95 B.R. 166, 171 (Bankr. E.D. Cal. 1989); *In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984); *see also* S. Rep. No. 95-989, 95th Cong., 2d Sess. 54 (1978) and H.R. Rep. No. 595, 95th Cong., 2d Sess. 339 (1978) (acknowledging that the statute confers upon "the parties

and the courts flexibility by allowing such other relief as will result in the realization by the protected entity of the value of its interest in the property involved.”).

18. Preserving the value of the collateral against the decline in value that would result from a precipitous liquidation is a crucial factor to consider in making an adequate protection determination. *In re Snowshoe Co. Inc.*, 789 F.2d 1085, 87 (4th Cir. 1986) (affirming 364(d) financing order where trustee reported that the collateral would lose from 50% to 90% of its value if operations ceased); *In re Ralar Distribs., Inc.*, 166 B.R. 3, 6 (Bankr. D. Mass. 1994), *aff'd* 182 B.R. 81 (D. Mass.), *aff'd* 69 F.3d 1200 (1st Cir. 1995).

19. Accordingly, to meet the general rehabilitative purpose of chapter 11, which requires that debtors have the ability to access their cash to operate, the Debtors request authority to use their cash collateral to fund the Critical Operating Expenses.

20. In these Chapter 11 Cases, SSCP is adequately protected because without the use of the cash collateral to pay the Critical Operating Expenses, it is extremely unlikely that the Debtors can remain in business and successfully reorganize. Without the ability to fund payroll and purchase food and inventory for its restaurants, Corner Bakery will no longer be able to operate and the value of the lender's collateral will decline precipitously.. Corner Bakery must be permitted to preserve its value.

21. Based on the foregoing, Corner Bakery respectfully submits that entry of an Order authorizing the interim use of cash collateral and scheduling a Final Hearing to approve the use of cash collateral on a final basis is necessary and appropriate.

#### **D. The Debtors' Ability to Make Adequate Assurance Payments to SSCP**

22. Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. §363(b)(1). If the debtors’ determination to use estate assets represents a reasonable business judgment, the bankruptcy court should approve such use. *In re Weatherly Frozen Food Group, Inc.*, 149 B.R. 480, 482-483 (Bankr. N.D. Ohio 1992) (a section 363 sale may be authorized when a sound business purpose dictates such action); *see also In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 175-76 (D. Del. 1991) (section 363 of the Bankruptcy Code requires that the debtor’s decision be supported by a “sound business purpose”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (Bankr. D. Del. 1999).

23. Once a debtor articulates a valid business judgment, “the business judgment rule ‘is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.’” *In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)); *In re Engman*, 331 B.R. 277, 289 (Bankr. D. Mich. 2005) (the business judgment rule creates a presumption in favor of the fiduciary). The business judgment rule has vitality in chapter 11 cases and shields a debtor’s management from judicial second guessing. *Integrated Res.*, 147 B.R. at 656.

24. Additionally, section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. §105(a). The “doctrine of necessity” functions in a chapter 11 reorganization as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. It is well established that a bankruptcy court has authority to authorize payment of prepetition claims where the payment

of such claims is necessary to facilitate reorganization. For example, under the “necessity of payment” doctrine, a bankruptcy court can exercise its equitable powers to permit the payment of prepetition claims of those parties whose goods or services are critical to the debtor’s reorganization. *See In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (supporting principle that bankruptcy court can authorize payment of prepetition claims where such payment is necessary to survival of debtor); *In re SIS Corp.*, 108 B.R. 608,609-10 (Bankr. N.D. Ohio 1989) (recognizing that courts may authorize payments on account of prepetition claims premised upon overriding practical and policy reasons); *In re Structurelite Plastics Corp.*, 86 B.R. 922, 931-932 (Bankr. S.D. Ohio 1988) (agreeing in “principle that a bankruptcy court may exercise its equitable powers under section 105(a) to authorize payment of prepetition claims where such payment is necessary to permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately”) (citation omitted); *see also In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (“[I]f payment of a claim which arose prior to reorganization is essential to the continued operation of the railroad during reorganization, payment may be authorized even if it is made out of corpus.”); *In re Boston & Maine Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors’ continued operation); *In re Columbia Gas Sys.* 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (necessity of payment doctrine is applicable where “payment is essential to continued operation of business”); *In re Ionosphere Clubs*, 98 B.R. 174, 175-176 (Bankr. S.D.N.Y. 1989) (stating that the rationale of the necessity of payment rule corresponds with the paramount goal under chapter 11 of reorganizing the debtor and that section 105(a) allows the bankruptcy court to “authorize the

payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor”) (citation omitted)

25. Accordingly, the Debtors request authority to use Cash Collateral on the terms set forth herein.

### **REQUEST FOR A FINAL HEARING**

26. Pursuant to Bankruptcy Rule 4001(b)(2) and Local Rule 4001-2(c), the Debtors request that the Court set a date for the Final Hearing and fix the date and time prior to the Final Hearing for parties to file objections to the relief requested by this Motion.

### **RESERVATION OF RIGHTS**

27. Nothing contained in this Motion is intended or should be construed as an admission as to the validity of any claim against Corner Bakery, a waiver of the Debtors’ rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under Bankruptcy Code section 365. Corner Bakery expressly reserves its rights to contest any claim related to the relief sought in this Motion. Likewise, if the Court grants the relief sought in this Motion, any payment made pursuant to an order of the Court is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors’ rights to subsequently dispute such claim.

### **THE REQUIREMENTS OF BANKRUPTCY RULES 6003 ARE SATISFIED**

28. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” For the reasons discussed above, authorizing the relief requested in this Motion is integral to Corner Bakery’s ability to transition its operations into these chapter 11 cases. Failure to receive such authorization and other relief during the first 21 days of these chapter 11 cases would severely

disrupt its operations at this critical juncture. For the reasons discussed herein, the relief requested in this Motion is necessary in order for Corner Bakery to operate its business in the ordinary course and preserve the ongoing value of its operations and maximize the value of its estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

### **WAIVER OF BANKRUPTCY RULES 6004(a) and 6004(h)**

29. To implement the foregoing successfully, Corner Bakery requests that the Court enter an order providing that notice of the relief requested in this Motion satisfies Bankruptcy Rule 6004(a) and that it has established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

### **NOTICE**

30. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the lender under the Debtors’ debtor in possession financing facility and counsel thereto; (d) the United States Attorney’s Office for the District of Delaware; (e) the Internal Revenue Service; (f) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking “first day” relief, the Debtors will serve copies of this Motion and any order entered on this Motion as required by Local Rule 9013-1(m). Corner Bakery submits that, in light of the nature of the relief requested, no other or further notice need be given.

### **NO PRIOR REQUEST**

31. No prior request for the relief sought in this Motion has been made by Corner Bakery to this or any other court.



**WHEREFORE**, Corner Bakery respectfully requests that the Court enter an Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: February 23, 2023  
Wilmington, Delaware

/s/ Mette H. Kurth

Mette H. Kurth (DE Bar No. 6491)  
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*Proposed Counsel to the Debtors and Debtors In Possession*

**Exhibit A**

**Proposed Interim Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

**CBC RESTAURANT CORP., et al.,<sup>1</sup>**

Debtors.

Chapter 11

Case No. 23-10245-KBO

(Joint Administration Requested)

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS' USE OF CASH  
COLLATERAL, (II) SCHEDULING A FINAL HEARING AND (III) GRANTING  
RELATED RELIEF**

Upon the motion (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order"): (a) authorizing the Debtors' interim and final use of cash collateral, (b) scheduling a final hearing and (c) granting related relief; and it appearing that the Court has jurisdiction over this matter, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court finding that it may enter a final order consistent with Article III of the United States Constitution; and this Court finding that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court finding that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938). The Debtors' service address is 121 Friends Land, Suite 300, Newtown PA 18940.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. Pursuant to Bankruptcy Code Sections 105(a), 363(b), and 363(c)(2), the Debtors are authorized to use cash collateral on an interim basis in order to fund the Critical Operating Expenses as set forth in the Motion. Nothing in this Order shall be construed as a judgment as to the validity of any prepetition liens nor as a waiver of any party's right to later challenge such liens, all such rights being expressly reserved.
3. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the Local Rules are satisfied by such notice.
4. Nothing contained in this Interim Order or in the Motion is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, or (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim. Likewise any payment made pursuant to this Interim Order is not intended to be, and shall not be construed as, an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.
5. Nothing in this Interim Order or the Motion is intended or shall be construed to constitute relief from the automatic stay pursuant to section 362 of the Bankruptcy Code.

6. The terms and conditions of this Order are effective and enforceable immediately upon its entry.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

9. The hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on \_\_\_\_\_, **2023 at \_\_:00 .m. (EST)**; and any objections to entry of such order shall be in writing, filed with this Court, and served upon (i) counsel to the Debtors, (ii) the Secured Creditors, (iii) the U.S. Trustee, and (iv) counsel for any statutory committee appointed in these Chapter 11 Cases, in each case so as to be received no later than **4:00 p.m. (EST) on \_\_\_\_\_, 2023.**

**Exhibit A**

**Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

**CBC RESTAURANT CORP., et al.,<sup>1</sup>**

Debtors.

Chapter 11

Case No. 23-10245-KBO

(Joint Administration Requested)

**FINAL ORDER (I) AUTHORIZING THE DEBTORS' USE OF CASH  
COLLATERAL, (II) SCHEDULING A FINAL HEARING AND (III) GRANTING  
RELATED RELIEF**

Upon the motion (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order"): (a) authorizing the Debtors' interim and final use of cash collateral, (b) scheduling a final hearing and (c) granting related relief; and it appearing that the Court has jurisdiction over this matter, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court finding that it may enter a final order consistent with Article III of the United States Constitution; and this Court finding that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court finding that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938). The Debtors' service address is 121 Friends Land, Suite 300, Newtown PA 18940.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

10. The Motion is **GRANTED** as set forth herein.

11. Pursuant to Bankruptcy Code Sections 105(a), 363(b), and 363(c)(2), the Debtors are authorized to use cash collateral on an final basis in order to fund the Critical Operating Expenses as set forth in the Motion. Nothing in this Order shall be construed as a judgment as to the validity of any prepetition liens nor as a waiver of any party's right to later challenge such liens, all such rights being expressly reserved.

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the Local Rules are satisfied by such notice.

13. Nothing contained in this Order or in the Motion is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, or (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim. Likewise any payment made pursuant to this Order is not intended to be, and shall not be construed as, an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

14. Nothing in this Order or the Motion is intended or shall be construed to constitute relief from the automatic stay pursuant to section 362 of the Bankruptcy Code.



15. The terms and conditions of this Order are effective and enforceable immediately upon its entry.

16. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

17. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**Exhibit B**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

CBC RESTAURANT CORP. *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 23-10245 (KBO)  
(Jointly Administered)

Related D.I. 18

**STIPULATION AND AGREED BRIDGE ORDER: (A) EXTENDING DEBTOR'S  
AUTHORIZED USE OF CASH COLLATERAL; AND (B) GRANTING  
RELATED RELIEF**

This stipulation and agreed bridge order (the "Stipulation and Agreed Second Interim Order") is made and entered into by and among CBC Restaurant Corp. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, "Corner Bakery" or the "Debtors"), on one hand, and SSCP Restaurant Investors LLC ("SSCP"), on the other hand. The Debtors and SSCP hereby stipulate and agree to extend the term and effect of the *Interim Order (A) Authorizing the Debtors' Use of Cash Collateral; (B) Scheduling a Final Hearing; and (C) Granting Related Relief* [D.I. 18] as forth herein.

**IT IS HEREBY ORDERED AND ADJUDGED**, that:

1. All findings and conclusions of the Interim Order are incorporated by reference in this Second Interim Order.
2. The Debtors' authorization to use Cash Collateral as set forth in the Interim Order is hereby extended as set forth in this Second Interim Order. In the event of a conflict between the terms of the Interim Order and this Second Interim Order (collectively, the "Interim Cash

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938). The Debtors' service address is 121 Friends Lane, Suite 300, Newtown, PA 18940.



Collateral Orders”), the terms of this Second Interim Order shall control. Otherwise, the terms of the Interim Order remain in full force and effect.

3. Pursuant to Bankruptcy Code sections 105(a), 361, 362, 363, 503 and 507, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, the Debtors shall be, and hereby are, authorized to use the Cash Collateral upon (and only upon) the terms and conditions set forth in the Interim Cash Collateral Orders.

4. **Use of Cash Collateral.**

a. **Cash Collateral.** For purposes of this Second Interim Order, the term “**Cash Collateral**” shall mean and include all “cash collateral,” as defined in section 363 of the Bankruptcy Code, in or on which SSCP has a lien, security interest, or other interest (including, without limitation, any adequate protection liens or security interests), and shall include, without limitation:

- (i) All cash proceeds arising from the collection, sale, lease, or other disposition, use, or conversion of any property, including insurance policies, or in or on which SSCP has a perfected lien or a replacement lien, whether as part of the Collateral or pursuant to an order of the Court or applicable law or otherwise, and whether such property has been converted to cash, existed as of the commencement of these Chapter 11 Cases, or arose or was generated thereafter;
- (ii) All of the respective deposits, refund claims, and rights in retainers of the Debtors on which SSCP has a lien or replacement lien, whether as part of the Cash Collateral or pursuant to an order of the Court or applicable law or otherwise; and

(iii) The proceeds of any sale of Cash Collateral in connection with any sale consummated prior to entry of the Second Interim Order.

b. Necessity of Relief Requested. The Debtors have an immediate and critical need to continue to use the Cash Collateral in order to permit, among other things, the orderly continuation of the operation of their organization, to maintain business relationships with vendors, suppliers, and customers, to make payroll, and to satisfy other working capital and operational needs, in each such case in accordance with the terms of this Second Interim Order, including in accordance with the Budget (as defined below).<sup>2</sup> The access of the Debtors to sufficient working capital and liquidity through the use of Cash Collateral and other Cash Collateral is necessary to preserve and maintain the going concern value of the Debtors' estates and is vital to the Debtors' reorganization efforts. Without the use of Cash Collateral, the Debtors would likely not have sufficient liquidity to continue to operate their organization. Entry of this Second Interim Order will preserve the assets of each Debtor's estate and its value and is in the best interests of the Debtors, their creditors, and their estates. The Adequate Protection Liens (as defined in the Interim Order), the adequate protection superpriority claims (as described in the Interim Order), and the Adequate Protection Fees and Expenses (as defined below) provided herein are consistent with and authorized by the Bankruptcy Code. Absent authorization to immediately access and use Cash Collateral, the Debtors, the estates, and their creditors would suffer immediate and irreparable harm.

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<sup>2</sup> For clarity, all references in the Interim Order to the Budget shall refer to the Budget subject to any applicable Permitted Variance (as defined herein).

c. Authorization. The Debtors are authorized to use Cash Collateral as set forth herein and strictly in accordance with the Budget attached hereto as Exhibit A, subject to the terms of the Adequate Protection provisions of the Interim Cash Collateral Orders, including the payments contemplated therein. For each weekly period set forth in the Budget: (a) the actual aggregate expenditures by the Debtors for the immediately preceding one-week period (each, a "Testing Period") shall not in any event exceed the projected amount therefor set forth in the Budget by more than fifteen percent (15%) (excluding any expenditures for Adequate Protection Payments (as defined below)); (b) the actual expenditures by the Debtors for any line item for the Testing Period shall not in any event exceed the projected amount therefor set forth in the Budget by more than fifteen percent (15%) (excluding any expenditures for Adequate Protection Fees and Expenses (defined herein)); and (c) the actual aggregate receipts of the Debtors for the Testing Period shall not in any event be less than the projected amount therefor set forth in the Budget by less than fifteen percent (15%). Any unused expenditure amounts, not receipts, in the Budget during any one-week period, by line-item, may be carried forward and applied to any amount by which that same line-item, and only that same line-item, exceeds its projected use as set forth in the Budget during the subsequent eight-week period.

d. Sales Tax Trust Funds.

- (i) (a) Texas sales tax collected by the Debtor ("Texas Sales Tax Trust Funds") are not a part of the Debtor's cash, proceeds, or accounts receivable; they do not form a part of any other secured creditor's collateral, and they may not be used by Debtor in its operations; and (b) the Debtors shall not utilize Texas Sales Tax Trust Funds for any purpose other than remittance to the

Texas Comptroller; (c) Texas sales taxes collected by the Debtor *post*-petition are not property of the estate, but instead remain property of the Texas Comptroller until paid; (d) Payment of the post-petition taxes is mandatory under 28 U.S.C. § 959(b) and 960; and (e) the Texas Comptroller does not consent to the use of its post-petition Texas Sales Tax Trust Funds for any purpose other than remitting to the Texas Comptroller

- (ii) Within five (5) business days of entry of this Order, the Debtors shall establish a "Sales Tax Escrow Account" at a qualified (under 11 U.S.C. § 345) depository institution and shall deposit in such account, no later than the close of the banking day on Tuesday of each week, all Texas sales taxes collected the prior week (Sunday – Saturday);
- (iii) The Debtors shall file all sales tax returns and remit all payments of post-petition sales taxes to the Texas Comptroller on a timely basis in accordance with state law and as mandated by 28 U.S.C. §§ 959(b) and 960.
- (iv) Upon default in complying with any of the terms set forth in Paragraphs (4)(d)(i)-(ii), above, the Texas Comptroller may transmit a notice of default to the Debtor's counsel, Culhane Meadows PLLC, Attn: Mette Kurth, by email at Mkurth@cm.law and Lynnette Warman, by email at Lwarman@cm.law and to counsel for SSCP, Foley & Lardner LLP, Attn: Holland N. O'Neil, by email at honeil@foley.com and Mark C. Moore, by email at mmoore@foley.com. If the Debtors fail to cure such default within seven (7) calendar days from transmittal of the notice of default: (a) upon 48-hours written notice to Debtors' counsel, Culhane Meadows PLLC, Attn:

Mette Kurth, by email at Mkurth@cm.law and Lynnette Warman, by email at Lwarman@cm.law, a representative of the Texas Comptroller and SSCP may inspect the books and records of the Debtors for the purpose of verifying the amount of post-petition sales taxes owed and that those amounts have been properly deposited in the Sales Tax Escrow account; and (b) the Texas Comptroller is authorized to submit to the Court a certification of non-compliance with this Order, and the Court may enter such further orders as it deems appropriate.

5. **The Budget.** The Debtors' use of Cash Collateral shall be conditioned upon the Debtors' compliance with the Budget. The Budget may be modified in writing only with the prior written consent of SSCP. The Debtors will file any amended Budget with the Court. Prior to any transfer or use of Cash Collateral by the Debtors, Teri Stratton, Managing Director for the Debtors' proposed investment banker and financial advisor, Hilco Corporate Finance, shall review and verify the proposed transfer or use of Cash Collateral for compliance with the Budget and this Second Interim Order.

6. **Variance Reporting.** On a weekly basis, no later than the following Wednesday of each week, the Debtors shall deliver to SSCP a line-by-line variance report, which shall be reviewed and verified by Ms. Stratton, and shall otherwise be in form and substance acceptable to SSCP, and which shall compare actual cash receipts and disbursements of the Debtors with corresponding amounts provided for in the Budget on a line-by-line basis for the prior Testing Period, including written descriptions in reasonable detail explaining any material positive or negative variances.



7. **Adequate Protection.** Except as otherwise set forth herein, SSCP is entitled to all Adequate Protection provided under the Interim Order during the effectiveness of this Second Interim Order. SSCP is further entitled to the following additional adequate protection obligations with respect to its asserted pre-Petition Date security interests, *nunc pro tunc* to the Petition Date, in each case solely against the Debtors and assets thereof that are encumbered under SSCP's Prepetition Agreements, including, but not limited to, the Credit Agreement and Security Agreement:

- a. **Bank Accounts**—The Debtors shall be authorized to open new bank accounts with notice to SSCP, including, but not limited to, the segregated utilities account contemplated in the *Motion of the Debtors for Entry of an Interim and Final Order: (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Companies; (II) Establishing Procedures for Resolving Additional Adequate Assurance Requests; and (III) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Service* [D.I. 46] [the "Utilities Motion"] and any order entered in connection therewith and the Sale Tax Account provided for herein; *provided, however*, that SSCP shall be deemed to hold executed deposit account control agreements ("DACAs") on all such bank accounts other than the Sales Tax Account;
- b. **Information Requests**—The Debtors shall provide the following information, documents (which the Debtors shall be deemed to verify are true and correct as of the dates prepared), and/or access to same to SSCP on the following dates; *provided, however*, that in the event any referenced documents do not exist, the Debtors shall so certify in writing:

Read-only access to the Debtors' Rosnet system	March 6, 2023
Audited financial statements for 2020-2022, if such audited statements exist, and if not, unaudited financial statements for 2020-2022, if such unaudited statements exist	March 6, 2023
A listing of all bank accounts held by each Debtor from October 27, 2020 through the current date	March 7, 2023

Tax returns for each Debtor for 2020 and 2021, if such tax returns have been filed	March 8, 2023
Tax returns for each Debtor for 2022, if such tax returns have not been filed	Within 7 business days after filing
All monthly bank statements	March 10, 2023
<p>The following historical financial information in the Debtors' possession from October 27, 2020 through the Petition Date</p> <ul style="list-style-type: none"> <li>Any existing monthly P/L statements for each store</li> <li>Any existing monthly balance sheets for each Debtor</li> <li>Any existing monthly statements of cash flows from each Debtor</li> <li>Any existing monthly same store sales reports</li> <li>Any existing monthly G&amp;A detail statements for each Debtor, including salaries by employee</li> </ul>	To be provided on a rolling basis commencing on March 6, 2023, with Debtors to use their reasonable best efforts to complete production by March 13, 2023

- c. **Adequate Protection Payments**—The Debtors are authorized and directed to pay SSCP's actual and reasonable attorneys' and professionals' fees and expenses incurred in connection with these Chapter 11 Cases (the "Adequate Protection Fees and Expenses"), which shall be deemed fully earned, nonrefundable, indefeasible, and irrevocable as of the date of this Order. Payment of all such Adequate Protection Fees and Expenses shall not be subject to allowances by the Court, *provided, however*, that the Adequate Protection Fees and Expenses incurred after the Petition Date shall be evidenced by a summary invoice(s) (redacted, as necessary, to protect any applicable privilege) and delivered to counsel for the Debtors, the U.S. Trustee, and any statutory committee appointed in these Chapter 11 cases (the "Parties"). The Fee Notice Parties shall have ten (10) calendar days from the date of such delivery (the "SSCP Fee Review Period") within which to object in writing solely to the reasonableness of such fees, costs, and expenses. In the absence of any objection by the Fee Review Parties, following the expiration of the SSCP Fee Review Period, the Debtors shall pay such invoice(s) promptly, and in any event within three (3) calendar

days, without the need for further application to or order of the Court. If, within such period, the Fee Review Parties raise an objection to a particular invoice (such disputed fees, the “Disputed Invoiced Fees”), the applicable counsel shall notify the Debtors and SSCP in writing of the objection and the Debtors shall pay the fees and expenses not subject to the objection within three (3) business days following the expiration of the SSCP Fee Review Period, without the need for further application to or order of the Court. If after seven (7) calendar days such objection remains unresolved, the parties may submit such objection to the Court for resolution. The Debtors shall pay any Disputed Invoiced Fees promptly upon resolution of the objection, including to the extent resolved through approval by the Court, to the extent of such approval. In no event shall any invoice or other statement submitted by SSCP to the Fee Review Parties, or any other interested person (or any of their respective advisors) with respect to fees or expenses incurred by any professional retained by SSCP operate to waive the attorney/client privilege, the work-product doctrine, or any other evidentiary privilege or protection recognized under applicable law;

- d. **Administrative-Expense Claims**—SSCP is hereby granted, from and after the Petition Date, allowed administrative-expense claims in an amount not to exceed the Debtors' actual usage of SSCP's cash collateral pursuant to this Order (the “Cash Collateral Usage”) with priority over any and all administrative expenses, adequate protection claims, and all other claims against the Debtors, now existing or hereinafter arising, of any kind whatsoever, solely as provided under 507(b) of the Bankruptcy Code;
- e. **Adequate-Protection Liens**—SSCP is hereby granted, from and after the Petition Date, replacement liens and security interests (the “Adequate Protection Liens”) in an amount not to exceed the Debtors' Cash Collateral Usage in all of the Debtors' assets and properties of any kind or type, whether now owned and hereafter acquired, personal property, tangible and intangible assets, and rights of any kind or nature, wherever located, including, without limitation, all pre-petition and post-petition property of the Debtors and their estates, and all products, proceeds, rents, and profits thereof, whether existing on or as of the Petition Date, or thereafter acquired, or arising upon any use, lease, sale, consumption, or other disposition of such assets and properties, including without limitation, goods and other personal property, accounts receivable, other rights to payment, cash, inventory, general intangibles, contracts, servicing rights, proceeds, and termination payments, servicing receivables, securities (including equity interests in the Debtors), chattel paper, fixtures, machinery, equipment, deposit accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, commercial tort claims, insurance of any kind or type, property subject to avoided liens, and claims and causes of action including, upon the entry of the Final Order, and the products and proceeds of any and all of the foregoing (collectively, the “Adequate Protection Collateral”); *provided*,

*however*, that the Adequate Protection Liens granted to SSCP in the Adequate Protection Collateral shall be first priority but subject only to (x) any valid, perfected, and unavoidable liens in property of the Debtors in existence as of the Petition Date and (y) any valid and unavoidable liens on property of the Debtors in existence for amounts outstanding as of the Petition Date that are perfected after the Petition Date as permitted by Bankruptcy Code section 546(b) or pursuant to applicable law (the liens described in (x) and (y), the “Prior Liens”), in the same nature, extent, priority, and validity that any such liens existed on the Petition Date;

- f. Notwithstanding anything to the contrary in Paragraph 7(e), adequate Protection Liens shall not include the Debtors' leasehold interests but shall include the proceeds of such real property leasehold interests;
- g. As of the Petition Date, the Adequate Protection Liens shall be valid, perfected, enforceable and effective against the Debtors, their successors and assigns, including any trustee or receiver in this or any superseding chapter 7 case, without any further action by Debtors or SSCP and without the execution, delivery, filing or recordation of any promissory notes, financing statements, security agreements or other documents. Notwithstanding the foregoing, this Second Interim Order shall be deemed a security agreement and may be filed as a financing statement and the Debtors shall execute and deliver such notes, security agreements, assignments, financing statements and other documents that SSCP shall reasonably request to further evidence the liens and security interests granted hereby. SSCP shall have all the rights and remedies of a secured creditor in connection with the Adequate Protection Liens granted by this Second Interim Order in all Collateral; and,
- h. Subject only to and effective upon entry of a final order, waiving the Debtors' right to assert with respect to the Collateral or the Adequate Protection Collateral (i) any claims to surcharge pursuant to section 506(c) of the Bankruptcy Code, (ii) any “equities of the case” exception pursuant to section 552(b) of the Bankruptcy Code, and (iii) the equitable doctrine of “marshalling” or any similar doctrine.

8. **Disgorgement.** Notwithstanding anything to the contrary in Paragraph 7, all payments of professional or other fees, all Adequate Protection Liens, and all Adequate Protection Claims granted by this Second Interim Order are subject to being set aside, and the Court may enter any other appropriate relief, if and to the extent the Court so rules, to the extent that this Court determines that SSCP does not hold valid, first-priority, perfected and secured liens with respect to the Collateral or Cash Collateral

9. **Events of Default.** The following shall constitute events of default under this Second Interim Order (“Events of Default”):

- a. Any material failure to comply with the terms of the Interim Order or this Second Interim Order, including, but not limited to, the requirements of paragraphs 5 and 7 and all subparagraphs thereof;
- b. If a final order granting the continued use of SSCP’s Cash Collateral by the Debtors or approving postpetition financing to be provided by SSCP is not approved by the Court and entered on or before March 30, 2023, or such later date as is agreed to in writing by the Debtors and SSCP;
- c. Any attempt by any Debtor to seek approval for postpetition financing to be provided by any party other than SSCP that does not provide for the immediate and indefeasible satisfaction of any and all outstanding Adequate Protection Payments owed to SSCP or any administrative-expense claims of SSCP related to the Cash Collateral Usage;
- d. If any representation made by the Debtors after the commencement of this chapter 11 case in any report or financial statement delivered to SSCP proves to have been false or misleading in any material respect as of the time when made or given (including by omission of material information necessary to make such representation, warranty or statement not misleading);
- e. If a trustee or examiner, with authority to affect the operation of the business of the Debtors (or any of them) is appointed in the above-enumerated chapter 11 proceedings without the consent of SSCP;
- f. The grant of any security interest, lien, or encumbrance (excluding any Prior Liens) in any of the Collateral which is *pari passu* with or senior to the liens, security interests, or claims of SSCP (including, without limitation, the Adequate Protection Liens), including, without limitation, any surcharge of the Collateral pursuant to Bankruptcy Code section 506(c), unless SSCP agrees in writing that such security interest, lien, encumbrance, or surcharge does not constitute an Event of Default;
- g. Any attempt by any Debtor to vacate or modify the Interim Cash Collateral Orders over the objection of SSCP;
- h. The entry of any order modifying, reversing, revoking, staying, rescinding, vacating, or amending the Interim Cash Collateral Orders without the consent of SSCP;

- i. The entry of an order pursuant to Bankruptcy Code section 363 approving the sale of any Collateral without the consent of SSCP;
- j. The failure of the Debtors to timely pay any and all Adequate Protection Fees and Expenses authorized or required in the Interim Cash Collateral Orders;
- k. Except for the reasonable and necessary sale of inventory and supplies and the collection of accounts receivable in the ordinary course of the Debtors' businesses and as may be provided for in the Budget and consistent with the terms hereof, the sale, transfer, lease, or disposition of, or the imposition of any encumbrance on, any of the Collateral or the Cash Collateral, without the prior written consent of SSCP;
- l. If the bankruptcy cases of the Debtors (or any of them) are converted to a case under chapter 7 without the consent of SSCP;
- m. If the bankruptcy cases of the Debtors (or any of them) are dismissed without the consent of SSCP; or
- n. If any of the Debtors file any pleading or commence any action against SSCP challenging the validity or enforceability of SSCP's pre-petition liens or claims, or seeking to avoid, disallow, subordinate or recharacterize any claim, lien or interest held by SSCP.

10. **Remedies Upon Default.** The authorization to use Cash Collateral granted herein shall automatically and immediately terminate five (5) business days after the provision of written notice to the Debtors (with a copy of such notice provided to the Fee Review Parties (the "Default Notice Period")) of an Event of Default. Upon the occurrence of an Event of Default, the Debtors shall be entitled to either cure the default within the Default Notice Period or to seek an emergency hearing with the Bankruptcy Court within the Default Notice Period. Upon the occurrence of an uncured Event of Default (and following the expiration of the Default Notice Period), the automatic stay provisions of section 362 of the Bankruptcy Code shall be automatically vacated and modified to the extent necessary to permit SSCP, as applicable, to exercise all rights and remedies provided in this Order and to take any or all of the following actions, as applicable, without further order of or application to this Court:

- a. the immediate termination of the Debtors' use of SSCP's Cash Collateral; and
- b. seek the entry of an order prohibiting or limiting the Debtors' further use of the SSCP's Cash Collateral;
- c. such further or other relief as provided in the Bankruptcy Code, this Interim Order or applicable non-bankruptcy law.

SSCP may seek on an emergency basis at the Continued Hearing (as defined below), a termination of the automatic stay under section 362(a) of the Bankruptcy Code following the expiration of the Default Notice Period. The rights and remedies of SSCP specified herein are cumulative and not exclusive of any rights or remedies that SSCP may have under the Prepetition Agreements, as applicable, or otherwise. The Debtors shall cooperate fully with SSCP in any permitted exercise of rights and remedies.

11. **Appointment of a Chief Restructuring Officer.** In addition to the right and remedies set forth in the preceding paragraph 10, upon the occurrence of an uncured Event of Default as a result of a material failure to comply with the requirements of Paragraph 7(b) (Information Requests) (and within three (3) business days following the expiration of the Default Notice Period), the Debtors shall appoint an individual with the traditional and customary powers of a Chief Restructuring Officer who is mutually agreeable to the Debtors and SSCP.

12. **Term.** Unless otherwise ordered by the Court or extended by written agreement between the Debtors and SSCP, the Debtors' right to use SSCP's Cash Collateral hereunder shall commence on the date hereof and expire at 5:00 PM ET on March 17, 2023. Notwithstanding such expiration or other termination, or modification hereof, SSCP shall be entitled to the liens, priorities and other rights provided herein to the extent that the Debtors have used SSCP's Cash Collateral following the date hereof.

13. **No Additional Liens.** Until such time as all amounts contemplated and approved herein as Adequate Protection, including the Adequate Protection Fees and Expenses and administrative-expense claims, shall have been indefeasibly paid and satisfied in full, the Debtors shall not be authorized to obtain credit secured by a lien or security interest in the Collateral without the prior written consent of SSCP or by order of the Court upon reasonable notice.

14. **Continuing Effect of Order.** If an order dismissing any of the cases under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (x) the Adequate Protection provided herein, including the superpriority claims and the Adequate Protection Liens, shall continue in full force and effect and shall maintain their priorities as provided in this Order until all adequate protection obligations shall have been indefeasibly paid and satisfied in full (and that such claims and liens shall, notwithstanding such dismissal, remain binding on all persons), and (y) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in clause (x) above.

15. **Modification of Automatic Stay.** The automatic stay under Bankruptcy Code section 362(a) is hereby modified as necessary to effectuate all of the terms and provisions of this Second Interim Order, including, without limitation, to: (a) permit the Debtors to grant the adequate protection liens and incur the superpriority claims; (b) permit the Debtors to perform such acts as may be needed to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations under the terms of this Order; and (d) authorize the Debtors to pay, and the Debtors to retain and apply, any payments made in accordance with the terms of this Second Interim Order.



16. **Impact of Modification of Interim Cash Collateral Orders.** If any or all of the provisions of the Interim Cash Collateral Orders are hereafter purported to be, or are, modified, vacated, or stayed without the prior written consent of SSCP, such modification, vacation, or stay shall not affect (a) the validity of any obligation, indebtedness, or liability incurred by the Debtors to SSCP before the effective date of such modification, vacation, or stay, or (b) the validity or enforceability of any security interest, lien, priority or other protection authorized, granted, or created hereby. Notwithstanding any such modification, vacation, or stay, any indebtedness, obligations, or liabilities incurred by the Debtors to SSCP, before the effective date of such modification, vacation, or stay shall be governed in all respects by the original provisions of the Interim Cash Collateral Orders, and SSCP shall be entitled to all of the liens, rights, remedies, privileges, and benefits granted herein with respect to all such indebtedness, obligations, or liabilities.

17. **Written Approval Required.** No approval, agreement, or consent requested of SSCP by the Debtors pursuant to the terms of the Interim Cash Collateral Orders or otherwise shall be inferred from any action, inaction, or acquiescence of SSCP other than a writing acceptable to SSCP that is signed by SSCP (or its agent or professionals) and expressly shows such approval, agreement, or consent, without limitation.

18. **Reservation of Rights.**

a. Nothing herein shall be deemed or construed to waive, limit, or modify the rights of SSCP to obtain further adequate protection and other statutory protections for the Debtors' use of Cash Collateral, or to seek other relief in these Chapter 11 Cases in accordance with any provision of the Bankruptcy Code or applicable law. Unless expressly and specifically provided otherwise herein, nothing herein shall be deemed or construed to waive, limit, modify or prejudice

the claims, rights, protections, privileges and defenses of SSCP afforded pursuant to the Bankruptcy Code.

b. Nothing in this Order, and none of the actions or payments contemplated by this Order, shall prejudice, compromise, diminish or affect in any respect any rights of the Texas Comptroller to trace and recover any Texas Sales Tax Trust Funds which may be shown to have been in the possession of the Debtor on the Petition Date or collected after the Petition Date. To the extent the Texas Comptroller can show the existence of any Texas Sales Tax Trust Funds in the possession of the Debtor, the payment of funds pursuant to this Order shall not constitute a defense to any rights of the Texas Comptroller to recover its alleged Texas Sales Tax Trust Funds or interest thereon, and any such rights as against the Debtor and the bankruptcy estate shall remain intact notwithstanding payment of funds. The Debtor shall retain all rights to contest recovery of alleged Sales Tax Trust Funds and interest by the Texas Comptroller but may not use this Order or any payment of funds pursuant to this Order as a basis for contesting the Texas Comptroller's proof(s) of claim.

19. **Notice and Hearing, Reservation of Rights to Object.** A further interim hearing (the "Continued Hearing") shall be scheduled or on before March 17, 2023, to consider further relief. Any objections to entry of such order shall be in writing, filed with this Court, and served upon (a) the Debtors, Attn: Jay Pandya at [jaypandya@rohangroup.net](mailto:jaypandya@rohangroup.net); (b) the Debtors' proposed counsel, Mette H. Kurth at [MKurth@cm.law](mailto:MKurth@cm.law) and Lynnette R. Warman at [LWarman@cm.law](mailto:LWarman@cm.law); (c) SSCP, the Debtor's prepetition lender, Ken Schwab ([kschwab@sscpmanagement.com](mailto:kschwab@sscpmanagement.com)); (d) and counsel to SSCP, Foley & Lardner LLP, 2021 McKinney Avenue, Suite 1600, Dallas, TX. 75201, Attn: Holland N. O'Neil ([honeil@foley.com](mailto:honeil@foley.com)), Mark C. Moore ([mmoore@foley.com](mailto:mmoore@foley.com)), and Tim Mohan ([tmohan@foley.com](mailto:tmohan@foley.com)) and Ashby & Geddes, P.A, 500 Delaware Avenue, 8<sup>th</sup> Floor, P.O.

Box 1150, Wilmington, DE. 19899, Attn: Ricardo Palacio ([RPalacio@ashbygeddes.com](mailto:RPalacio@ashbygeddes.com)); (d) the Office of the United States Trustee for the District of Delaware, Attn: Linda Casey ([Linda.Casey@usdoj.gov](mailto:Linda.Casey@usdoj.gov)); and (e) counsel for any statutory committee appointed in these Chapter 11 Cases, or if no such committee has been appointed, the holders of the 30 largest unsecured claims against the Debtors (the "Notice Parties"); in each case so as to be received no later than **4:00 p.m. (EST) on March 10, 2023**. This Second Interim Order shall be binding upon, and inure to the benefit of SSCP, the Debtors, any official committee(s) that may be appointed and their respective successors and assigns including, without limitation, any trustee appointed in this chapter 11 case or any superseding chapter 7 case.

20. **Notices.** Except as otherwise stated herein, all notices and demands hereunder shall be in writing and shall be deemed given when delivered to the Notice Parties / Full List ; on the earlier of (x) when they are actually delivered to the addressees by hand delivery, facsimile transmission, e-mail or otherwise, or (y) at 11:00 a.m. Dallas time on the Banking Day next following the deposit thereof with any recognized national overnight delivery service properly addressed to the addressees.

21. **Other.** The findings of fact and conclusions of law of this Court pursuant to this Second Interim Order shall be deemed effective upon the entry of this Second Interim Order. To the extent that such findings may constitute conclusions, and vice versa, they hereby are deemed such.

22. To the extent necessary, the Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm. To the extent applicable, the requirements of Bankruptcy Rule 6004(a) are

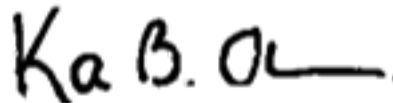
waived. Notwithstanding Bankruptcy Rule 6004(h), this Second Interim Order shall be effective and enforceable immediately upon entry hereof.

23. This Second Interim Order is immediately valid and fully effective upon its entry by the Court.

24. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Second Interim Order.

25. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Second Interim Order.

Dated: March 3rd, 2023  
Wilmington, Delaware

  
KAREN B. OWENS  
UNITED STATES BANKRUPTCY JUDGE

# Corner Bakery Restaurant Corp

(\$ in thousands)

13-Week Cash Flow	Forecast	Forecast
Week Number:	1	2
Week Ending:	03/03/23	03/10/23
<b>Receipts</b>		
Restaurant Receipts	\$ 2,725	\$ 2,370
Royalties	\$ -	\$ -
<b>Total Cash Receipts</b>	<b>2,726</b>	<b>2,370</b>
<b>Operating Disbursements</b>		
Produce	(87.2)	(87.2)
Non-Produce	(695)	(695)
Food Costs: Total	(782)	(782)
Payroll	(805)	(2,373)
Rent	(1,544)	-
Post-Petition Accounts Payable	(51)	(51)
Utilities	-	-
Insurance	-	(242)
<b>Total Operating Disbursements</b>	<b>(3,181)</b>	<b>(3,447)</b>
<b>Net Operating Cash Flows</b>	<b>(456)</b>	<b>(1,078)</b>
<b>Non-Operating (Disb.)/Receipts</b>		
Income Taxes	-	-
Capital Expenditures	-	-
Other (Legal settlements)	-	-
Interest Expense (net)	-	-
Principal Payments	-	-
Debtor Counsel Fees	-	-
Debtor Advisor Fees	-	-
Lender Professional Fees	-	-
UCC Professional Fees	-	-
US Trustee	-	-
Claims Agent Fees	-	-
DIP Admin Fee	-	-
DIP Loan Interest	-	-
Utility Deposit (2 weeks)	(37)	-
503(b)(9) Claims	-	-
PACA Claims	-	-
GUC Reserve	-	-
<b>Total Non-Operating Disbursements</b>	<b>(37)</b>	<b>-</b>
<b>Total Net Disbursements</b>	<b>(3,218)</b>	<b>(3,447)</b>
<b>Net Cash Receipts/(Disbursements)</b>	<b>(493)</b>	<b>(1,078)</b>
<b>Net Cash Balance</b>		
Beginning Book Balance	1,624	1,131
Net Cash Receipts/(Disbursements)	(493)	(1,078)
DIP Draw/(Paydown)	-	-
<b>Ending Book Balance</b>	<b>\$ 1,131</b>	<b>\$ 53</b>