

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

**Hearing Date: July 29, 2009
at 3:30 p.m.**

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In re:

SUFFOLK READY MIX, LLC,

Chapter 11

Case No. 09-75473-reg

Debtor.

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**ORDER PURSUANT TO SECTIONS 363(c)
OF THE BANKRUPTCY CODE AUTHORIZING
THE DEBTOR'S INTERIM USE OF CASH COLLATERAL**

WHEREAS, SUFFOLK READY MIX (the "Debtor"), submitted an Application (the "Application") dated July 27, 2009 seeking entry of an Order, pursuant to Section 363(c)(2) of Chapter 11 of title 11, United States Code (the "Bankruptcy Code") and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure ("FRBP"): (1) granting the Debtor use of the cash collateral ("Cash Collateral") on an emergency basis in accordance with the budget annexed thereto as Exhibit "B" (the "Original Budget"); (2) granting Financial Federal Credit, Inc. ("FFCI") adequate protection pursuant to 11 U.S.C. Section 361; (3) scheduling an interim and final hearing on the Motion and establishing notice requirements therefor; and (4) granting related relief; and

WHEREAS, proper notice of the Application was provided in accordance with the Court's direction in the Order to Show Cause dated July 27, 2009 as confirmed by the Affidavits of Service filed with the Bankruptcy Court on July 28, 2009; and

WHEREAS, an emergency hearing was held on the Application on July 29, 2009 at 3:30 p.m. before the Honorable Alan S. Trust, U.S. Bankruptcy Judge (the "Emergency Hearing"); and

WHEREAS, present at the Emergency Hearing were Anthony T. Persico, the Principal of the Debtor; Joanne Ruggiero, employee of the Debtor; Michael G. Mc Auliffe, Esq., counsel for the Debtor; Clifford A. Katz, Esq., representing FFCI; and Stan Y. Yang, Esq., representing the Office of the United States Trustee; and

WHEREAS, at the Emergency Hearing the Debtor established the emergency nature of the relief requested, being that it is essential to the continued operation of the Debtor's business that it be authorized by this Court to use Cash Collateral on an emergency, interim basis, and that funds are urgently needed to meet the Debtor's immediate working capital and other liquidity needs and to pursue the Chapter 11 case in an orderly manner; and

WHEREAS, at the Emergency Hearing the Debtor represented that in order to protect FFCI's interests in the Cash Collateral the Debtor would make monthly adequate protection payments to FFCI in the sum of \$6,493.00 commencing August 1, 2009; and

WHEREAS, at the Emergency Hearing it was further established that as additional adequate protection to FFCI, the Debtor would grant to FFCI, pursuant to and in accordance with Sections 361 and 363 of the Bankruptcy Code, replacement liens and security interests in the Debtor's accounts receivable, goods, inventory, machinery, equipment, furniture, tools, implements, general intangibles and contract rights acquired by the Debtor post-petition up to the amount of FFCI's pre-petition lien, specifically excluding all avoidance actions and/or claims which have or may be commenced under §§544, 547, 548, 550 and 553 of the Code (collectively, the "Replacement Liens"); and

WHEREAS, the parties having agreed to an amended budget (the "Amended Budget", a copy of which is annexed hereto at Exhibit "A"); and

WHEREAS, the Debtor having established its entitlement to the relief requested in the Application;

THE COURT HEREBY FINDS AND DETERMINES THAT:

1. The Debtor has made an appropriate showing of entitlement to emergency relief as requested in the Application pending a final hearing on the Application. That the Debtor is granted the interim relief and is authorized to use Cash Collateral up to the amounts and consistent with the line items reflected on the Amended Budget annexed hereto as Exhibit "A" and grant adequate protection to FFCI upon the terms and conditions set forth in this Order.

2. The Debtor shall hold the Cash Collateral currently in its possession and any and all Cash Collateral at any future time subject to its control or possession, together with any and all products, proceeds, revenues, rents, income and profits thereof, as trustee in its Debtor in Possession account.

3. FFCI is willing to allow the limited use of Cash Collateral pursuant to the terms of this consent Order, this does not constitute an election of remedies, a waiver of any rights in an election of remedies, or a waiver of any rights in this proceeding.

4. Effective forthwith, the Debtor is authorized to use the Cash Collateral subject to the liens of FFIC for ordinary and usual business purposes incurred by the Debtor in the regular course of its post-petition operation in the aggregate amount of \$227,330.83 for the period of July 24, 2009 through and including August 26, 2009 in accordance with the Amended Budget. The Debtors are also authorized to use Cash Collateral to pay all fees required to be paid to the Clerk of the Bankruptcy Court or to the U.S. Trustee pursuant to section 1930(a) of title 28 of the United States Code.

5. Pursuant to §361(2) and §363(e) of the Bankruptcy Code, as of July 24, 2009, FFCI is hereby granted valid, perfected and enforceable replacement lien in the Cash Collateral to the same extent, validity, and priority that existed in FFCI as of the Filing Date but specifically excluding any avoidance actions which may be commenced under Sections 544, 547, 548, 550 and 553 of the Bankruptcy Code as additional security for any and all obligations of the Debtor to the FFCI.

6. The Debtor is authorized and directed to perform all acts and to make, execute and deliver any and all documents as may be necessary to implement and effectuate the terms and conditions of this Order and the transaction described herein.

7. The terms and conditions of this Order shall be binding upon, and inure to the benefit of FFCI and the Debtor and their respective successors and assigns.

8. The Debtor further agrees that it is prohibited from any sale or disposition of any assets other than in the ordinary course of business, that are the subject matter of the respective claims of the FFCI without a hearing before this Court on notice to FFCI.

9. This Order is without prejudice to the right of FFCI to request at any time further adequate protection for the Debtor's use of Cash Collateral and this Order shall not be deemed to preclude FFCI from seeking such relief as they may deem necessary or appropriate including, but not limited to, relief from the automatic stay.

10. Notwithstanding any provision herein to the contrary, the consent to allow the Debtor to use the Cash Collateral may be revoked without further Order of the Court, in the event of the earliest of the following:

a. Entry of an Order converting the within proceeding from a Chapter 11 to Chapter 7 of the Bankruptcy Code.

b. Entry of an Order authorizing the appointment of a Trustee or Examiner.

11. Nothing herein shall be deemed to be a finding with respect to adequate protection of the interests of FFICI, nor shall be deemed a finding with respect to the extent, validity, or priority of pre-petition liens asserted by FFICI.

12. A final hearing on the Application shall be held before the Honorable Robert E. Grossman on August 26, 2009 at 1:30 p.m. (the "Final Hearing").

Dated: Central Islip, NY
August , 2009

HON. ALAN S. TRUST
UNITED STATES BANKRUPTCY JUDGE

CONSENTED TO:

/s/ Clifford A. Katz
Clifford A. Katz, Esq.
Counsel to Financial Federal Credit, Inc.

NO OBJECTION:

OFFICE OF THE U.S. TRUSTEE

EXHIBIT A

**SUFFOLK READY MIX, LLC, CHAPTER 11 DEBTOR'S
BUDGET FOR PERIOD JULY 24, 2009 - AUGUST 24, 2009**

RECEIPTS

On Account customers:	\$170,000.00
Credit Card customers:	<u>\$20,000.00</u>
 Total Receipts	 \$190,000.00

DISBURSEMENTS

Payroll (incl. payroll taxes):	\$54,000.00
Workman's Comp:	\$2,000.00
PayPro:	\$250.00
Sales Tax:	\$18,000.00
 Rent:	 \$12,500.00
 Secured Obligations	
Financial First Federal:	\$6,493.00
Caterpillar:	\$1,419.00
Key Equipment:	\$1,531.85
 Insurance	
Truck:	\$8,489.00
Health:	\$6,287.00
 Cement:	 \$58,000.00
Admix-BASF (chemicals)	\$900.00
Fuel:	\$16,000.00
Truck parts & supplies:	\$3,500.00
Materials (sand, gravel, etc.)	\$20,000.00
Refuse removal:	\$220.00
Highway use:	\$400.00
Office expenses:	\$200.00
Miscellaneous supplies	\$900.00
 NYS Registration DVM:	 \$2,400.00
NYSDOT permits:	\$3,840.00
2290 tax on trucks:	\$5,500.00

U.S. Trustee Quarterly Fees:	\$1,250.00
Utilities:	\$1,650.00
Telephone:	\$1,000.00
GPS:	\$350.00
Uniforms:	<u>\$250.00</u>
Total Disbursements:	\$227,330.83