

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

In re: )  
 )  
AUTO SALES & SERVICE, INC., )  
 )  
Debtor. )

Chapter 11  
Case No. 10-14528-JNF

In re: )  
 )  
GENERAL TRADING COMPANY, )  
 )  
Debtor. )

Chapter 11  
Case No. 10-14532-JNF

In re: )  
 )  
FRANK SAWYER CORPORATION, )  
 )  
Debtor. )

Chapter 11  
Case No. 10-14533-JNF

In re: )  
 )  
100 STUART STREET LLC, )  
 )  
Debtor. )

Chapter 11  
Case No. 10-14534-JNF

In re: )  
 )  
SW BOSTON HOTEL VENTURE LLC, )  
 )  
Debtor. )

Chapter 11  
Case No. 10-14535-JNF

*(Joint Administration Request Pending)*

**ORDER REGARDING MOTION FOR AUTHORIZATION OF (1) THE INTERIM AND PERMANENT USE OF CASH COLLATERAL, (2) THE GRANTING OF REPLACEMENT LIENS, (3) ENTRY OF SCHEDULING ORDER REGARDING CONTINUED USE OF CASH COLLATERAL AND (4) ADDITIONAL RELIEF**

This matter having come before the Court on the *Motion For Authorization of (1) The Interim And Permanent Use of Cash Collateral, (2) The Granting of Replacement Liens, (3) Entry of Scheduling Order Regarding Continued Use of Cash Collateral And (4) Additional*

*Relief* dated May 3, 2010 (the “Cash Collateral Motion”)[docket no. 9] filed by Boston Hotel Venture LLC (“SW Boston”), General Trading Company (“General Trading”), Frank Sawyer Corporation (“Sawyer Corporation”), 100 Stuart Street LLC (“Stuart Street”) and Auto Sales & Service, Inc. (“Auto Sales” and together with SW Boston, General Trading, Sawyer Corporation and Stuart Street the “Debtors”); and the Court having jurisdiction to consider the Cash Collateral Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and notice of the Cash Collateral Motion being good and sufficient notice under the circumstances; and it appearing from the record before the Court that sufficient cause exists for the entry of this order; the Court

**FINDS AS FOLLOWS:**

A. On April 28, 2010, the Debtors filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Massachusetts (the “Court”).

B. Each of (i) Prudential Insurance Company of America, on behalf of and solely for the benefit of, and with its liability limited to the assets of, its insurance company separate account, PRISA (“Prudential”), (ii) the City of Boston (the “City”), and (iii) the 100 Stuart Street Primary Condominium Association and the 110 Stuart Street Residential Condominium Association (together with Prudential and the City the “Lienholders”) may have an interest in the Debtors’ Cash Collateral.

C. This Court has not been asked to find, and it does not find, that any asserted lien is valid or perfected. Nothing in this order constitutes a limitation on the applicability of Massachusetts Local Bankruptcy Rule 4001-2(c).

D. The Debtors require the use of the Cash Collateral<sup>1</sup> through June 6, 2010 in order to preserve their operations and the value of their assets.

**NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The request for the use of Cash Collateral in the Cash Collateral Motion is allowed and the Debtors are authorized to use Cash Collateral in accordance with the Cash Collateral Motion solely for the purposes set forth in and in accordance with the budgets attached as Exhibit C to the Cash Collateral Motion including the use of the proceeds of the sales of condominium units to pay: (a) condominium fees and utilities, (b) closing costs associated with the sale of condominium units up to an amount equal to eight percent (8%) of the adjusted gross sale price of the condominium units, and (c) that portion of the Construction Costs (as defined in paragraph 2) which are agreed to or are approved by the Court pursuant to paragraph 2 (collectively the "Project Costs"). The Debtor is authorized and is directed to pay to Prudential, on account, the balance remaining from the adjusted gross sale proceeds of the condominium units after the payment of the Project Costs. Any payments to Prudential shall be without prejudice to the rights of the Debtors and any committee or trustee appointed by the Office of the United States Trustee to, among other things, contest the application of such payments to Prudential's claim against the Debtors.

2. On or before 5:00 p.m. on May 5, 2010, the Debtor shall submit to Prudential a detailed description of the construction costs related to the completion of the Hotel and the condominium units (collectively the "Construction Costs"). In the event that Prudential objects to the Construction Costs, the Court shall hold a hearing on May 7, 2010, at 10:00 a.m., with respect to that portion of the Construction Costs objected to by Prudential, and SW Boston is

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<sup>1</sup> Capitalized terms not otherwise defined in this order shall have the meanings ascribed to them in the Cash Collateral Motion.

authorized to pay that portion of the Construction Costs to which Prudential has agreed. In the event that Prudential and SW Boston agree to the entire amount of the Construction Costs SW Boston shall so notify the Court and SW Boston is authorized to pay the Construction Costs.

3. Absent further order of this Court, the Debtors shall not use the \$4,000,000 of Cash Collateral of the City of Boston held at the Boston Private Bank and Trust Company.

4. Notwithstanding anything in paragraph 1, the use of Cash Collateral is authorized for and in connection with the Hotel operations managed by Starwood Hotels & Resorts Worldwide, Inc. and its affiliates ("Starwood"), including W Hotel Management, Inc., in the ordinary course of business as provided for and contemplated in the management contract between SW Boston and Starwood executed on August 23, 2005, as amended (the "Management Contract"). Starwood shall comply in all respects with Article 2.2.3 of the Management Contract, and SW Boston may challenge any failure by Starwood to comply with Article 2.2.3. SW Boston shall provide to Prudential copies of all reports given to SW Boston by Starwood pursuant to Article 2.5.2 of the Management Contract.

5. For the purposes of Section 361, 363(e) and 507(b) of the Bankruptcy Code and as adequate protection for their respective interests in the Debtors' Cash Collateral, the Lienholders are hereby granted replacement liens (the "Replacement Liens") on the same types of post-petition property of the estate against which such party held liens as of the Petition Date. The Replacement Liens shall maintain the same priority, validity and enforceability as the liens held by the Lienholders on the Petition Date. The Replacement Liens shall be recognized only to the extent of the post-petition diminution in value of the pre-petition collateral of the Lienholders resulting from the Debtors' use of Cash Collateral.

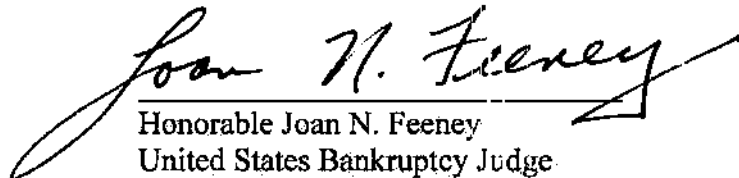
6. The Replacement Liens shall not attach to any avoidance powers held by any of the Debtors or any trustee for the Debtors, including those avoidance powers set forth in Sections 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code, or to the proceeds of any claims under or actions commenced pursuant to such powers.

7. Nothing in this Order shall constitute a waiver by or a restriction of the Debtors' right to seek the further use of Cash Collateral.

8. This Order and the Debtors' use of Cash Collateral as authorized in this Order shall become effective immediately upon entry of this order by the Court.

9. A final hearing on the Debtors' use of Cash Collateral shall be held on June 3, 2010 at 11:30 a.m. (the "Hearing Date"). On or before May 21, 2010, the Debtors shall file and serve detailed supplemental budgets for the use of Cash Collateral for the ninety days ending on August 31, 2010, for the Debtors, the Hotel and the Garage. On or before May 28, 2010, the Debtors shall file and serve a written report showing the actual income and expenses through May 21, 2010 compared to budgeted income and expenses for the same period. Any objections to the continued use of Cash Collateral shall be filed on or before 4:30 p.m. on June 1, 2010.

BY THE COURT

  
Honorable Joan N. Feeney  
United States Bankruptcy Judge

Dated: May 5, 2010

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