

SO ORDERED.

Dated: February 20, 2021



Eddward P. Ballinger Jr., Bankruptcy Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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

In re:

CONTINENTAL COUNTRY CLUB, INC.,
an Arizona Non-profit corporation,

EIN 86-0414438

Debtor.

Chapter 11 Proceeding

Case No. 3:21-bk-00956-EPB

**(Hearing Held:
February 18, 2021; 10:00 am)**

**AGREED ORDER GRANTING DEBTOR'S MOTION
FOR AUTHORITY TO USE CASH COLLATERAL**

THIS MATTER came before the Court on *Debtor's Motion for Authority to Use Cash Collateral* filed on February 10, 2021, (the "Motion") (DE 11). The Motion included the Debtor's budget of expenses to continue to operate the Club¹ through March 28, 2021, a copy of which is attached hereto as **Exhibit A** (the "Budget"). The Motion was supported by, among other things, the *Declaration of Jon Held in Support of Chapter 11 Bankruptcy Petition* filed on February 10, 2021, (the "Held Declaration") (DE 15). Counsel for Continental Country Club, Inc., an Arizona non-profit corporation, the debtor and debtor in possession in this reorganization case (the "Association" or "Debtor") provided copies of the Motion and the Order setting an expedited hearing on the Motion, to the U.S. Trustee's Office, Sunwest Bank, the Debtor's senior secured lender ("Sunwest"), and to the Debtor's List of Twenty Largest Unsecured Creditors.

¹ Capitalized terms not specifically defined herein shall have the meanings ascribed to them in the Motion.

1 On February 18, 2021, the Court conducted a telephonic hearing on the Motion. Counsel
2 for Sunwest appeared at the hearing and did not oppose the relief requested in the Motion or
3 the items appearing in the Budget. No other creditors raised objections to the Motion or the
4 Budget.

5 Based upon the Motion, the Held Declaration, and the record of the hearing on the
6 Motion, the Court FINDS and CONCLUDES:

7 A. On February 9, 2021 (the “Petition Date”), the Association filed a voluntary
8 petition under chapter 11 of title 11 of the U.S. Code, thereby commencing the above-captioned
9 reorganization case (the ‘Bankruptcy Case”).

10 B. This Court has jurisdiction over this Bankruptcy Case and this matter pursuant to
11 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C.
12 § 157(b)(2)(A).

13 C. Venue is proper in this district pursuant to 28 U.S.C. § 1409(a).

14 D. The predicates for the relief requested are 11 U.S.C. §§ 105(a) and 363 and
15 Bankruptcy Rule 4001.

16 E. As of the Petition Date, the Association was not in payment default to Sunwest
17 under the Loan Documents.

18 F. Sunwest’s interests in the Cash Collateral are adequately protected by the ongoing
19 payments provided in the Budget, the equity cushion available in Sunwest’s collateral, and the
20 replacement liens provided hereunder.

21 G. Based on the foregoing and all matters of record in this case, the Court finds that
22 good cause presently exists to grant the Motion on an interim basis during the Interim Period
23 as provided below. Accordingly,

24 IT IS HEREBY ORDERED:

25 1. The Motion shall be and hereby is granted on an interim basis as provided in this
26 Order.

27

1 2. The Association is authorized to use the Cash Collateral to pay the ordinary,
2 necessary, and essential post-petition operating expenses as reflected in the Budget, as
3 augmented by a 10% variance.

4 3. The Association’s authorization to use the Cash Collateral will remain in effect
5 through March 28, 2021 (the “Interim Period”).

6 4. Sunwest is hereby granted (effective and continuing without the necessity of the
7 execution, filing and/or recordation of mortgages, security agreements, patent security
8 agreements, trademarks security agreements, pledge agreements, financing statements or
9 otherwise), valid and perfected security interests and liens (the “Replacement Liens”) in all of
10 Debtor’s interests in any property acquired after the Petition Date of the type described as
11 Sunwest’s collateral in the applicable loan documents, including all proceeds therefrom
12 (“Collateral”). The Replacements Liens granted to Sunwest herein shall: (i) secure repayment
13 of the Sunwest indebtedness limited by the amount of Cash Collateral used by Debtor from and
14 after the Petition Date; (ii) be evidenced by the existing Loan Documents and this Order; and
15 (iii) have the same validity and priority as Sunwest’s existing liens and security interests in the
16 Cash Collateral and other Collateral.

17 5. During the Interim Period, if monthly debt service payments of principal and
18 interest come due to Sunwest by the Association under the Loan Documents, then the
19 Association shall pay them in the ordinary course.

20 6. Sunwest and the Debtor may agree to extend the Association’s use of Cash
21 Collateral pursuant to this Order past the Interim Period, as well as additional budgets approved
22 by Sunwest, without further notice to any parties or further orders of the Court.

23 7. The Court has and will retain jurisdiction to enforce this Order according to its
24 terms and according to the Bankruptcy Code.

25
26 **DATED AND SIGNED ABOVE**

1 **Agreed as to Form and Substance**

2

3 /s/ Alissa Brice Castaneda (w/permission)

4 Alissa Brice Castaneda
5 Quarles & Brady LLP
6 Two North Central Avenue
7 Phoenix, AZ 85004-2391
8 *Counsel for Sunwest Bank*

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

{0006302.0001/01189913.DOCX / }

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

EXHIBIT A

**Continental Country Club, Inc.
2021 Cash Flow Budget**

February		March			Total	
2/15 - 2/21	2/22 - 2/28	3/1 - 3/7	3/8 - 3/14	3/15 - 3/21	3/22 - 3/28	2/15 - 3/28

Opening Balance 1,224,000 1,173,709 1,038,248 999,956 974,869 919,169

Cash received:

Annual dues	5,000	2,000	2,000	2,000	2,000	18,000
Interest	-	468	-	-	-	468
Member upgrades	925	-	925	925	925	4,625
Misc membership	250	250	250	250	250	1,500
Rent	-	6,051	-	-	-	6,051
Transfer fees	1,400	-	-	1,400	-	2,800
Cart fees	-	-	1,465	1,465	1,465	4,395
Green fees	-	-	1,650	1,650	1,650	4,950
Driving range	-	1,000	1,500	1,500	1,500	5,500
Golf passes	800	300	625	1,125	1,125	4,600
Golf shop sales	200	1,625	1,625	1,625	1,625	6,900

Total cash received

8,575 6,675 12,019 10,040 12,045 10,645 59,999

Cash Disbursed:

Advertising	300	300	250	250	2,250	3,600
Bank charges	-	-	1,250	-	-	1,250
Building cleaning	-	-	-	5,000	-	5,000
Dues	-	505	-	-	-	505
Equipment rental	-	360	-	1,010	-	1,370
FGMC	-	14,643	-	21,532	21,532	57,707
Health insurance	-	-	3,276	-	-	3,276
Lake Elaine	-	-	1,189	-	-	1,189
Legal and accounting	-	2,500	-	-	5,000	7,500
Miscellaneous	-	-	150	-	400	550

**Continental Country Club, Inc.
2021 Cash Flow Budget**

	February		March			Total	
	2/15 - 2/21	2/22 - 2/28	3/1 - 3/7	3/8 - 3/14	3/15 - 3/21	3/22 - 3/28	2/15 - 3/28
Payroll	18,850	-	27,707	-	27,707	-	74,264
Payroll taxes	-	1,890	-	2,632	-	2,632	7,154
Pest control	-	75	-	75	-	75	225
Phones	-	-	735	-	-	-	735
Postage	300	300	400	375	375	375	2,125
Reclaim water	20,000	70,000	-	-	20,000	-	110,000
Repair & maintenance	1,850	2,925	2,988	1,725	1,787	2,425	13,700
Subcontractors	-	6,000	-	-	-	6,000	12,000
Supplies	863	863	813	813	813	813	4,978
Uniforms	-	460	-	-	-	-	460
Utilities	4,800	615	5,433	150	4,910	615	16,523
Walnut Canyon	-	700	720	-	-	1,750	3,170
Website	-	-	400	250	-	-	650
Workers comp	-	-	-	1,315	-	-	1,315
Lake Elaine legal	-	15,000	-	-	-	15,000	30,000
Bankruptcy	-	25,000	-	-	-	25,000	50,000
Golf shop inventory	-	-	-	-	-	25,000	25,000
SunWest payment	10,903	-	-	-	10,903	-	21,806
FGMC leases	-	-	5,000	-	-	-	5,000
Transfer to reserves	1,000	-	-	-	1,000	-	2,000
Total cash disbursed	58,866	142,136	50,311	35,127	67,745	108,867	463,052
Ending Cash Balance	1,173,709	1,038,248	999,956	974,869	919,169	820,947	(403,053)

Notes:

- * Sales tax receipts and payments (primarily related to golf operations) are excluded as they are a pass-through.
- * Homeowner dues are due in full by January 31, so the beginning cash balance includes these amounts. \$1,000,000 of those dues were collected by then. Weekly cash flow is negative until the golf course is up and running at full volumes and other
- * Actual amounts by week may vary as these represent an estimate of the timing.

**Continental Country Club, Inc.
2021 Cash Flow Budget**

	February		March			Total	
	2/15 - 2/21	2/22 - 2/28	3/1 - 3/7	3/8 - 3/14	3/15 - 3/21	3/22 - 3/28	2/15 - 3/28
Beginning Reserve Balance	193,000	194,000	179,000	179,000	179,000	180,000	179,000
Transfer fees	1,000	-	-	-	1,000	-	1,000
Capital outlays	-	15,000	-	-	-	45,000	45,000
Ending Reserve Balance	<u>194,000</u>	<u>179,000</u>	<u>179,000</u>	<u>179,000</u>	<u>180,000</u>	<u>135,000</u>	<u>135,000</u>