

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In re:	§	
	§	
SCOTIA DEVELOPMENT, LLC,	§	Case No. 07-20027
	§	
THE PACIFIC LUMBER COMPANY,	§	Case No. 07-20028
	§	
BRITT LUMBER CO., INC.,	§	Case No. 07-20029
	§	
SALMON CREEK, LLC	§	Case No. 07-20030
	§	
SCOTIA INN, INC.	§	Case No. 07-20031
	§	
SCOTIA PACIFIC COMPANY, LLC,	§	Case No. 07-20032
	§	
Debtors.	§	Chapter 11

**INTERIM ORDER AUTHORIZING DEBTOR'S USE OF CASH
COLLATERAL PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE**
[Related Docket No. __]

This matter came on for consideration upon the Emergency Motion for Interim and Final Orders Authorizing Scopac's Use of Cash Collateral (the "Motion") filed by Scotia Pacific Company LLC, a debtor and debtor in possession in the above-captioned jointly administered chapter 11 bankruptcy cases ("Scopac"), seeking, *inter alia*, authority for Scopac (i) to use Cash Collateral (as defined below) on an interim basis; (ii) to provide adequate protection to Bank of America National Trust and Savings Association ("BofA") and Bank of New York Trust Company ("BoNY or the "Trustee") in its capacity as successor trustee under the Indenture dated July 20, 1998, as amended (the "Indenture"), pursuant to which were issued Timber Notes (as defined below) by Scopac, to the extent of any decrease in the value of the interest of BofA and the Trustee in the Prepetition Collateral (as defined below) within the meaning of Section 361

and Section 363 of the Bankruptcy Code; and (iii) to schedule a final hearing on the Motion pursuant to Federal Rule of Bankruptcy Procedure 4001(b)(2).

I. OBJECTION TO ORDER

PURSUANT TO BANKRUPTCY RULE 4001(b)(2), ANY OBJECTION TO THE MOTION MUST BE FILED AND SERVED WITHIN FIFTEEN (15) DAYS OF THE DATE OF SERVICE OF THE MOTION ON SUCH OBJECTING PARTIES. THE MAILING OF A COPY OF THIS ORDER BY FIRST CLASS MAIL, POSTAGE PREPAID, TO THOSE ENTITIES REQUIRED UNDER BANKRUPTCY RULE 4001(b)(1) CONSTITUTES COMPLIANCE WITH THE APPLICABLE NOTICE PROVISIONS REGARDING AGREEMENTS FOR USE OF CASH COLLATERAL. A SECOND INTERIM HEARING ON THE MOTION SHALL TAKE PLACE ON _____, 2007, AT _____.M. BEFORE THE HONORABLE RICHARD SCHMIDT, AT THE UNITED STATES BANKRUPTCY COURT, _____, COURTROOM __, CORPUS CHRISTI, TEXAS _____.

In support of the Motion, Scopac presented the Affidavit of Gary L. Clark in Support of First Day Motions, sworn to on January __, 2007 (the "Clark Affidavit"). Based upon the Clark Affidavit, pleadings, evidence adduced by the parties, and representations of counsel, the Court hereby (i) grants the relief requested in the Motion to prevent immediate and irreparable harm to Scopac's estate and to facilitate the reorganization of Scopac's business and (ii) finds and orders as follows:

II. STATEMENT OF JURISDICTION

1. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 1334 and 157. Consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (K), (M), and (O).

III. NOTICE

2. Sufficient and adequate notice of the Motion and the hearing thereon was provided pursuant to Federal Rules of Bankruptcy Procedure 2002, 4001(b), and 9006, and as required by Sections 361 and 363 of the Bankruptcy Code. No further notice of, or hearing on, the relief sought in the Motion is necessary or required unless a timely objection is filed.

IV. FACTUAL BACKGROUND

3. On January 18, 2007 (the “Petition Date”), Scopac filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

4. The Debtor continues to operate its business and manage its properties as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

5. No trustee, examiner, or creditors committee has been appointed in Scopac’s case.

6. The Debtor owns (i) approximately 200,000 acres of timberlands in Humboldt County, California along the northern California coast, which timberlands are comprised of redwoods, Douglas fir and other conifers (the “Scopac Timberlands”) and (ii) the exclusive right to harvest on approximately 12,200 acres of timberlands owned by The Pacific Lumber Company (“Palco”) and Salmon Creek LLC (the “Scopac Timber Rights” and together with the Scopac Timberlands, the “Scopac Timber”).

7. The Debtor’s business is the harvesting of timber from its private timberlands, which business requires working capital to fund payroll and payroll taxes and to pay normal operating expenses.

V. THE PREPETITION SECURED OBLIGATIONS

8. In July 1998 pursuant to the Indenture, Scopac issued \$867.2 million aggregate principal amount of secured notes, in three classes: (i) 6.55% Series B Class A-1 Timber Collateralized Notes due 2028, aggregating \$160.7 million (the “Class A-1 Notes”); (ii) 7.11% Series B Class A-2 Timber Collateralized Notes due 2028 aggregating \$243.2 million (the “Class A-2 Notes”); and (iii) 7.71% Series B Class A-3 Timber Collateralized Notes due 2028 aggregating \$463.3 million (the “Class A-3 Notes,” together with the Class A-1 Timber Notes and the Class A-2 Timber Notes, the “Timber Notes”). The Timber Notes are due at various

times through July 20, 2028. The Timber Notes are obligations solely of Scopac and do not constitute obligations of, and are not guaranteed by, Palco or any other entity.

9. Interest and certain payments are due to be paid to the holders of the Timber Notes (the “Noteholders”) semiannually, on January 20 and July 20 of each year (each, a “Note Payment Date”).

10. The Debtor asserts that the Trustee, on behalf of the Noteholders, holds a claim (as defined in Section 101 of the Bankruptcy Code) against Scopac with respect to the Timber Notes in an aggregate amount, as of the Petition Date, of approximately \$713,800,000 in unpaid principal, plus interest and additional sums for reasonable costs, reasonable attorneys’ fees and other amounts authorized under the Indenture and the Deed of Trust (as defined below), the Bankruptcy Code and applicable law (the “Timber Notes Claim”).

11. Additionally, Scopac is the borrower under a one-year, renewable line of credit pursuant to a Credit Agreement dated as of July 20, 1998 (as amended, the “Scopac Line of Credit”) by and between Scopac and BofA, as lender and as agent for itself and any other lender parties thereto. Advances under the Scopac Line of Credit are used to finance up to one year’s interest payments due on the Timber Notes. The maximum amount Scopac may borrow is equal to one year’s interest on the aggregate outstanding principal balance of the Timber Notes (the “Required Liquidity Amount”). The maximum amount available on the BofA loan is approximately \$17,279,085 as of the Petition Date. On May 18, 2006, the Scopac Line of Credit was extended to July 6, 2007.

12. The Debtor asserts that BofA holds a claim (as defined in Section 101 of the Bankruptcy Code) against Scopac with respect to funds advanced under the Scopac Line of Credit in an aggregate amount, as of the Petition Date, of \$36,214,344 in unpaid principal, plus

interest and additional sums for reasonable costs, reasonable attorneys' fees and other amounts to the extent authorized under the Scopac Line of Credit and Deed of Trust, the Bankruptcy Code and applicable law (the "Prepetition BofA Claim"). The Prepetition BofA Claim and the Timber Notes Claim are referred to collectively as the "Prepetition Claims".

13. BofA and the Trustee assert that the Prepetition Claims are secured by perfected, jointly-held senior liens and security interests in substantially all of Scopac's assets pursuant to the Deed of Trust, Security Agreement, Financing Statement, Fixture Filing and Assignment of Proceeds dated as of July 20, 1998 (as amended, the "Deed of Trust"), from Scopac to Fidelity National Title Insurance Company for the Benefit of the Trustee, including: (i) the Scopac Timber; (ii) approximately \$42,500,000 in funds contained in the Scheduled Amortization Reserve Account used to support principal payments on the Timber Notes (the "SAR Account"); (iii) certain computer hardware and software, including a geographic information system containing information on numerous aspects of the Scopac Timberlands (subject to certain rights of concurrent use by Palco); (iv) certain other assets, all as more fully described in the Deed of Trust (collectively, the "Prepetition Collateral").¹ The proceeds and product of the Prepetition Collateral constitute cash collateral (as that term is defined in the Bankruptcy Code) (the "Cash Collateral").

14. Nothing contained herein constitutes a finding of fact or conclusion of law as to the amount, validity, enforceability, perfection, priority or allowance of the Prepetition Claims and the Prepetition Collateral.

¹ Notwithstanding the fact that both the Trustee and BofA hold the same lien on a joint basis, Scopac asserts that the Indenture provides that BofA's right to payment is senior to the Timber Notes Claim in certain circumstances.

VI. USE OF CASH COLLATERAL

15. Without the use of Cash Collateral, Scopac will not have the funds necessary to pay post-petition payroll, payroll taxes and expenses of Scopac's business. Thus, Scopac requires the immediate use of Cash Collateral as provided herein.

16. The use of Cash Collateral is in the best interest of, and will benefit Scopac, its creditors and its estate. The ability of Scopac to operate its business and have any realistic prospect to reorganize depends upon Scopac's ability to use Cash Collateral. The relief requested in the Motion is necessary, essential and appropriate for the preservation of Scopac's estate and the operation of its business.

17. Good, adequate, and sufficient cause has been shown to justify the granting of the relief requested in the Motion. The use of Cash Collateral by Scopac as set forth in this Cash Collateral Order will avoid immediate and irreparable harm to Scopac, its estate and assets.

18. BofA and the Trustee, as the holders of secured claims against Scopac, are each entitled to adequate protection of their interests, if any, in the Prepetition Collateral and the Cash Collateral under Section 363(e) of the Bankruptcy Code.

19. Until the second interim hearing on the Motion, Scopac may use Cash Collateral solely in accordance with the budget attached hereto as Exhibit "A" (the "Budget"). Amounts budgeted for expenditure during any budgetary period shall be cumulative of amounts budgeted (but not spent) during prior budgetary periods. In addition, Scopac may use Cash Collateral to the extent reasonably necessary to pay expenses incurred to preserve Scopac's assets from sudden and catastrophic loss and to preserve life and property in the event of any fire, environmental incident or other extraordinary event.

VII. ADEQUATE PROTECTION

20. As adequate protection of the interests, if any, of BofA and the Trustee in the Prepetition Collateral and Cash Collateral, this Court grants each of BofA and the Trustee first priority, perfected replacement liens and security interests in all the Prepetition Collateral and the Cash Collateral of Scopac, to the extent of the diminution of their respective interests in the Prepetition Collateral and the Cash Collateral (the “Replacement Liens”). BofA and the Trustee are also each granted a superpriority cost of administration priority claim under 11 U.S.C. § 507(b) to the extent of the diminution of their respective interests in the Prepetition Collateral and the Cash Collateral. BofA’s and the Trustee’s superpriority administrative claims under 11 U.S.C. § 507(b), if any, granted hereunder shall be subject to the fees and expenses of the Office of the United States Trustee and the Clerk of the United States Bankruptcy Court for the Southern District of Texas (collectively, the “Trustee Fees”).

VIII. REPORTING REQUIREMENTS

21. The Debtor shall deliver to each of BofA and the Trustee and their respective counsel (i) on a monthly basis, a financial report consisting of Scopac’s balance sheet and income statement as of the end of such period, which financial reports shall be prepared in such form and detail as financial reports prepared by Scopac prepetition, (ii) copies of all reports filed with the office of the United States Trustee within two (2) days after such filing and (iii) on a weekly basis, a report of the difference between budgeted and expended Cash Collateral.

IX. OTHER TERMS

22. This Cash Collateral Order shall be sufficient and conclusive evidence of the priority, perfection and validity of the Replacement Liens upon Scopac’s property without the need for filing or recording any financing statements or other documents that may otherwise be required under Federal or state law in any jurisdiction.

23. The terms and provisions of this Cash Collateral Order and any actions taken pursuant hereto, shall survive entry of any order that may be entered (i) converting to Chapter 7 or dismissing Scopac's case or (ii) confirming or consummating any plan of reorganization in Scopac's case. The terms and provisions of this Cash Collateral Order as well as the priorities in payment, liens, and security interests granted pursuant to this Cash Collateral Order shall continue in any superseding case under the Bankruptcy Code of Scopac.

24. The provisions of this Cash Collateral Order shall inure to the benefit of Scopac, BofA and the Trustee, and they shall be binding upon Scopac, BofA and the Trustee and their respective successors and assigns, including any trustees or other fiduciaries hereafter appointed as legal representatives of Scopac or with respect to property of the estate of Scopac, whether under Chapter 11 of the Bankruptcy Code or any subsequent Chapter 7 case, and shall also be binding upon all creditors of Scopac and other parties in interest.

25. If an order is entered, whether *sua sponte* by the Court or otherwise, dismissing or converting Scopac's case, such order shall recognize that such dismissal or conversion shall not affect or diminish BofA's and the Trustee's respective rights, priorities or remedies granted hereunder.

26. The Debtor's counsel shall serve a copy of this Cash Collateral Order on all of the following parties: (i) the Office of the United States Trustee, (ii) the attorneys for BofA, (iii) the attorneys for the Trustee; (iv) all creditors known to Scopac who may have liens against Scopac's Cash Collateral, (v) the United States Internal Revenue Service, (vi) the United States Securities and Exchange Commission, (vii) the 20 largest unsecured creditors of Scopac, and (viii) all parties in interest who have filed a notice of appearance.

27. To the extent any findings may constitute conclusions, and *vice versa*, they are hereby deemed as such.

28. This Court hereby expressly retains jurisdiction over all persons and entities, co-extensive with the powers granted to the United States Bankruptcy Court under the Bankruptcy Code, to enforce the terms of this Cash Collateral Order and to adjudicate any and all disputes in connection therewith.

29. Any use of Cash Collateral since the Petition Date is hereby authorized pursuant to the applicable provisions of Section 363(c) of the Bankruptcy Code and Fed. R. Bankr. P. 4001(b)(2) as necessary to avoid immediate and irreparable harm to the estate, and all adequate protection provided for herein is enforceable to the extent of any use of the Prepetition Collateral or Cash Collateral by Scopac, without limitation.

30. The Motion is approved and granted on an interim basis as provided herein.

SIGNED: January __, 2007

UNITED STATES BANKRUPTCY JUDGE