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12 *Proposed Attorneys for the Debtors and*
13 *Debtors in Possession*

14 **UNITED STATES BANKRUPTCY COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SANTA ROSA DIVISION**

17 In re:
18 LEFEVER MATTSON, a California
19 corporation, *et al.*,¹
20
21 Debtors.

22 Lead Case No. ___ - _____ (CN)

(Joint Administration Requested)

Chapter 11

**MOTION OF DEBTORS FOR
INTERIM AND FINAL ORDERS
AUTHORIZING DEBTORS TO USE
CASH COLLATERAL**

Date: TBD

Time: TBD

Place: United States Bankruptcy Court
1300 Clay Street, Courtroom 215
Oakland, CA 94612

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26 ¹ The last four digits of LeFever Mattson's tax identification number are 7537. Due to the
27 large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the
28 last four digits of their federal tax identification numbers is not provided herein. A complete list
of such information may be obtained on the website of the Debtors' proposed claims and noticing
agent at <https://veritaglobal.net/LM>. The address for service on the Debtors is 6359 Auburn Blvd.,
Suite B, Citrus Heights, CA 95621.



1 LeFever Mattson, a California corporation (“LeFever Mattson”), and certain of its affiliates
 2 that are debtors and debtors in possession (the “Debtors”) in the above-captioned chapter 11 cases
 3 (the “Chapter 11 Cases”), hereby move (the “Motion”) this Court pursuant to sections 105, 361,
 4 363(c) and 363(e) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001
 5 and 9014 of the Federal Rules of Bankruptcy Procedure, (the “Bankruptcy Rules”) and Rules
 6 2002-1 and 4001-1 of the Bankruptcy Local Rules for the Northern District of California (the
 7 “Bankruptcy Local Rules”), and the *Guidelines for Cash Collateral & Financing Motions &*
 8 *Stipulations* (the “Guidelines”) for the entry of an interim order in substantially the form attached
 9 hereto as **Exhibit A** hereto, authorizing the Debtors to use the cash collateral (the “Cash
 10 Collateral”) of certain of the Debtors’ secured lenders (the “Secured Lenders”) who appear to hold
 11 deeds of trust and assignments of rents on certain of the Debtors’ units of real property (the
 12 “Properties”), and setting a final hearing on the Motion.

13 The facts and circumstances supporting this Motion are set forth in the *Declaration of*
 14 *Bradley D. Sharp in Support of Chapter 11 Petitions and First Day Motions* (the “Sharp
 15 Declaration”), filed contemporaneously herewith and incorporated by reference herein.
 16 Capitalized terms used but not defined herein have the meanings given to them in the Sharp
 17 Declaration.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. SUMMARY OF RELIEF REQUESTED AND PRELIMINARY STATEMENT**

20 In accordance with Bankruptcy Rule 4001(b) and the Guidelines, the following is a
 21 summary of the relief requested herein:

22 23 24 25 26 27 28 Purpose for the Use of Cash Collateral:	Per each Property Budget (as hereafter defined); cash collateral to be used for Property Level Expenses (maintenance, property insurance, debt service, utilities, and management).
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Secured Creditors:	Bank of America Mitchel Bicandi Frank Bragg Revocable Trust Butcher Road Partners LLC ² California Bank of Commerce Michael & Ana Cavanaugh Chase Bank Citizens Business Bank (“ <u>Citizens</u> ”) Comerica Duggans Memorial Chapel Exchange Bank Virginia Ghilarducci Trustee Greystone Servicing Company Ronald and Francoise Hodges Leland McAbee Napa Elm, LP Mr. Cooper Bruce Needleman, Trustee & Edna M. Hayes, Trustee NexBank PHH Mortgage Services Poppy Bank Y. Tito Sasaki & Janet L. Sasaki, Trustees Select Portfolio Servicing, Inc. Shellpoint Mortgage Servicing Socotra Capital, Inc. TriCounties Bank Umpqua Bank Wells Fargo Bank Susan Patricia Westerbeke, Trustee
Adequate Protection:	For any Accepting Lender: <ul style="list-style-type: none"> ■ Continuation of monthly debt service payments; ■ Payment of Property Level Expenses; and ■ Continued Reporting.
Treatment of Nonaccepting Lenders:	Absent the written consent of such Nonaccepting Lender, the Debtors will not use Cash Collateral of a Nonaccepting Lender or provide monthly debt service payments unless and until the Court enters an order authorizing use of such Nonaccepting Lender.

² Butcher Road Partners LLC and Napa Elm, LP are both Debtors.

Instances of Noncompliance with the Guidelines	None
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II. JURISDICTION AND VENUE

This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.), and Rule 5011-1(a) of the Bankruptcy Local Rules. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

III. BACKGROUND

A. General Background

On the date hereof (the “Petition Date”), LeFever Mattson and the other Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee of unsecured creditors has been appointed in any case of the Debtors.

B. LeFever Mattson

LeFever Mattson manages a large real estate portfolio. Timothy LeFever and Kenneth W. Mattson each own 50% of the equity in LeFever Mattson.

LeFever Mattson directly or indirectly controls or has ownership interests in 50 limited partnerships (collectively, the “LPs”) and eight limited liability companies (collectively, the “LLCs”), almost all of which are Debtors.³ LeFever Mattson invests in real estate primarily through the LLCs and the LPs. LeFever Mattson also owns a small number of properties directly. This structure has allowed LeFever Mattson to pool capital by selling limited partnership or membership interests to outside investors, while typically reserving an ownership interest for itself as general partner or managing member.

LeFever Mattson also has ownership interests in four California corporations: Debtor Home Tax Service of America, Inc., dba LeFever Mattson Property Management (the “Property”

³ Two LPs have not yet filed chapter 11 petitions.

1 Manager”), which provides property management services, including to those properties owned
2 by the LPs and the LLCs; Debtor California Investment Properties, a California corporation (a real
3 estate brokerage), and non-debtors Pineapple Bear, a California corporation (which offers
4 hospitality and catering services), and Harrow Cellars, a California corporation (which operates a
5 winery and related businesses).

6 As of the Petition Date, Bradley D. Sharp has been appointed the Chief Restructuring
7 Officer of the Debtors. Since Mr. Sharp’s engagement on July 18, 2024, he has worked closely
8 with the Debtors in their efforts to maximize enterprise value in the wake of what, in retrospect
9 and on information and belief, was a decade or more of financial misconduct by Mr. Mattson.

10 C. The Debtors’ Secured Debt

11 The Debtors have identified twenty-nine (29) lenders (the “Lenders”) that hold mortgages
12 on the vast majority of the more than two hundred (200) Properties owned by the Debtors. Most
13 of the Properties are generating rents or other cash proceeds (hereafter, “Cash Collateral”) that are
14 subject to the Lenders’ mortgages. The Debtors’ preliminary analysis suggests that (1) the amount
15 of each mortgage is, on average, less than 60% of the corresponding Property’s value; and (2) the
16 average aggregate net cash flow from the Properties is well in excess of \$100,000 per week before
17 debt service and more than \$50,000 per week after debt service. The Debtors have historically
18 had no difficulty making debt service payments on their Properties and, but for the Mattson
19 Transactions, the Debtors would not have had cash flow issues or the need to commence these
20 Chapter 11 Cases.

21 The Debtors have been unable to negotiate the use of Cash Collateral with the Lenders.
22 Based on their discussions with certain of the Lenders and their understanding of the interests of
23 other Lenders, they believe that several will be Accepting Lenders (as hereafter defined) that will
24 free sufficient Cash Collateral for the Debtors to manage their affairs until the final hearing on this
25 Motion. With respect to Cash Collateral generated by a Property owned by a Nonaccepting Lender
26 (as hereafter defined), the Debtors reserve the right to use their Cash Collateral without consent by
27 presenting evidence that the interest of such Nonaccepting Lender is or will be adequately
28

1 protected, *e.g.*, by an equity cushion, monthly payments, or other forms of protection contemplated
2 by section 361 of the Bankruptcy Code.

3 **D. The Debtors' Cash Needs**

4 The Debtors require the use of Cash Collateral to operate their businesses as set forth in
5 the collection of 13-week budgets (each, a "Property Budget") attached as Exhibit 4 to the Sharp
6 Declaration, reflecting cash flows for each Property, along with an index to assist Lenders in
7 identifying the Properties in which each maintains an interest. Each Property Budget is comprised
8 of expenses directly related to the operation of the Properties and subject to certain mortgages,
9 such as maintenance, property insurance, debt service, utilities, and property management
10 (hereafter, "Property Level Expenses").

11 LeFever Mattson, as a managing member and/or limited partner of many of the Debtors,
12 has a continuing equity interest in those Debtors. Subject to further developments in these Chapter
13 11 Cases, it is anticipated that LeFever Mattson will pay the majority of the restructuring costs
14 relating to these Chapter 11 Cases out of its interest in the various Properties owned by the other
15 Debtors. To the extent that other Debtors accumulate cash after paying expenses permitted hereby,
16 that cash will remain on the books of such Debtor and not be used for the benefit of LeFever
17 Mattson or the other Debtors absent a noticed motion and further Court order authorizing the use
18 of such accumulated cash.

19 **IV. RELIEF REQUESTED**

20 The Debtors request authority for emergency use of the Cash Collateral of Accepting
21 Lenders for Property Level Expenses as set forth in the Property Budget; and reserve the right to
22 supplement this Motion to use the Cash Collateral of any Nonaccepting Lender upon an
23 evidentiary presentation demonstrating that such Nonaccepting Lender is adequately protected.

24 For Accepting Lenders, the Debtors further seek authority to provide adequate protection
25 to such Accepting Lenders by (A) making monthly debt service payments in accordance with pre-
26 filing practices, (B) paying Property Level Expenses in order to maintain the value of the Property
27 or Properties subject to such Accepting Lender's mortgage(s), and (C) providing continuing
28 reporting consistent with pre-filing practices. Accepting Lenders will not receive additional or

1 replacement liens, and cash generated by the underlying Property will be maintained in a
2 concentration account, by Debtor, in accordance with past and continuing practices of the Property
3 Manager.⁴

4 For Lenders that wish to opt out, *i.e.*, Nonaccepting Lenders, the Debtors do not seek
5 authority to use their Cash Collateral on an interim basis, unless and except to the extent that such
6 Nonaccepting Lender consents to such use.

7 **V. AUTHORITY FOR RELIEF REQUESTED**

8 **A. Basis for Adequate Protection**

9 Section 363(c)(2) of the Bankruptcy Code provides, in pertinent part, as follows:

10 The [debtor in possession] may not use, sell or lease cash collateral . . . unless:

11 (A) each entity that has an interest in such cash collateral consents; or

12 (B) the court, after notice and a hearing, authorizes such use, sale, or lease in
13 accordance with the provisions of this section.

14 Thus, use of cash collateral may be based on either consent of the secured creditor, or the court’s
15 authorization even in the absence of consent. Without consent, the use of Cash Collateral may be
16 conditioned on the Court determining that the interests of the Secured Lenders are adequately
17 protected. *See In re McCombs Properties VI, Ltd.*, 88 B.R. 261 (Bankr. C.D. Cal. 1988).
18 Conversely, the Court may prohibit or condition use of Cash Collateral “as is necessary to provide
19 adequate protection” for the interest of the secured creditor. *See* 11 U.S.C. § 363(e). The burden
20 of proof respecting the existence of adequate protection is on the moving party. 11 U.S.C.
21 § 363(p)(1).

22 The Debtors are in the process of conducting a thorough review and analysis of the loans
23 and security interests of the Lenders. Many Lenders hold perfected security interests in the
24 Properties that are the subject of their loans and the rents and proceeds therefrom. For purposes

25 _____
26 ⁴ In the chapter 11 case of Windscape Apartments, LLC, Citizens requested that all
27 receipts relating to Citizens be segregated by Property rather than by Debtor. The Debtors are
28 aware of no such requirement in the loan documents presented by Citizens. The Property
Manager already tracks cash receipts and deposits by Property in its books and records, such that
those books and records will identify Citizens’ accumulated cash as accurately as if the Debtors
were required to open new accounts for every lender.

1 of this Motion, the Debtors assume the Lenders have rights as secured creditors with respect to
 2 any post-default rents. Because the Debtors and the Property Manager duly account for all
 3 revenues and expenses on a property-by-property basis, the Debtors submit that segregating the
 4 funds into 29 separate accounts would be unduly burdensome and provide little benefit to the
 5 Lenders, in light of the other adequate protection they enjoy.

6 **B. Seeking Consent from Accepting Lenders.**

7 An “Accepting Lender” is a Lender for as to which (1) the Debtors own a Property upon
 8 which the Lender holds a mortgage, (2) the Property is generating rents or similar proceeds, (3) the
 9 Debtors wish to use such rents or proceeds to fund Property Level Expenses,⁵ and (4) the Lender
 10 has not given the Debtors notice that it does not wish to be treated as an Accepting Lender. For
 11 the reasons set forth below, the proposed treatment of Accepting Lenders provides those Lenders
 12 with adequate protection such that their consent is not required. *See* 11 U.S.C. § 363(c)(2).
 13 However, although consent cannot be implied by a secured creditor’s failure to object, *Freightliner*
 14 *Market Development Corp. v. Silver Wheel Freightlines, Inc.*, 823 F.2d 362, 368-69 (9th Cir.
 15 1987), because the Motion grants each Lender a unilateral opportunity to “opt out” of the adequate
 16 protection offered by the Debtors (thus becoming a “Nonaccepting Lender”), each Lender can
 17 cause the Debtors to immediately cease using its Cash Collateral.

18 Concurrently with the commencement of these Chapter 11 Cases and the filing of this
 19 Motion, the Debtors are providing notice to the Lenders and are prepared to negotiate with each
 20 Lender based on the unique circumstances that attend to each Property and each Debtor. To the
 21 extent that a Lender is satisfied to allow a Debtor to use its Cash Collateral to pay Property Level
 22 Expenses (including debt service), however, a Lender need take no further action and the Debtors
 23 will determine whether to treat such Lender as an Accepting Lender.

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 26 ⁵ In certain instances, the cash flow generated by the Debtor will not be adequate to pay
 27 monthly debt service to the Lender holding the mortgage on the Debtor’s underlying Property or
 28 Properties, and the accompanying Property Budget does not make provision for debt payment.
 In those circumstances, the Debtors will treat the Lender as a Nonaccepting Lender (*i.e.*, it will
 not use Cash Collateral absent written consent from the Lender).

1 **C. The Right to Adequate Protection**

2 A secured creditor’s right to adequate protection is a right to be protected from a post-
3 petition diminution in the value of the creditor’s collateral. The legal standard governing a secured
4 creditor’s interest in collateral was established by the United States Supreme Court in *United*
5 *Savings v. Timbers of Inwood Forest*, 484 U.S. 365 (1988). The “interest in property” of a secured
6 creditor is limited to the “value of the collateral.” *Id.* at 372. The adequate protection provisions
7 of the Bankruptcy Code thus protect a secured creditor only from a potential diminution in the
8 value of that creditor’s collateral during the post-petition period. *Id.*

9 The courts have consistently held that where there is no diminution in the value of the
10 collateral, there is no need for additional adequate protection, including adequate protection
11 payments. The following holding from the Central District is illustrative:

12 [T]he Court finds that the property is not depreciating in value. In consequence,
13 the Court finds that [secured creditor] is adequately protected by the value of its
14 collateral . . . The right to receive payments is a simple contract right, that supports
only a claim in the bankruptcy case. There is no other adequate protection to which
[secured creditor] is entitled under the Bankruptcy Code.

15 *In re Elmore*, 94 B.R. 670, 677 (Bankr. C.D. Cal. 1988); *see also, e.g., In re Johnson*, 90 B.R. 973,
16 978 (Bankr. D. Minn. 1988) (secured creditor is not impaired and is not entitled to receive adequate
17 protection payments where value of collateral does not decline); *In re Century Inv. Fund, VII Ltd.*
18 *P’ship*, 96 B.R. 884, 887 (Bankr. E.D. Wis. 1989) (where value of collateral appears to be stable,
19 secured creditor is not entitled to adequate protection payments); *In re Anderson*, 86 B.R. 877, 889
20 (Bankr. N.D. Ind. 1988) (secured creditor was required to show a necessity for adequate protection
21 by demonstrating a decline in asset value from the petition date); *In re Kessler*, 86 B.R. 134, 136
22 (Bankr. C.D. Ill. 1988) (under *Timbers*, movants are not entitled to adequate protection payments,
23 as there was no showing that property was depreciating in value).

24 Here, the Debtors continue to responsibly maintain and operate the Properties. Thus, there
25 is no reason to believe that any of the Properties are declining in value.

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1 **D. Provision of Adequate Protection**

2 **1. Most Secured Creditors Enjoy a Substantial Equity Cushion**

3 An equity cushion is routinely considered a form of adequate protection. *See In re Mellor*,
 4 734 F.2d 1396, 1400 (9th Cir. 1984). “An equity cushion is the classic form of protection for a
 5 secured debt, and its existence, standing alone, can provide adequate protection under the code.”
 6 *In re Russell*, 567 B.R. 833, 839 (Bankr. D. Mont. 2017); *see Mutual Life Ins. Co. v. Patrician St.*
 7 *Joseph Partners, Ltd. Partnership (In re Patrician St. Joseph Partners Ltd. Partnership)*, 169 B.R.
 8 669, 677 (D. Ariz. 1994). Although adequate protection may be determined on a case-by-case
 9 basis, courts in this Circuit have held equity cushions in the 10-20% range to satisfy adequate
 10 protection. *See Pacific First Bank ex rel. RT Capital Corp. v. Boulders on the River (In re Boulders*
 11 *on the River)*, 164 B.R. 99, 104 (B.A.P. 9th Cir. 1994).

12 Many of the Lenders enjoy significant equity cushions on the Properties. The balances
 13 owed to the Secured Creditors, the Debtors’ estimated fair market value of the Properties, and the
 14 equity cushion for each loan is shown on the first page of each the Property Budget. *See Pacific*
 15 *First Bank ex rel. RT Capital Corp. v. Boulders on the River (In re Boulders on the River)*, 164
 16 B.R. 99, 104 n.4 (B.A.P. 9th Cir. 1994) (“[equity cushion] is calculated by taking the fair market
 17 value of the property less the outstanding debt divided by the fair market value”). Although the
 18 Debtor has not undertaken formal appraisals of each of the Properties in anticipation of this
 19 Motion, the coversheet to the Property Budget indicates that the current balance of the loan for
 20 each Property is substantially less than that Property’s purchase price in most instances.

21 **2. Preservation of Value Protects the Secured Creditors**

22 Value is associated with the going concern value of the Debtors’ Properties, as compared
 23 to a forced liquidation through a foreclosure. In large part this is driven by the substantial increase
 24 in prices that can be achieved through an orderly, managed liquidation in contrast to either a “fire
 25 sale” where the Debtors are forced to sell the Properties immediately, further depressing their
 26 values, or a scenario where the Debtors underinvest in the Properties, allowing depreciation and
 27 decay to take their toll. That value can be preserved only if the Debtor continues to operate and
 28 manage the Properties in a responsible manner, which requires that it fund the ordinary expenses

1 of its operations. Managing the Properties and paying Property Level Expenses maintains the
2 value of the Properties for the Lenders, as well as the Debtors' other creditors and equity holders
3 and is, in and of itself, a means of adequately protecting the Secured Creditors' property interests.
4 *See In re Las Vegas Monorail Co.*, 429 B.R. 317, 341-342 (Bankr. D. Nev. 2010); *In re McCombs*
5 *Properties VI, Ltd.*, 88 B.R. 261, 267 (Bankr. C.D. Cal. 1988). Preserving the going concern value
6 of the Properties provides the Lenders with protection for the use of the Cash Collateral.

7 This is illustrated by the net cash flows shown on the Budget. This clearly demonstrates
8 that the Secured Lenders are best protected by allowing the business to continue to operate in the
9 ordinary course.

10 3. The Budget Provides for Payments to Certain Secured Lenders

11 Each Property Budget also provides for adequate protection payments to all Accepting
12 Lenders in the same amounts as the prepetition debt service for their respective loans. Section 361
13 of the Bankruptcy Code expressly states that adequate protection may be provided by periodic
14 payments to the entity requiring adequate protection. 11 U.S.C. § 361(1).

15 4. The Debtors Could Surcharge the Secured Creditors to Preserve 16 Their Collateral

17 Pursuant to section 506(c) of the Bankruptcy Code, the Debtor "may recover from property
18 securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or
19 disposing of, such property to the extent of any benefit to the holder of such claim" Here, the
20 Debtors' proposed use of the Cash Collateral on an interim basis for Property Level Expenses
21 would meet even the "onerous" standard of section 506(c) of a "concrete" and "quantifiable"
22 benefit to the Secured Lenders. *Debbie Reynolds Hotel & Casino, Inc. v. Calstar Corp. (In re*
23 *Debbie Reynolds Hotel & Casino, Inc.)*, 255 F.3d 1061, 1068 (9th Cir. 2001). Surcharge, of
24 course, is the after-the-fact finding that expenses paid by a debtor were in fact incurred for the
25 benefit of the secured creditor.

26 VI. NOTICE

27 Notice of this Motion will be provided to (i) the United States Trustee; (ii) the Secured
28 Lenders; (iii) the parties listed on the Debtors' consolidated *List of Creditors Who Have the 30*

1 *Largest Unsecured Claims and Are Not Insiders*; and (iv) those persons who have formally
2 appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002.
3 Based on the urgency of the circumstances surrounding this Motion and the nature of the relief
4 requested herein, the Debtors respectfully submit that no further notice is required.

5 **WHEREFORE**, the Debtors respectfully request that the Court enter interim and final
6 orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, granting the relief
7 requested herein.

8 Dated: September 12, 2024

KELLER BENVENUTTI KIM LLP

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10 By: /s/ Thomas B. Rupp

11 Thomas B. Rupp

12 *Proposed Attorneys for the Debtors and*
13 *Debtors in Possession*
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Exhibit A
(Proposed Interim Order)

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12 *Proposed Attorneys for the Debtors and*
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14 **UNITED STATES BANKRUPTCY COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SANTA ROSA DIVISION**

17 In re:
18 LEFEVER MATTSON, a California
19 corporation, *et al.*,¹
20
21 Debtors.

22 Lead Case No. __ - ____ (CN)

23 (Jointly Administered)

24 Chapter 11

25 **[PROPOSED] ORDER**
26 **AUTHORIZING DEBTORS TO USE**
27 **CASH COLLATERAL ON AN**
28 **INTERIM BASIS**

¹ The last four digits of LeFever Mattson's tax identification number are 7537. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://veritaglobal.net/LM>. The address for service on the Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 95621.

1 Upon consideration of the *Motion of Debtors for Interim and Final Orders Authorizing*
2 *Debtors to Use Cash Collateral* (the “Motion”),² filed by the above-captioned debtors and debtors
3 in possession (the “Debtors”); the Court having reviewed the Motion and the Sharp Declaration
4 and having considered the statements of counsel and the evidence adduced with respect to the
5 Motion at a hearing before the Court (the “Hearing”); and the Court having found that (i) the Court
6 has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.
7 §§ 157 and 1334, and the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy*
8 *Judges*, General Order 24 and Rule 5011-1(a) of the Bankruptcy Local Rules for the United States
9 District Court for the Northern District of California (the “Bankruptcy Local Rules”); (ii) venue is
10 proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding
11 pursuant to 28 U.S.C. § 157(b); (iv) notice of the Motion and the Hearing was sufficient under the
12 circumstances; and (v) good cause exists to waive the requirements imposed by Bankruptcy
13 Rules 6003 or 4001(b)(2), to the extent either is applicable; and after due deliberation the Court
14 having determined that the relief requested in the Motion is (i) in the best interests of the Debtors,
15 their estates, and their creditors and (ii) necessary to prevent immediate and irreparable harm to
16 the Debtors and their estate; and good and sufficient cause having been shown;

17 **IT IS HEREBY ORDERED THAT:**

- 18 1. The Motion is granted on an interim basis.
- 19 2. The Debtors may use Cash Collateral as set forth in the Property Budget on an
20 interim basis to pay Property Level Expenses but not Restructuring Expenses or other expenses
21 not reflected in the Property Budget.
- 22 3. The Debtors are authorized to provide Accepting Lenders with adequate protection
23 in the form of (A) monthly debt service payments in accordance with pre-filing practices,
24 (B) paying Property Level Expenses in order to maintain the value of the Property or Properties
25 subject to such Accepting Lender’s mortgage(s), and (C) providing continuing reporting consistent
26 with pre-filing practices.

27 _____
28 ² Capitalized terms not otherwise defined herein shall have the meanings given to them in
the Motion.

1 4. No Lender will receive additional or replacement liens.

2 5. Cash generated by the Properties may be maintained in a concentration account in
3 accordance with past and continuing practices of the Property Manager, and the Property Manager
4 shall continue to maintain the Debtors' books and records such that cash in such account can be
5 reconciled with amounts held by each Debtor.

6 6. The Debtors do not have authority to use the Cash Collateral of Nonaccepting
7 Lenders, unless and except to the extent that such Nonaccepting Lender consents to such use in
8 writing, in which case the Debtors may use Cash Collateral to pay Property Level Expenses if and
9 to the extent permitted by the Nonconsenting Lender. The Debtors' right to supplement the Motion
10 upon an evidentiary presentation demonstrating that such Nonaccepting Lender is adequately
11 protected is hereby reserved; *provided* that nothing contained in this Order shall be interpreted to
12 shorten or otherwise affect notice that must be provided to any such Nonaccepting Lender.

13 7. Nothing contained in the Motion or this Order is intended to be or shall be construed
14 as (i) an admission as to the validity or invalidity of any claim against the Debtors or any collateral;
15 (ii) a waiver of the Debtors', any creditor's, or any appropriate party in interest's rights to assert
16 or dispute the amount of, basis for, or validity of any claim against the Debtors or any collateral;
17 (iii) a waiver of any claims or causes of action that may exist in favor of or against any creditor or
18 interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract,
19 lease, program, or policy between the Debtors and any third party under section 365 of the
20 Bankruptcy Code.

21 8. A hearing to consider the relief requested in the Motion on a final basis is set for
22 [____], 2024, at [____] (Pacific Time). Any objections to granting the relief requested on
23 a final basis must be filed with the Court and served on counsel for the Debtor by [____], 2024.

24 9. The Debtors are hereby authorized to take such actions and to execute such
25 documents as may be necessary to implement the relief granted by this Order.

26 10. The Court retains exclusive jurisdiction with respect to all matters arising from or
27 related to the implementation, interpretation, and enforcement of this Order.

28 ** END OF ORDER **

KELLER BENVENUTTI KIM LLP
425 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

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Exhibit B
(Proposed Final Order)

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12 *Proposed Attorneys for the Debtors and*
13 *Debtors in Possession*

14 **UNITED STATES BANKRUPTCY COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SANTA ROSA DIVISION**

17 In re:
18 LEFEVER MATTSON, a California
19 corporation, *et al.*,¹
20
21 Debtors.

22 Lead Case No. __ - ____ (CN)

23 (Jointly Administered)

24 Chapter 11

25 **[PROPOSED] ORDER**
26 **AUTHORIZING DEBTORS TO USE**
27 **CASH COLLATERAL ON A FINAL**
28 **BASIS**

¹ The last four digits of LeFever Mattson's tax identification number are 7537. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://veritaglobal.net/LM>. The address for service on the Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 95621.

1 Upon consideration of the *Motion of Debtors for Interim and Final Orders Authorizing*
2 *Debtors to Use Cash Collateral* (the “Motion”),² filed by the above-captioned debtors and debtors
3 in possession (the “Debtors”); the Court having reviewed the Motion and the Sharp Declaration
4 and having considered the statements of counsel and the evidence adduced with respect to the
5 Motion at a hearing before the Court (the “Hearing”); and the Court having found that (i) the Court
6 has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.
7 §§ 157 and 1334, and the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy*
8 *Judges*, General Order 24 and Rule 5011-1(a) of the Bankruptcy Local Rules for the United States
9 District Court for the Northern District of California (the “Bankruptcy Local Rules”); (ii) venue is
10 proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding
11 pursuant to 28 U.S.C. § 157(b); and (iv) notice of the Motion and the Hearing was sufficient under
12 the circumstances; and after due deliberation the Court having determined that the relief requested
13 in the Motion is in the best interests of the Debtors, their estates, and their creditors; and good and
14 sufficient cause having been shown;

15 **IT IS HEREBY ORDERED THAT:**

- 16 1. The Motion is granted on a final basis.
- 17 2. The Debtors may use Cash Collateral as set forth in the Property Budget to pay
18 Property Level Expenses but not Restructuring Expenses or other expenses not reflected in the
19 Property Budget.
- 20 3. The Debtors are authorized to provide Accepting Lenders with adequate protection
21 in the form of (A) monthly debt service payments in accordance with pre-filing practices,
22 (B) paying Property Level Expenses in order to maintain the value of the Property or Properties
23 subject to such Accepting Lender’s mortgage(s), and (C) providing continuing reporting consistent
24 with pre-filing practices.
- 25 4. No Lender will receive additional or replacement liens.
- 26
- 27

28 ² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

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1 5. Cash generated by the Properties may be maintained in a concentration account in
2 accordance with past and continuing practices of the Property Manager, and the Property Manager
3 shall continue to maintain the Debtors’ books and records such that cash in such account can be
4 reconciled with amounts held by each Debtor.

5 6. The Debtors do not have authority to use the Cash Collateral of Nonaccepting
6 Lenders, unless and except to the extent that such Nonaccepting Lender consents to such use in
7 writing, in which case the Debtors may use Cash Collateral to pay Property Level Expenses if and
8 to the extent permitted by the Nonconsenting Lender. The Debtors’ right to supplement the Motion
9 upon an evidentiary presentation demonstrating that such Nonaccepting Lender is adequately
10 protected is hereby reserved; *provided* that nothing contained in this Order shall be interpreted to
11 shorten or otherwise affect notice that must be provided to any such Nonaccepting Lender.

12 7. Nothing contained in the Motion or this Order is intended to be or shall be construed
13 as (i) an admission as to the validity or invalidity of any claim against the Debtors or any collateral;
14 (ii) a waiver of the Debtors’, any creditor’s, or any appropriate party in interest’s rights to assert
15 or dispute the amount of, basis for, or validity of any claim against the Debtors or any collateral;
16 (iii) a waiver of any claims or causes of action that may exist in favor of or against any creditor or
17 interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract,
18 lease, program, or policy between the Debtors and any third party under section 365 of the
19 Bankruptcy Code.

20 8. The Debtors are hereby authorized to take such actions and to execute such
21 documents as may be necessary to implement the relief granted by this Order.

22 9. The Court retains exclusive jurisdiction with respect to all matters arising from or
23 related to the implementation, interpretation, and enforcement of this Order.

24 ** END OF ORDER **

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