

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)
)
PIKE NURSERY HOLDING LLC,)
)
Debtor.)
_____)

CHAPTER 7
CASE NUMBER: 07-79129-mgd

TRUSTEE'S MOTION FOR USE OF CASH COLLATERAL AND
REIMBURSEMENT OF THIRD-PARTY EXPENSES

COMES NOW Marcus A. Watson, Sr., Chapter 7 Trustee for the Estate of Pike Nursery Holding LLC, and moves this Court for an order allowing and permitting him to use cash collateral of PDIP, LLC to reimburse him for third-party expenses in the amount of \$48,374.34 incurred in connection with the administration of the Estate.

In support of this motion, the Trustee shows this Court as follows:

1. On November 14, 2007 (the "Petition Date") Pike Nursery Holding LLC filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in this Court.
2. On March 17, 2008, the Court entered an order directing the United States Trustee to appoint a Chapter 11 Trustee in this bankruptcy case. On March 19, 2008, the Court approved the United States Trustee's appointment of Marcus A. Watson, Sr. as the Chapter 11 Trustee.

3. On March 24, 2008 the Court converted the case to Chapter 7 and Marcus A. Watson, Sr. was appointed as the Chapter 7 Trustee.

4. When the Chapter 11 Trustee was appointed, the Debtor was no longer actively conducting any business and no longer had any full time employees who could assist the Trustee. Consequently, the Trustee was required to hire casual and/or temporary labor to assist in securing the assets and business records of the Estate, beginning the process of accounts receivable recovery and locating and returning leased equipment in order to avoid potential administrative claims.

5. In addition, the Trustee was required to incur out-of-pocket expenses to establish the Trustee's bank accounts, accounting systems and to acquire supplies for the administration of the Estate.

6. At the time of his appointment, the Trustee did not have access to any unencumbered funds of the Estate with which to pay these expenses as they were subject to security interest and liens of PNC Bank and PDIP, LLC. PNC Bank has since been repaid and PDIP, LLC may claim an interest in some of the funds which the Trustee holds.¹

¹ The Trustee presently holds approximately \$1,700,000 which substantially exceeds any remaining allowed claim of PDIP, LLC which relates predominantly if not exclusively to legal fees. Furthermore, the expenses which were incurred are also surchargeable against PDIP, LLC's collateral pursuant to 11 U.S.C. §506(c).

7. The expenses which the Trustee incurred are summarized in Exhibit "A" attached hereto and the supporting documentation for those expenses is set forth in Exhibit "B" attached hereto.

8. The largest expense is for reimbursement of the Trustee's bond in the amount of \$15,375. The Trustee also seeks reimbursement for third-party costs necessary for the administration of the Estate and the preservation of its assets. None of the payments for which reimbursement is sought are for the expenses of any insider of the Debtor, or the Trustee.

9. All of these expenses have inured to the benefit of creditors and the Estate. None of the expenses for which reimbursement is sought are for any professional or other person whose compensation is subject to review and approval by this Court in accordance with 11 U.S.C. § 330.

WHEREFORE, Marcus A. Watson, Sr., Chapter 7 Trustee for the Estate of Pike Nursery Holding LLC requests this Court to enter an order allowing him to use the cash collateral of PDIP, LLC for reimbursement of \$48,374.34 in third-party expenses incurred by him in connection with the administration and preservation of the Estate and

its assets.

This the 25th day of August, 2008.

\s\ John A. Christy

John A. Christy, Esq.

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Chapter 7 Trustee

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UNITED STATES BANKRUPTCY COURT
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)
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NOTICE OF HEARING

PLEASE TAKE NOTICE that Marcus A. Watson, Interim Chapter 7 Trustee, has filed Trustee’s Motion for Use of Cash Collateral and for Allowance and Reimbursement of Third-Party Expenses (“Motion”) seeking approval for reimbursement of third-party expenses incurred by him in the administration of the Estate in the amount of \$48,374.34.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion in Courtroom 1201, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia, at 10:30 a.m. on September 18, 2008.

Your rights may be affected by the Court’s ruling on the Motion. You should read the Motion carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the Motion with the Clerk at the address stated below, but you are not required

to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street, Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below and if possible also e-mail a copy to the undersigned at the e-mail address noted below.

This 25th day of August, 2008.

/s/ John A. Christy
John A. Christy, Esq.
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within and foregoing Trustee's Motion for Use of Cash Collateral and Reimbursement of Third Party Expenses and Notice of Hearing was served via the ECF system where indicated or by first class United States mail in properly addressed envelopes with sufficient postage affixed thereon, to insure delivery upon the parties listed below, and upon the parties listed on the Master Service List which is attached hereto as Exhibit "A".

This 25th day of August, 2008.

/s/ John A. Christy
John A. Christy

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