

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

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|-------------------------------|---|-----------------------|
| In re |) | Chapter 7 |
| |) | |
| TRADE AM INTERNATIONAL, INC., |) | Case No. 13-62588-MGD |
| |) | |
| Debtor. |) | Judge Diehl |
| _____ |) | |

DEUTSCHE BANK AG, CAYMAN ISLANDS BRANCH’S OBJECTION TO TRUSTEE’S MOTION FOR AUTHORITY TO USE CASH COLLATERAL IN ORDER TO PAY CERTAIN TAX CLAIMS

COMES NOW, Deutsche Bank AG, Cayman Islands Branch (“Deutsche Bank”), and hereby objects to the Trustee’s Motion for Authority to Use Cash Collateral in Order to Pay Certain Tax Claims [Docket No. 84] (the “Motion”). In support hereof, Deutsche Bank respectfully states as follows:

I. FACTUAL AND PROCEDURAL BACKGROUND

1. On June 6, 2013 (the “Petition Date”), an involuntary chapter 7 case was filed against Debtor Trade AM International, Inc. (the “Debtor”) [Docket No. 1].

2. On August 7, 2013, S. Gregory Hays was appointed interim chapter 7 trustee (the “Trustee”) in the Debtor’s bankruptcy case.

3. On March 5, 2014, the Trustee filed the Motion. The Trustee indicated in the Motion that he is requesting an extension of the deadline to pay the tax claims at issue. Despite requests to the Trustee and his counsel, Deutsche Bank is unaware whether an extension has been obtained.

4. As noted in earlier filings, Jupiter IL, LLC and Deutsche Bank hold first priority, properly perfected liens in, without limitation, all cash held by the Trustee.

II. GROUNDS FOR OBJECTION

5. Deutsche Bank does not consent to the use of its cash collateral by the Trustee or any other party in interest.

6. Section 363(c) of the Bankruptcy Code provides, in relevant part, that:

(2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—

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

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

7. All cash in the bankruptcy estate is subject to the first priority, properly perfected liens of Deutsche Bank and Jupiter. Because of the existence of these liens, and the lack of consent by Deutsche Bank and Jupiter or a Court order authorizing the use of this cash collateral (or notice and a hearing on any proposed use), Deutsche Bank respectfully requests that the Court deny the Trustee's Motion.

8. The relief requested by the Trustee should be denied as it is not at all clear if the alleged AMT taxes described in the Motion are actually due and owing (the Trustee vaguely refers to a "preliminary and estimated calculation of the AMT Tax Claim"), the proper priority status of the alleged AMT claim (i.e., whether the taxes are an administrative expense or a lower priority claim), whether the Trustee has been able to obtain an extension of the alleged filing deadline, or whether the Trustee is due to pay these at this time under 28 U.S.C. § 960.

9. To the extent that the alleged AMT taxes are deemed to be administrative expenses, they cannot be paid from the fully encumbered cash in the estate.

10. Deutsche Bank reserves the right to supplement its objections at or prior to the hearing on the Motion, and to seek additional relief with respect to its cash collateral.

WHEREFORE, Deutsche Bank respectfully requests that the Court deny the Motion and provide such additional relief as is just and proper.

Respectfully submitted this 21st day of March, 2014.

GREENBERG TRAURIG, LLP

/s/ John D. Elrod
Michael J. King
Georgia Bar No. 421160
John D. Elrod
Georgia Bar No. 246604
3333 Piedmont Road NE, Suite 2500
Atlanta, Georgia 30305
Telephone - (678) 553-2100
Facsimile - (678) 553-2122
kingm@gtlaw.com
elrodj@gtlaw.com
*Attorneys for Deutsche Bank AG, Cayman Islands
Branch*

CERTIFICATE OF SERVICE

I hereby certify that today I served the document to which this certificate is attached by notice of electronic filing to all parties receiving notices in this case, including the following:

Matthew R. Brooks on behalf of Creditor LIT/Hodges Industrial Trust
matthew.brooks@troutmansanders.com

Neil C. Gordon on behalf of Trustee S. Gregory Hays
becky.wilkes@agg.com, angela.ford@agg.com;carol.stewart@agg.com

S. Gregory Hays
ghays@haysconsulting.net,
saskue@haysconsulting.net;kmalek@haysconsulting.net;sjose@haysconsulting.net;GA32@ecfc
bis.com

S. Gregory Hays on behalf of Trustee S. Gregory Hays
ghays@haysconsulting.net,
saskue@haysconsulting.net;kmalek@haysconsulting.net;sjose@haysconsulting.net;GA32@ecfc
bis.com

William R. Joiner on behalf of Creditor Jupiter IL, LLC
will@mitchellshapiro.com

Sean C. Kulka on behalf of Trustee S. Gregory Hays
sean.kulka@agg.com, Travis.andrews@agg.com

John M. McGovern on behalf of Creditor AmericasMart Real Estate, LLC
jmcgovern@mcgovernfirm.com

John M. McGovern on behalf of Creditor Tianjin Longxing (Group) Ltd.
jmcgovern@mcgovernfirm.com

G. Frank Nason, IV on behalf of Creditor Ashutosh Ladha
lmclane@lcsenlaw.com;rstuder@lcsenlaw.com

Office of the United States Trustee
ustpregion21.at.ecf@usdoj.gov

Edwin K. Palmer
ekpalmerlaw@aol.com, GA37@ecfcbis.com;heathermac3@comcast.net;evetta@charter.net

William Russell Patterson on behalf of Interested Party Edwin K. Palmer
wrpjr@rbsp.com, astone@rbsp.com

Christopher D. Phillips on behalf of Creditor Ashutosh Ladha
cphillips@lcsenlaw.com, emiller@lcsenlaw.com

William L. Rothschild on behalf of Creditor Jupiter IL, LLC
br@orratl.com, gb@orratl.com

William L. Rothschild on behalf of Unknown Ajay Loiwal
br@orratl.com, gb@orratl.com

J. Douglas Stewart on behalf of Creditor Agrawal Investments, LLP
dstewart@smf-law.com, scash@smf-law.com

R. Jeneane Treace on behalf of U.S. Trustee Office of the United States Trustee
jeneane.treace@usdoj.gov, Sherri.R.Carlberg@usdoj.gov

Respectfully submitted this 21st day of March, 2014.

/s/ John D. Elrod _____
John D. Elrod