

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO

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In re	:	Chapter 11
DF Servicing LLC,	:	
	:	Case No. 15-10253 (ESL)
Debtor.	:	
	:	
-----X	:	
In re	:	Chapter 11
DF Investments LLC,	:	
	:	Case No. 15-10254 (ESL)
Debtor.	:	
	:	
-----X	:	
In re	:	Chapter 11
DF Holdings LLC,	:	
	:	Case No. 15-10255 (ESL)
Debtor.	:	
	:	
-----X	:	
In re	:	Chapter 11
DF Tier I LLC,	:	
	:	Case No. 15-10256 (ESL)
Debtor.	:	
	:	
-----X	:	

**INTERIM ORDER (I) AUTHORIZING**  
**DEBTORS TO USE CASH COLLATERAL, AND**  
**(II) GRANTING ADEQUATE PROTECTION, AND RELATED RELIEF**

Upon the *Urgent Motion of Secured Lender to Prohibit or Condition Use of Cash Collateral* (the “Motion”),<sup>1</sup> dated December 28, 2015, of Bautista Cayman Asset Company, as the prepetition lender (the “Lender”) to DF Investments LLC, DF Holdings LLC, DF Tier I LLC, and DF Servicing LLC (collectively, the “Debtors”), for an order (x) prohibiting the Debtors’ use of cash collateral until the Debtors provide adequate protection against diminution in value of the Lender’s alleged cash collateral in accordance with sections 361 and 363 of title 11 of the United States Code (the “Bankruptcy Code”), and (y) conditioning the Debtors’ continued use of cash collateral on such adequate protection; and this Court having entered the *Interim Order Prohibiting the Use of Cash Collateral and to Show Cause*<sup>2</sup> on December 30, 2015; and the Debtors having filed an *Opposition to Urgent Motion to Prohibit or Condition Use of Cash Collateral and in the Alternative Request for Leave to Use Funds* (the “Opposition”),<sup>3</sup> requesting, in the alternative, leave to use the Lender’s alleged cash collateral (the “Cash Collateral Request”), on January 14, 2016; and the Lender having filed a *Limited Objection and Reply to Opposition to Urgent Motion to Prohibit or Condition Use of Cash Collateral and in the Alternative Request for Leave to Use Funds* (the “Limited Objection”) on

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<sup>1</sup> The Motion was filed at Docket No. 9 in the case of DF Servicing LLC (Case No. 15-10253), and at Docket No. 8 in the cases of DF Investments LLC (Case No. 15-10254), DF Holdings LLC (Case No. 15-10255), and DF Tier I LLC (Case No. 15-10256). Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

<sup>2</sup> The Interim Order was filed at Docket No. 15 in the case of DF Servicing LLC (Case No. 15-10253), and at Docket No. 14 in the cases of DF Investments LLC (Case No. 15-10254), DF Holdings LLC (Case No. 15-10255), and DF Tier I LLC (Case No. 15-10256).

<sup>3</sup> The Opposition was filed at Docket No. 42 in the cases of DF Servicing LLC (Case No. 15-10253), DF Investments LLC (Case No. 15-10254), and DF Holdings LLC (Case No. 15-10255) and at Docket No. 41 in the case of DF Tier I LLC (Case No. 15-10256).

January 19, 2016;<sup>4</sup> and a hearing having been held by this Court on January 20, 2016 (the “Hearing”); and upon the record of the Hearing and the proceedings before this Court; and this Court having found and determined that the use of Cash Collateral by the Debtors, as discussed on the record during the Hearing, is in the best interests of the Debtors, their estates and creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion, the Opposition, the Limited Objection, and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby:

**FOUND AND DETERMINED THAT:**<sup>5</sup>

A. On December 24, 2015 (the “Petition Date”), the Debtors filed voluntary petitions with this Court for relief under chapter 11 of the Bankruptcy Code (the “Cases”). The Debtors have continued to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtors’ bankruptcy cases. No statutory committee of unsecured creditors (a “Committee”) has yet been appointed in these Cases.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a), 361, and 363 of the Bankruptcy Code and Rule 4001(a) of the Federal Rules of Bankruptcy Procedure.

C. Notice of the Motion was served on (a) the United States Trustee for the District

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<sup>4</sup> The Limited Objection was filed at Docket No. 48 in the cases of DF Servicing LLC (Case No. 15-10253), and DF Holdings LLC (Case No. 15-10255), at Docket No. 49 in the case of DF Investments LLC (Case No. 15-10254), and at Docket No. 47 in the case of DF Tier I LLC (Case No. 15-10256).

<sup>5</sup> The findings and conclusions set forth in this Interim Order constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy

of Puerto Rico (the “U.S. Trustee”); and (b) counsel to the Debtors. Under the circumstances, the notice given by the Lender of the Motion and the relief requested therein constitutes due and sufficient notice thereof and complies with Bankruptcy Rule 2002.

D. The Lender has consented to the Debtors’ use of the cash collateral (as defined by section 363(a) of the Bankruptcy Code) (the “Cash Collateral”), which Cash Collateral shall include any and all prepetition and post-petition cash proceeds of the “Collateral” and “Pledged Collateral” (as each is defined in the Credit Agreement, and Security Agreements, the “Prepetition Collateral”) without this being an admission by the Debtors of the validity or effectiveness of the Credit Agreement, for the purposes set forth in the Approved Budget (**Exhibit I** hereto) and upon the terms and conditions set forth herein, including, without limitation, that the Debtors provide the Adequate Protection (as defined below).

E. The terms of this Interim Order, including, without limitation, the Adequate Protection, are fair and reasonable. Good cause has been shown for entry of this Interim Order.

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. Motion and Cash Collateral Request Granted. The Motion and the Cash Collateral Request are granted on the terms and conditions set forth in this Interim Order.

2. Use of Cash Collateral. Subject to the terms set forth herein, the Debtors are authorized to use the Cash Collateral, solely in accordance with this Interim Order, and the Approved Budget, to fund (i) working capital and general corporate purposes of the Debtors, and (ii) costs, fees, and expenses incurred in connection with the administration and prosecution of the Cases. The Debtors’ right to use Cash Collateral under this Interim Order shall automatically terminate upon the earlier of (i) April 30, 2016 (as such date may be

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Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as

extended by further order of the Court), (ii) the effective date of any confirmed chapter 11 plan in any of the Cases, or as they may be substantially consolidated, (iii) the date of the consummation of a sale or other disposition of all or substantially all of the assets of the Debtors, and (iv) the occurrence of a Termination Event (as defined below).

3. Adequate Protection. A secured lender is entitled, pursuant to sections 361, 363(c)(2), and 363(e) of the Bankruptcy Code, to adequate protection of its interests in the Cash Collateral and Prepetition Collateral in an amount equal to the aggregate post-petition diminution in the value of its interests in the Cash Collateral and Prepetition Collateral, including, without limitation, any such diminution resulting from a debtor's use of the Cash Collateral and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code or otherwise (collectively, the "Adequate Protection Obligations"). The Lender is hereby granted the following forms of adequate protection (collectively, the "Adequate Protection"):

(a) Approved Budget Compliance. The Debtors shall deliver to the Lender and file with this Court, a bi-weekly cash flow report, of their cash inflows and outflows as set forth in the Approved Budget for each bi-weekly period following entry of this Interim Order through April 30, 2016. The Debtors shall be authorized to use Cash Collateral solely in accordance with this Interim Order, and the Approved Budget. The Debtors shall not allow their actual cash disbursements to exceed the Approved Budget by more than 10% for the line items (i) "Total SGA and Operating Expenses" and (ii) "Total Chapter 11 Payments" (the "Permitted Variance"). If the monthly amount of cash disbursed by the Debtors in any month of the Approved Budget is less than the amount of cash available for use by the Debtors in the Approved Budget during such month on a line item basis for the line items (i) "Total SGA and

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such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Operating Expenses” and (ii) “Total Chapter 11 Payments,” then the Debtors may carry over any such unused amount to the following month and allocate such unused amounts to the relevant line item calculation.

(b) Reporting. The Debtors shall deliver to the Lender, in each case, on a bi-weekly basis, by Tuesday of every other week following entry of this Interim Order (beginning Tuesday, February 9, 2016), bi-weekly reports (i) on a line item basis of actual cash disbursements and actual cash receipts from the Approved Budget and (ii) within five (5) working days after the end of each month of the Approved Budget an explanation as to any line item variance greater than 10%.

(c) Rights of Access and Information. To the extent not produced by Four Square Advisors, LLC (f/k/a Blackpoint Advisors LLC) and Blackpoint Partners NYC LLC on or before February 12, 2016, the Debtors shall provide the Lender and its accountants and advisors, on or before February 19, 2016, (i) all audited and unaudited annual and quarterly financial statements for the Debtors for the period subsequent to January 1, 2010, and business records requested by the Debtors’ accountants necessary to verify the information contained therein (including invoices, purchase orders, change orders and similar source documents that reflect items included in the period’s reported expense, revenue, and capitalized items, contracts and agreements that support periodic expensing of fees, interest and other expenses, and subledgers of the financial accounting system, including receipts and disbursements journals and the period-end aged accounts receivable and accounts payable ledgers), and (ii) all bank statements for the Debtors’ investment and bank accounts for the period subsequent to January 1, 2010, and related documents such as cancelled checks and wire / ETF detail. Such access shall be without prejudice to the Lender’s right to seek an examination of the Debtors and

production of documents under Bankruptcy Rule 2004 or otherwise, and the Debtors' right to oppose such relief.

(d) Asset Sales. The Debtors shall promptly provide the Lender with information concerning the two sales of real property contemplated under the Approved Budget, including: (i) name of purchaser, (ii) relationship, if any, of purchaser to the Debtors, (iii) description and location of property, (iv) purchase price, and (v) copies of transaction documents. Any future sales of real estate shall be subject to ten (10) business days' prior written notice to the Lender, and if the Lender objects to such sale in writing within such ten (10) business day period, such sale shall be subject to approval of this Court pursuant to section 363 of the Bankruptcy Code.

(e) Maintenance of Prepetition Collateral. The Debtors shall continue to maintain all property of their estates in Section 541(a) of the Bankruptcy Code, including maintenance of insurance and payment of taxes or other charges that, if unpaid, would result in liens thereon to the extent provided in the Approved Budget.

(f) Segregation of Cash Collateral. The Debtors shall not transfer or disburse any portion of the Debtors' mortgage loan portfolio and shall take reasonable steps to prosecute collection and foreclosure actions as well as other steps necessary to preserve the value of the Debtors' mortgage loan portfolio. The Debtors shall segregate and shall not transfer or disburse the following cash pending further order of the Court: (i) cash proceeds of the Debtors' mortgage loan portfolio; (ii) the Debtors' Deposit Account currently with Wells Fargo, National Association, which the Debtors assert has an estimated value of \$1,680,000; and (iii) surplus asset sale proceeds from the sale of real estate owned property in amounts in excess of transaction expenses and to the extent not contemplated to be used pursuant to the Approved

Budget.

4. Sufficiency of Adequate Protection. Notwithstanding any other provision of this Interim Order, the grant of Adequate Protection to the Lender pursuant to this Interim Order is without prejudice or waiver to the right of the Lender to seek different or additional adequate protection, including, without limitation, periodic cash payments and to the rights of the Debtors to oppose the same. The use of the Cash Collateral (a) is limited to the use of the Cash Collateral authorized pursuant to this Interim Order, and shall not extend to any other use of the Cash Collateral or to any modification or replacement of any of the terms of this Interim Order and (b) does not constitute, and shall not be construed as constituting, an acknowledgment or stipulation by the Lender that, absent such consent, its alleged interests in the Cash Collateral and Prepetition Collateral would be adequately protected pursuant to this Interim Order. The Debtors reserve all of their available defenses against the Lender's claims against the Debtors or their rights to challenge the Lender's alleged rights to the Cash Collateral or any portion thereof.

5. Remedies Upon Termination Event. Upon the occurrence and during the continuance of a Termination Event, and the entry of an order to that effect, the Lender may exercise any remedies available to the Lender under this Interim Order, the Bankruptcy Code, and other applicable law.

6. Termination Event. For purposes of this Interim Order, "Termination Event" shall mean:

(a) any Debtor's failure to: (i) use the Cash Collateral in a manner consistent with the Approved Budget (subject to the Permitted Variances), and otherwise comply in any respect with any provision of this Interim Order; or (ii) comply with any other

covenant or agreement specified in this Interim Order; in each case where such failure shall have continued unremedied for five (5) business days following delivery of written notice to the Debtors by the Lender of such failure;

(b) an order shall have been entered reversing, amending, staying, supplementing, vacating, extending, or otherwise modifying this Interim Order in any manner, without notice to the Lender and a hearing as that term is defined in the Bankruptcy Code;

(c) the date that any provision of this Interim Order shall for any reason cease to be valid and binding;

(d) the date (i) any Case shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code, or any Debtor shall file a motion or other pleading seeking to dismiss or convert any Case pursuant to section 1112 of the Bankruptcy Code or otherwise; or (ii) a trustee, responsible officer, or an examiner pursuant to section 1104 of the Bankruptcy Code is appointed or elected, as applicable, in any Case, or any Debtor applies for, consents to, or acquiesces to, any such appointment, or the Court shall have entered an order providing for such appointment; and

(e) the filing of any motion by any Debtor or any other party seeking authorization for (i) an additional or different use of the Cash Collateral with respect to the period of the Approved Budget or (ii) any postpetition financing for the Debtors, in each case, without the prior written consent of the Lender.

7. Preservation of Rights.

(a) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated, or stayed, such reversal, modification, vacation, or stay shall not affect (i) the enforceability, validity, or priority of any Adequate Protection Obligations incurred

prior to the actual receipt of written notice by the Lender of the effective date of such reversal, modification, vacation, or stay, or (ii) the validity, enforceability, perfection, or priority of the Adequate Protection Claims, or this Interim Order with respect to any Adequate Protection Obligations. Notwithstanding any such reversal, modification, vacation, or stay, any use of the Cash Collateral by the Debtors or any Adequate Protection Obligations incurred by the Debtors prior to the actual receipt by the Lender of written notice of such reversal, modification, vacation, or stay shall be governed in all respects by the original provisions of this Interim Order, and the Lender shall be entitled to all the rights, remedies, privileges, and benefits granted in this Interim Order with respect to all uses of Cash Collateral, the Adequate Protection Obligations, and Adequate Protection Claims.

(b) The Adequate Protection Claims, the Adequate Protection Obligations, and all other rights, remedies, privileges, and benefits of the Lender granted by this Interim Order shall (i) survive, continue in full force and effect, and not be modified, impaired, or discharged by the entry of an order (A) converting any of the Cases to a case under chapter 7 of the Bankruptcy Code or dismissing any of the Cases, or (B) confirming a chapter 11 plan in any of the Cases; (ii) maintain their priorities as provided in this Interim Order until all Adequate Protection Obligations shall have been indefeasibly paid in full in cash; and (iii) notwithstanding such dismissal or conversion, remain binding on all parties in interest. The terms and provisions of this Interim Order shall continue in the Cases, in any successor cases, or in any chapter 7 cases under the Bankruptcy Code, and the Adequate Protection Claims, the Adequate Protection Obligations, and all other rights, remedies, privileges and benefits of the Lender granted by this Interim Order shall continue in full force and effect until the Adequate Protection Obligations are indefeasibly paid in full in cash.

(c) Notwithstanding anything in this Interim Order to the contrary, entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair (i) any rights of the Lender and of the Debtors under the Bankruptcy Code or under any other applicable law, including, without limitation, the right of the Lender to (A) request modification of the automatic stay under section 362 of the Bankruptcy Code, and the rights of the Debtors to oppose the same (B) request dismissal of any of the Cases, conversion of any of the Cases to a case or cases under chapter 7 of the Bankruptcy Code, or the appointment of a chapter 11 trustee or examiner (including with expanded powers) and the rights of the Debtors to oppose the same, or (C) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans or (ii) any other rights, claims or privileges (whether legal, equitable or otherwise) of the Lender and the rights of the Debtors to oppose the same.

8. Binding Effect; Successors and Assigns. The provisions of this Interim Order shall be binding upon all parties in interest in the Cases, including, without limitation, the Lender, any Committee, and all of the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the Lender, any Committee, the Debtors, and each of their respective successors and assigns; provided, that the Lender shall have no obligation to consent to use of Cash Collateral in a chapter 7 case or after appointment of a chapter 11 trustee or other legal representative of the Debtors.

9. No Third Party Rights. Except as explicitly provided for in this Interim

Order, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any other direct, indirect or incidental beneficiary.

10. Effectiveness. This Interim Order shall be effective and enforceable immediately upon entry.

11. Jurisdiction. The Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

San Juan, Puerto Rico, this <sup>rh</sup>12 day of February, 2016.

  
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Enrique S. Lamoutte  
US Bankruptcy Judge