

**In the United States Bankruptcy Court
for the
Southern District of Georgia
Savannah Division**

In the matter of:)	
)	Chapter 11 Case
THE TRAVELOT COMPANY)	
)	Number <u>02-40020</u>
<i>Debtor</i>)	

**ORDER ON DEBTOR’S EMERGENCY MOTION
TO AMEND COURT’S ORDER OF AUGUST 8, 2002**

The Travelot Company (“Debtor”) filed its Chapter 11 case on January 2, 2002. On August 8, 2002, this Court entered an Order requiring Debtor, as a pre-condition to the Court’s consideration of any motion to assume a contract with CNN, to “deposit in the registry of this Court the sum of \$1 million on or before August 23, 2002.” Order on CNN’s Mot. to Compel, Ch. 11 Case No. 02-40020, slip op. at 15 (Bankr. S. D. Ga. Aug. 8, 2002). On August 15, 2002, Debtor filed an Emergency Motion seeking an amendment to that Order requesting that Debtor be permitted to provide collateral in lieu of cash in fulfillment of the Court’s Order. The Motion asserts that Debtor has a partnership interest in and access to equity in other real estate owned by other shareholders in Debtor, and that the worth of those combined available sources is more than sufficient to guarantee ultimate payment of the sum of \$1 million. CNN contends that, in light of earlier assurances made by Debtor that it was ready, willing and able to remit the sum of \$1 million within a very short time frame, Debtor

should not be permitted the opportunity of substituting anything less certain or liquid than cash pursuant to the Court's August 8 Order. On August 16, 2002, the Court convened a conference in chambers with counsel for the Debtor and counsel for CNN, and the Court has considered arguments presented by both counsel in support of and in opposition to said Motion.

At the conference, CNN's attorney correctly pointed out that Debtor's representative, Robert Isaacson, has given previous assurances to the Court that he was ready, willing, and able to deposit in the cash sum of \$1 million within a very short time frame. As one example of Debtor's representations to the Court with respect to its ability to provide the \$1 million, Debtor asserted in pleadings filed on its behalf with this Court on February 8, 2002, that it was "ready, willing, and able" to deposit \$1 million in the registry of the Court within sixty (60) days of the order for relief which, based on a filing date of January 2, would have been on or about March 2, 2002. Debtor's Emer. Mot to Assume, para. 9 (Feb. 8, 2002); *see also* Resp. Br. of Debtor at 2 (July 23, 2002) ("The Debtor has access to sources of money, and remains ready, willing and able to pay all amounts legally required of it."); Aff. of Isaacson ¶ 42 (July 23, 2002) ("The Debtor in fact would have raised and paid [\$750,000.00] into escrow [in December 2001] had CNN not refused the offer. The Debtor remains ready, willing, and able to pay amounts legally required of it.").

Furthermore, in testimony before the Court on February 27 and 28, 2002,

Debtor's representative, Mr. Isaacson, testified that although Debtor did not at that moment have \$1 million in cash in order to cure the then existing arrearages owed to CNN under the contract, he had a ready source of cash available for the asking:

A. All I've done – and I've got a lot of assets in some properties in Atlanta that's got over \$2 million in equity. And I've got a partner in there who is worth lots and lots of money. And all I've done – I haven't talked to any of them about properties or stocks, or anything like. All I've done is talk to him, and I said will you be able to get us the money because, we own the property in a general partnership. If I hypothecate my interest in that partnership, will you get the money, and can you get it relatively quick. And he says, yes, you know. We've got to get the legal works worked out. We've got to pledge the interest in the partnership. We've got to make sure that everything is free. But we've already done that.

Q. Did you start the process of drafting the legal work paper prior to today?

A. Yes.

Q. You have?

A. Yes.

Q. Is that in evidence? Have you shown the Court those papers today?

A. No.

Tr. of Hr'g, Feb. 27-28, 2002, at 358.

Finally, at the conclusion of the hearing before the Court on July 26, 2002, which resulted in the entry of the Court's Order of August 8, 2002, Debtor was specifically alerted by the Court to the fact that if the Court set a deadline earlier than confirmation for Debtor to file a motion to either assume or reject the contract with CNN, Debtor would be required to deposit sums necessary to cure the pre-petition default in the registry of the Court within a very short time frame, based on Debtor's previous representations of its ability to do so. As a result, Debtor was on notice that it needed to begin making arrangements beginning on July 26 to raise the necessary capital which the Court's Order later specifically directed be deposited by August 23.

As explanation for Debtor's difficulty obtaining cash prior to August 23, 2002, Debtor's counsel represented to the Court that Mr. Issacson represented to him that the necessary capital can be most quickly accessed only with the consent and active cooperation of an individual who is suffering from a serious illness and who, due to his current medical condition, has been hospitalized and unavailable for consultation since the hearing on July 16, 2002.

Taking all the previous testimony before this Court into account, as well as the representations of Debtor's counsel at the August 16 conference in chambers, I conclude that the Debtor has not made a showing that it would be appropriate to amend the previous Order so as to permit substitution of anything in place of cash. However, given the illness

of the individual who was one of the primary sources for the Debtor's raising the necessary capital, and in order to permit Debtor some additional time to obtain the necessary capital from that individual or from alternative sources which he has represented to the Court are available, I modify my previous Order in the following respects:

1) Debtor shall be permitted, until 4:00 o'clock p.m., on August 30, 2002, to deposit in certified funds with the registry of this Court the sum of \$1 million. If Debtor fails to make said deposit on or before 4:00 p.m. on August 30, 2002, the Court reserves the right to enter an Order either dismissing this case or finding that the contract with CNN is deemed rejected by Debtor's failure to take such action.

2) Debtor must file on or before 4:00 o'clock p.m., on August 30, 2002, a motion seeking either to assume or reject the contract with CNN. If Debtor fails to file such pleading, the Court reserves the right to enter an Order dismissing the case or finding that the contract is deemed rejected.

3) If Debtor makes a timely deposit and if Debtor timely files a motion to assume the contract, the Court will conduct a hearing to consider assumption, rejection, or any other appropriate relief on Monday, September 9, 2002, commencing at 10:00 o'clock a.m.

Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This ____ day of August, 2002.