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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

BORDERS GROUP, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 11-_____ (___)

(Joint Administration Pending)

**DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363(b), AND 507
AND FED. R. BANKR. P. 6003 AND 6004 FOR AUTHORIZATION TO (I) PAY
CERTAIN EMPLOYEE OBLIGATIONS AND MAINTAIN AND CONTINUE
EMPLOYEE BENEFITS AND PROGRAMS AND (II) FOR BANKS TO HONOR
AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Borders Group, Inc. ("BGI") and its debtor subsidiaries, including Borders, Inc., as debtors and debtors in possession (collectively, the "Debtors"), submit this motion (the "Motion") and respectfully represent as follows:

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Borders Group, Inc. (4588); Borders International Services, Inc. (5075); Borders, Inc. (4285); Borders Direct, LLC (0084); Borders Properties, Inc. (7978); Borders Online, Inc. (8425); Borders Online, LLC (8996); and BGP (UK) Limited.

BACKGROUND

1. On the date hereof (the “Commencement Date”), each of the Debtors commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors are authorized to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Contemporaneously herewith, the Debtors filed a motion seeking joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

THE DEBTORS’ BUSINESS

A. Operations

2. The Debtors are a leading operator of book, music and movie superstores and mall-based bookstores. At January 29, 2011, the Debtors operated 642 stores, under the Borders, Waldenbooks, Borders Express and Borders Outlet names, as well as Borders-branded airport stores in the United States, of which 639 stores are located in the United States and 3 in Puerto Rico. Two of Borders’ flagship stores (along with other less prominent stores) are located in Manhattan. In addition, the Debtors operate a proprietary e-commerce web site, www.Borders.com, launched in May 2008, which includes both in-store and online e-commerce components.

3. As of February 11, 2011, the Debtors employed a total of approximately 6,100 full-time employees, approximately 11,400 part-time employees, and approximately 600 contingent employees (who are required to work one shift per month, and usually do so at special events), all of whom are located in the United States and Puerto Rico. The Debtors’ employees are not subject to any collective bargaining agreements.

B. Financials

4. For the fiscal year ended January 29, 2011, the Debtors recorded net sales of approximately \$2.3 billion. As of December 25, 2010, the Debtors had incurred net year-to-date losses of approximately \$168.2 million.

5. Additional information regarding the Debtors' business, capital structure, and the circumstances leading to these chapter 11 cases is contained in the *Declaration of Scott Henry Pursuant to Local Bankruptcy Rule 1007-2 in Support of First Day Motions* (the "First Day Declaration") filed contemporaneously herewith.

JURISDICTION

6. The Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

7. The Debtors request, pursuant to sections 105(a), 363(b), and 507 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, that the Court (i) authorize the Debtors to (a) pay, in their sole discretion, all obligations incurred under or related to Compensation Obligations, Payroll Tax Obligations, Garnishment Obligations, Supplemental Workforce Obligations, Independent Contractor Obligations, Business Expenses, Incentive Obligations, Severance Payments, and Employee Benefit Obligations (each as defined below, and collectively, the "Employee Obligations") and all fees and costs incident to the foregoing, including amounts owed to third-party administrators, and (b) maintain and continue to honor and pay all amounts with respect to their practices, programs, and policies for their employees as they were in effect as of the Commencement Date, and as such may be modified, amended, or supplemented from time to time in the ordinary course of business; and (ii) authorize and direct

applicable banks and financial institutions (the “Banks”) at which the Debtors maintain disbursement and other accounts (the “Bank Accounts”), at the Debtors’ instruction, to receive, honor, process, and pay, to the extent of funds on deposit, any and all checks or electronic funds transfers to the extent that such checks or transfers relate to any of the Employee Obligations.² The Debtors seek this authority to minimize the personal hardship that their employees would suffer if the Employee Obligations are not paid when due and to maintain the stability of the Debtors’ work force, which is critical to the success of these reorganization cases. A proposed form of order approving the relief requested herein on an interim basis is annexed hereto as Exhibit A (the “Interim Order”) and, pending a final hearing (the “Final Hearing”) on the Motion, on a final basis as Exhibit B (the “Final Order”).

THE DEBTORS’ EMPLOYEE PROGRAMS

8. As described above and in the First Day Declaration, the Debtors are a leading operator of book, music and movie superstores and mall-based bookstores. As of the Commencement Date, the Debtors operated approximately 642 domestic retail stores and 3 distribution centers, located throughout the United States and Puerto Rico, as well as its corporate offices in Ann Arbor, Michigan.

9. In connection with its operations, the Debtors currently employ approximately 18,100 employees (the “Employees”), of whom approximately 6,100 are full-time employees (the “Full-Time Employees”), approximately 11,400 are part-time employees (the “Part-Time Employees”), and approximately 600 are contingent employees, who are required to work one shift per month, and usually do so at special events (“Contingent Employees”). Approximately

² Concurrently herewith, the Debtors have filed a motion for authority to, *inter alia*, continue their cash management system (the “Cash Management Motion”).

16,340 Employees (90.28%) are paid on an hourly basis and approximately 1,760 Employees (9.72%) are paid a fixed salary.

10. The Debtors' retail store Employees are the public "face" of their business -- they are responsible for ensuring that customers receive the product and service they have come to expect from the Borders brand. Indeed, a positive in-store experience is a vital part of ensuring customer loyalty, especially in the face of competition from the Debtors' non-retail competitors. The Debtors' business also crucially depends on their Employees who assist with information technology, product distribution to their stores and online customers, development and maintenance of the Debtors' website and digital delivery services, and corporate management³ of their operations. Collectively, the Employees' dedication to customer satisfaction has helped the Debtors develop the customer loyalty that serves as a basis for their brand and their status as a leader in the retail book, movie and music market. Accordingly, the Employees perform a variety of critical functions, including customer service, inventory control, management, leasing, accounting, marketing, purchasing and sales, shipping, tax, technical services, and legal services. The Employees' skills and their knowledge and understanding of the Debtors' operations, customer and supplier relationships, and infrastructure are essential to maintaining the Debtors' business franchise and the success of their chapter 11 reorganization efforts. Without the Employees' continued commitment to the Debtors' business operations, the Debtors' ability to achieve a successful reorganization would be severely compromised.

11. In the ordinary course of its business, the Debtors incur payroll and various other obligations for their Employees and provide other benefits to their Employees for the performance of services. These benefits and obligations are described in more detail below.

³ The Debtors' corporate level Employees include certain non-executive managers at the director level (the "Director Employees"). The Director Employees are not "directors" or "officers" within the meaning of section 101(31) of the Bankruptcy Code.

A. Payroll and Related Obligations

1. Compensation Obligations

12. In the ordinary course of business, the Debtors incur payroll obligations to their Employees, comprised generally of wages and salaries. The Debtors pay their Employees, in most cases, on a bi-weekly basis, on Friday, one week in arrears.⁴ The Debtors' average monthly gross payroll based on the last twelve months (*i.e.*, gross salaries and wages paid to Employees before Employee taxes, garnishments, or other deductions are withheld) for all Employees is approximately \$26 million per month. The last date Employees were compensated prior to the Commencement Date was February 11, 2011, which primarily included all salaries and wages earned through February 5, 2011.⁵

13. Approximately eighty to ninety percent (80-90%) of the Debtors' payroll is made by direct deposit, with the remainder issued via checks. The Debtors process their own payroll and coordinate the payment of Payroll Tax Obligations and Garnishment Obligations (each as defined below) themselves. Employees are paid from one of the Debtors' disbursement accounts maintained at PNC Bank, N.A. (each, a "Payroll Account"). In the case of Employees paid through direct deposit, the Debtors transfer the appropriate amounts from the applicable Payroll Account to the Employee's designated account. For Employees receiving individual checks, the Debtors issue individual checks against the applicable Payroll Account, and the Debtors then distribute those checks.

14. Because Employees are paid in arrears, as of the Commencement Date, some of the Employees will not have been paid all of their prepetition wages. Additionally, some

⁴ The Debtors pay their approximately seventy-eight (78) Rhode Island Employees on a weekly basis. In addition, on occasion, the Debtors may issue off-cycle checks to correct discrepancies between the amounts paid to Employees and the amounts that should have been paid.

⁵ The last date that Employees in Rhode Island were compensated was also February 11, 2011, which primarily included all salaries and wages earned through February 5, 2011.

Employees may be entitled to compensation because, among other things, (i) potential discrepancies may exist between the amounts paid and amounts Employees believe should have been paid, which, upon resolution, may reveal that additional amounts are owed to such Employees, and (ii) some payroll checks issued to Employees prior to the Commencement Date may not have been presented for payment or may not have cleared the banking system and, accordingly, have not been honored and paid as of the Commencement Date.

15. The Debtors estimate that, as of the Commencement Date, the accrued and unpaid prepetition salaries and wages (the “Compensation Obligations”) total approximately \$9 million, and that approximately \$50,000 in payroll checks from previous pay periods are outstanding and have not been cashed by Employees and former Employees. As of the Commencement Date, to the best of the Debtors’ understanding, only one Employee is owed more than \$11,725 in accrued and unpaid prepetition wages or salaries,⁶ excluding outstanding and uncashed payroll checks.

16. By this Motion, the Debtors seek authority, but not direction, to pay any unpaid Compensation Obligations and outstanding payroll checks not yet presented for payment, and to continue their employee compensation practices in the ordinary course⁷ during the administration of these chapter 11 cases.

⁶ The Debtors’ Chief Executive Officer may be owed an amount in excess of \$11,725 in accrued and unpaid prepetition wages or salaries. At this time, the Debtors do not seek authority to pay any amounts in excess of \$11,725 with respect thereto.

⁷ In the ordinary course of business, the Debtors compensate their outside directors for services rendered. Members of the Debtors’ board of directors are paid annual cash fees for service as non-employee directors on a quarterly basis. In addition, fees paid for service as Chairman of the Board, Lead Director and Committee Chairs also are paid on a quarterly basis. These payments total approximately \$286,250 per quarter, in addition to incidental and travel expenses that are issued near the end of the calendar quarter for service through the end of that quarter. Consistent with the Debtors’ prepetition practice, the Debtors intend to continue to pay fees to outside directors in the ordinary course of business (the “Director Obligations”). The Debtors do not seek relief with respect to the Director Obligations during the interim period prior to the Final Hearing.

2. Amounts Withheld on Behalf of Third Parties

a. Payroll Tax Obligations

17. In connection with the salaries and wages paid to Employees, the Debtors are required by law to withhold from their Employees' wages amounts related to federal, state, and local income taxes, as well as social security and Medicare taxes (collectively, the "Employee Withholding Taxes") and to remit the same to the applicable taxing authorities (the "Taxing Authorities"). In addition, the Debtors are required to make matching payments from their own funds for, among other things, social security and Medicare taxes and to pay, based on a percentage of gross payroll, state and federal unemployment insurance, employment training taxes, and state disability insurance contributions (the "Employer Payroll Tax Obligations," and together with Employee Withholding Taxes, the "Payroll Tax Obligations").

18. Each pay cycle the Debtors withhold any applicable Employee Withholding Taxes from the Employees' wages, and remit the same to the applicable Taxing Authorities. Historically, on average, the Debtors have withheld approximately \$5.4 million per month in Employee Withholding Taxes. At the same time, the Debtors also remit any Employer Payroll Tax Obligations. The Debtors' average monthly payment for Employer Payroll Tax Obligations has been approximately \$3.1 million per month.

19. As of the Commencement Date, the Debtors estimate that they owe approximately \$1.1 million in accrued Payroll Tax Obligations.

b. Garnishment

20. In the ordinary course of processing the Employees' payroll, the Debtors may be required by law, in certain circumstances, to withhold certain amounts for garnishments such as tax levies, child support, and other court-ordered garnishments (the "Garnishments"). The Debtors withhold, on average, \$57,000 per month from Employee wages and salaries on account

of Garnishments, and remit the same to the appropriate authorities or entities. Some Garnishments are remitted immediately through automatic clearing house transfers, whereas others are remitted via a check by mail. As of the Commencement Date, the Debtors have withheld from Employees' wages, and have not yet remitted, approximately \$57,000 on account of Garnishments (the "Garnishment Obligations").

21. By this Motion, the Debtors seek authority, but not direction, to (i) pay any accrued and unpaid Payroll Tax Obligations and Garnishment Obligations, and (ii) continue to pay Payroll Tax Obligations and Garnishment Obligations, and remit amounts withheld on behalf of third parties with respect thereto postpetition, in the ordinary course of business throughout the administration of these chapter 11 cases.

3. The Supplemental Workforce

22. In the ordinary course of business, the Debtors utilize the services of certain employment agencies (the "Agencies") to engage a supplemental workforce (collectively, the "Supplemental Workforce" and each member thereof, a "Supplemental Worker") to work for the Debtors, primarily in their distribution centers and in various information technology and administrative support functions. Because the Supplemental Workforce is in constant flux to meet the ebb and flow of the Debtors' business needs, the Debtors do not have a firm estimate of the number of Supplemental Workers currently working for the Debtors; however, the Debtors estimate that the current Supplemental Workforce is very small. The Debtors do not pay wages, withhold taxes, or provide benefits for the Supplemental Workforce. Rather, the Debtors make payments to the Agencies based upon the number of hours worked by the Supplemental Workers and, in turn, the Agencies pay the Supplemental Workers' wages and other amounts to which they are entitled. As of the Commencement Date, the Debtors estimate that approximately

\$361,324 has accrued in respect of the prepetition services of the Supplemental Workforce (the “Supplemental Workforce Obligations”).

23. Similar to their regular Employees, any delay in payments to the Agencies, and, in turn, the Supplemental Workers, would likely cause the Debtors to lose the benefit of the Supplemental Workforce’s services, which would significantly disrupt certain aspects of the Debtors’ operations. Because the Debtors would be irreparably harmed without the services of the Supplemental Workforce, the Debtors request authority to honor and pay such obligations, whether pre- or postpetition, as and when such amounts become due and payable.

4. Independent Contractors

24. From time to time, the Debtors also employ independent contractors (the “Independent Contractors”). Like the Supplemental Workforce, the number of Independent Contractors is in constant flux to meet the Debtors’ business needs. As of the Commencement Date, the Debtors estimate that the amount owing to Independent Contractors for services performed prior to the Commencement Date (the “Independent Contractor Obligations”) is approximately \$493,676.

25. Because the Independent Contractors are skilled persons who provide services that are critical to the Debtors’ business, the Debtors request authority to honor and pay Independent Contractor Obligations with respect to prepetition work performed up to the amount of \$11,725 per Independent Contractor, and to continue payments to Independent Contractors postpetition in the ordinary course of business.

5. Business Expenses

26. The Debtors customarily pay for a variety of their Employees’ business-related expenses incurred in performing their employment obligations (the “Business Expenses”). In most cases, the Business Expenses are billed directly to the Debtors via the Employees’

corporate Bank of America Visa credit cards (the “Purchase Cards”). Approximately 802 Purchase Cards have been issued and are utilized for charging expenses for goods and services purchased for, or incidental to, the Debtors’ business. Receipts from purchases made with Purchase Cards are entered into an electronic system, and both the purchasing Employee and his or her supervisor approve such purchases. Statements are forwarded directly to the Debtors, and employees are not personally liable to Bank of America for such business-related charges. It is essential to the sustained operation of the Debtors’ business that they be permitted to continue paying for Business Expenses incurred on the Purchase Cards. A substantial amount of the Purchase Card charges are related to business travel, and use of the Purchase Cards is an efficient way for the Debtors to manage the costs incurred by their Employees.

27. Employees may also sometimes pay Business Expenses out of their own funds. All such expenses are incurred with the understanding that they will be reimbursed by the Debtors in accordance with the Debtors’ reimbursement policy. In such cases, Employees are reimbursed upon the submission of a claim itemizing the Business Expenses. The Debtors process expense and reimbursement claims on a rolling basis through their accounts payable once a week. Typically, no more than three (3) weeks elapse between when Employees incur reimbursable expenses and submit a request for reimbursement. Reimbursable Business Expenses totaling less than \$50 are paid by the Debtors out of petty cash, while expenses in excess of that amount are paid by check. With respect to the latter, there may be a lag of approximately three (3) weeks between submission and reimbursement of such claims.

28. Historically, Business Expenses aggregate approximately \$375,000 per month, of which approximately \$10,000 is comprised of Employees’ own funds subject to reimbursement. It is difficult for the Debtors to determine the precise amount of Business Expenses outstanding

as of the Commencement Date because Employees may have expenses that have yet to be submitted to the Debtors for reimbursement. The Debtors estimate, however, the total unpaid prepetition Business Expenses owed to Employees and/or Bank of America to be similar to the monthly average of such expenses, *i.e.*, approximately \$365,000 for Purchase Cards, and \$10,000 of Employees' own funds subject to reimbursement, as of the Commencement Date. The Debtors seek authorization to satisfy all outstanding Business Expenses owed directly to Employees and to Bank of America pursuant to this Motion.⁸ The Debtors intend to continue their policies relating to Business Expenses, including the Purchase Card program, in the ordinary course during the administration of these chapter 11 cases.

B. Incentive and Severance Programs

1. Incentive Programs

29. The Debtors have customarily maintained discretionary bonus and incentive programs for their Employees (collectively, the "Incentive Programs") designed to encourage exceptional Employee performance for the benefit of the Debtors' business. These programs and the payment of the obligations owed thereunder (the "Incentive Obligations") have, in the past, been critical to the Debtors' financial performance because they provide Employees with financial incentives to operate the business as efficiently and profitably as possible. These Incentive Programs are as follows:

a. Field Bonus Plan

30. The Debtors maintain an incentive program for retail store management. Approximately 1,350 store managers and forty-seven (47) district managers are eligible to

⁸ The approximately \$365,000 owing to Bank of America under the Purchase Cards is backed by a letter of credit issued under the Debtors' Prepetition Credit Facility. Thus, if the Debtors do not satisfy their obligations owing under the Purchase Cards, Bank of America will draw on the letter of credit and thus increase the amount of debt being refinanced pursuant to the Debtors' proposed debtor-in-possession financing arrangement.

receive a bonus if they achieve certain performance goals for the stores within their mandates (the “Field Bonus Plan”). Bonuses under the Field Bonus Plan are paid on a quarterly basis, and if performance metrics are met, eligible Employees may receive up to \$25,000 per quarter. The Debtors currently are reviewing the metrics of performance established for the Field Bonus Plan for 2010. Based on current performance and expectations of profitability, it is anticipated that the Debtors will pay bonuses under the Field Bonus Plan for approximately thirty to forty (30-40) Employees for the fourth quarter of 2010, during the interim period.

b. Shrink Bonus Plan

31. The Debtors maintain an additional incentive program for retail store managers based on such Employees’ abilities to keep internal, external or paper loss of merchandise in stores for which they are responsible at or below plan (the “Shrink Bonus Plan”). The Shrink Bonus Plan is critical to the Debtors’ preservation of inventory. Approximately 1,350 Employees are eligible for bonuses under the Shrink Bonus Plan. The Debtors pay amounts due under the Shrink Bonus Plan annually at year end, and the Debtors estimate that they will pay such bonuses for approximately 890 Employees for their fiscal year ended January 29, 2011, in an amount of approximately \$2.5 million, during the interim period.

c. Distribution Center Bonuses

32. Approximately forty-one (41) distribution center managers are eligible for a monthly bonus (the “Distribution Center Management Bonus”), based on both productivity and quality measures. The Debtors estimate paying approximately \$6,000 in Distribution Center Management Bonuses for January 2011, during the interim period. Additionally, general distribution center employees are eligible for weekly incentives, based on their productivity as measured against engineered work standards (the “Distribution Center Incentives”).

Approximately 840 Employees are eligible for Distribution Center Incentives, and payout of such bonuses is ordinarily approximately \$55,000 per pay period.

d. Annual Performance Bonus

33. The Debtors have historically offered an annual performance bonus plan (the “Annual Performance Bonus Plan”) to Employees, ranging from professional and administrative staff to senior management. Employees receiving bonuses under the Annual Performance Bonus Plan were traditionally paid, at year end, a percentage of their salary, which varied widely depending on the Employee’s level and position. Such bonuses were awarded based on both individual Employee goals and overall performance of the Debtors’ operations. Due to the Debtors’ declining financial performance, the Debtors have determined that no payouts should be made with respect to the 2010 performance period. Accordingly, no prepetition amounts are owed on account of the Annual Performance Bonus Plan.

e. Other Cash Awards

34. The Debtors offer nominal cash incentive awards to rank and file Employees in order to, for example, motivate Employees to sell certain products and services, or complete an internal project. Although it is difficult to ascertain the exact amount of outstanding cash award obligations incurred with respect to the prepetition period, the Debtors believe any cash awards that may be owed to their rank and file Employees are not material in amount. Accordingly, the Debtors seek authority to pay such amounts as and when they become due in the ordinary course of business.

35. The Debtors intend to maintain the Incentive Programs in the ordinary course of business, subject to the requirements of section 503(c) of the Bankruptcy Code.⁹

2. Severance Payments

36. The Debtors maintain a discretionary pay plan (the “Severance Plan”) for all Employees who are not party to a separate severance agreement with the Debtors, or an individual employment agreement with the Debtors that provides for severance benefits. The Severance Plan provides continuation of the Employee’s base salary, at the Debtors’ sole discretion, to eligible Employees whose employment with the Debtors is involuntarily terminated without cause as a result of a reduction in workforce, elimination of the Employee’s position, closure or sale of the facility where the Employee is employed, or other permanent separation, and provided that certain of these Employees sign a release of claims against the Debtors.

37. The amount of severance benefits payable under the Severance Plan (the “Severance Payments”) depends on an Employee’s tenure. Employees are eligible to receive one (1) week of severance for every year of service. The maximum Severance Payment to any eligible Employee under the Severance Plan is twelve (12) weeks’ pay, irrespective of length of service beyond twelve years.¹⁰ Coverage under applicable Health Plans (as defined below) ends as of the last day of the month in which the covered Employee’s employment termination date occurs, while benefits under applicable Welfare Plans (as defined below) end as of the last date of employment, unless otherwise provided for in the relevant benefit plan or as required by law.¹¹

⁹ The Debtors also offer stock options and restricted stock to Employees at the level of Director Employee and above. Shares vest on a variety of timeframes. There is nothing the Debtors have to or seek to pay in connection therewith.

¹⁰ Part -Time Employees’ Severance Payments are paid in a lump sum after their last day worked.

¹¹ Terminated Employees have the opportunity to elect continued health benefits coverage for a period of at least eighteen months in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1986

38. Separately from the Severance Plan, some of the Debtors' Director Employees who, as noted above, are not insiders of the Debtors within the meaning of the Bankruptcy Code, are parties to written severance agreements (the "Severance Agreements") with the Debtors. No Director Employees were receiving severance payments under any Severance Agreements as of the Commencement Date.

39. As of the Commencement Date, approximately 529 Employees who held titles junior to Vice President (the "Severance Employees") were receiving Severance Payments. The Debtors estimate that the aggregate amount of outstanding Severance Payments (which amount is payable over a period of time), including Payroll Tax Obligations in connection with such Severance Payments, is approximately \$1.2 million.¹²

40. By this Motion, the Debtors request authority, in their sole discretion, on an interim and final basis, to continue to make Severance Payments and provide related benefits under the Severance Plan to the Severance Employees. In addition, the Debtors intend to continue the Severance Plan and honor Severance Agreements in the ordinary course of business and to provide any eligible Employees with payments thereunder, subject to the requirements of section 503(c)(2) of the Bankruptcy Code. Further, to the extent that checks, wire transfers, and direct deposit transfers with respect to prepetition Severance Payments, or prepetition payments with respect to Severance Agreements, have not cleared the Debtors' Banks, the Debtors request that the Court direct the Banks to honor such transfers, and authorize the Debtors to reissue payment in the event payment is nevertheless stopped.

("COBRA"). COBRA benefits are administered by the Debtors through their payroll and benefits center in Ann Arbor, Michigan.

¹² Additionally, twelve (12) Employees who held the title of Vice President or above also were receiving severance as of the Commencement Date. The Debtors do not seek, at this time, authority to continue paying severance to such employees.

C. Employee Benefit Plans

41. In the ordinary course of business, the Debtors have established various benefit plans and policies for their Employees that can be divided into the following categories: (i) medical and prescription drug benefits, dental care, vision care, and mental health and substance abuse assistance (collectively, the “Health Plans”); (ii) basic life insurance, supplemental life and accidental death and dismemberment insurance, short- and long-term disability insurance, long-term care insurance, business travel accident insurance and the Borders Group Foundation (as discussed herein) (collectively, the “Welfare Plans” and together with the Health Plans, the “Health and Welfare Plans”); (iii) paid vacation time (the “Vacation Time”); (iv) the Debtors’ 401(k) plan, separate Puerto Rico savings plan and deferred compensation plan (the “Employee Savings and Retirement Plans”); and (v) certain other benefits programs, including the Debtors’ automobile, relocation and flexible benefit plan programs (the “Other Benefits Programs” and together with the Health and Welfare Plans, Vacation Time, and the Employee Savings and Retirement Plans, the “Employee Benefit Plans”). In certain instances, the Debtors deduct specified amounts from the Employees’ wages in connection with the Employee Benefit Plans, such as, among others, certain of the Health and Welfare Plans, and the 401(k) plan.

42. All obligations with respect to the Employee Benefit Plans (including insurance policies and coverage) are hereinafter referred to as the “Employee Benefit Obligations,” which include, without limitation, the obligations arising under the various plans described below. As of the Commencement Date, the Debtors believe that the accrued and unpaid prepetition Employee Benefit Obligations, inclusive of Employee contributions to such plans, total approximately \$777,775, as described in further detail below.¹³

¹³ This amount excludes the value of earned and unpaid Vacation Time. Employee contributions constitute approximately \$422,115 of the Debtors’ accrued and unpaid prepetition Employee Benefit Obligations.

1. Health and Welfare Plans

43. The Debtors provide their Employees with a standard range of Health and Welfare Plans. Participants include the Debtors' Employees and the Employees' eligible dependants. Benefit options differ for Full-Time Employees and Part-Time Employees. Contingent Employees do not receive any benefits under the Health and Welfare Plans. The Health and Welfare Plans are administered or insured by several vendors, including Aetna, Prudential, CNA, Life Insurance Company of North America and Cigna Starbridge.

a. Full-Time Employees

(1) Medical Benefits

44. The Debtors provide the majority of their Full-Time Employees and eligible dependents comprehensive hospital, surgical, and medical coverage, including routine exams, through a self-insured program administered by Aetna (the "Medical Plan"). Approximately 4,289 Full-Time Employees and 6,000 dependents are enrolled in the Medical Plan.

45. Under the Medical Plan, the Debtors deduct premiums from each participating Employee's paycheck based upon the level of coverage the Employee elects. The Employee contributions, together with additional funding provided by the Debtors, are used to pay claims under the Medical Plan. The Medical Plan costs the Debtors approximately \$1.95 million per month in gross claims (\$1.1 million per month net cost after employee contributions), and approximately \$200,000 per month in administrative services fees to Aetna.

46. The Debtors also offer fully-insured medical plans, the (i) HMSA Plan in Hawaii (the "Hawaii Plan") and the (ii) MCS Plan in Puerto Rico (the "Puerto Rico Plan"), which cover approximately 108 Employees and twenty-five (25) dependents located in Hawaii, and approximately forty (40) Employees and thirty-six (36) dependents located in Puerto Rico, respectively. Coverage for employees enrolled in the Hawaii Plan costs the Debtors

approximately \$50,980 per month in gross claims (\$41,441 per month net cost after employee contributions). Coverage for employees enrolled in the Puerto Rico Plan costs the Debtors approximately \$11,733 per month in gross claims (\$4,165 per month net cost after employee contributions).

47. In addition, pursuant to local San Francisco County law, the Debtors are required to contribute an amount for health care for each Full-Time Employee that works in San Francisco County during each calendar quarter. The Debtors are not required to make payments for Employees who have been employed for less than 90 days as of the quarter end, Employees who have not worked an average minimum of eight hours weekly during the quarter, Employees whose annual base salary is greater than \$80,397, Employees who are enrolled in Medicare, and Employees who sign a waiver form. The payment is calculated by multiplying the number of hours (up to 516) worked during the 13-week period by the health care expenditure rate (\$1.96 for 2010), and subtracting the Debtors' cost for medical and dental coverage based on the Employee's election. In compliance with this law, for the last two quarters, the Debtors have remitted on average approximately \$54,000 per quarter directly to San Francisco County for all Full-Time Employees who worked in the county during the quarter.

48. All bills received and processed under the Medical Plan are paid on a daily basis, with approximately a one-day lag time. As of the Commencement Date, the Debtors estimate prepetition amounts owing to Aetna on account of the Medical Plan of approximately \$100,000. The Hawaii Plan and Puerto Rico Plan are paid monthly, and the Debtors estimate prepetition amounts of approximately \$56,000 and \$11,500, respectively, due and owing on account of these plans as of the Commencement Date.

(2) Dental Care Coverage

49. The Debtors also offer dental benefits to Full-Time Employees through a self-insured program (the “Dental Plan”), administered by Aetna. Approximately 4,413 Full-Time Employees and 2,100 dependents are enrolled in the Dental Plan. The Debtors pay approximately \$143,296 per month in gross claims and approximately \$12,000 per month in administrative services fees to Aetna. The Debtors deduct approximately \$105,163 per month from enrolled Full-Time Employees’ wages in respect of this cost. All bills received and processed under the Dental Plan are paid on a daily basis. As of the Commencement Date, the Debtors estimate there are no prepetition amounts owing to Aetna on account of the Dental Plan.

(3) Vision Plan Coverage

50. The Debtors also offer a vision plan for Full-Time Employees (the “Vision Plan”). The Vision Plan is insured through Vision Service Plan (“VSP”), is fully funded by Full-Time Employees’ contributions, and is paid monthly by the Debtors. Approximately 3,380 Full-Time Employees and 1,654 dependants participate in the Vision Plan. Deductions from participating Employees’ paychecks in respect of the Vision Plan total approximately \$38,000 per month. As of the Commencement Date, the Debtors estimate that they hold approximately \$38,000 on account of the Vision Plan that has not yet been transferred to VSP.

(4) Basic Life Insurance

51. The Debtors maintain primary life insurance for all Full-Time Employees through Prudential (the “Life Insurance”). The Life Insurance coverage costs the Debtors approximately \$11,303 per month. As of the Commencement Date, the Debtors estimate that there are no outstanding prepetition amounts due on account of the Life Insurance.

52. Full-Time Employees are also offered the opportunity to purchase supplemental life insurance and accidental death and dismemberment insurance through Prudential (the

“Supplemental Life and AD&D Insurance”), the premiums for which are paid entirely by the electing Full-Time Employee. The Debtors estimate that approximately 1,400 Full-Time Employees have elected to purchase Supplemental Life and AD&D Insurance. The Debtors also estimate that, prior to the Commencement Date, they deducted on average approximately \$19,000 per month in Employee contributions for Supplemental Life and AD&D Insurance. As of the Commencement Date, approximately \$19,000 of such accrued Employee contributions have not yet been transferred to Prudential.

(5) Short and Long Term Disability Benefits

53. The Debtors provide Full-Time Employees with short- and long-term disability benefits (the “STD Plan” and the “LTD Plan,” respectively) through Aetna. The STD Plan is a self-funded plan (except for in New York and Hawaii) paid for by the Debtors and costs the Debtors approximately \$76,000 per month.¹⁴ The average company payout for STD Plan benefits is approximately \$59,000 per month. The LTD Plan is fully-insured. The Debtors offer to fund the entirety of the LTD Plan premiums for all Full-Time Employees, and pay approximately \$21,419 per month to maintain this coverage on behalf of Full-Time Employees. On the other hand, Full-Time Employees may purchase LTD Plan benefits at their own cost.¹⁵ The Debtors estimate that approximately 1,500 Employees have opted to pay for LTD Plan benefits, and prior to the Commencement Date, the Debtors withheld approximately \$14,000 per month in Full-Time Employee contributions for such disability benefits. All bills received and processed under the STD Plan and LTD Plan are paid on a daily basis. As of the

¹⁴ The Debtors pay an additional approximately \$9,225 per month in New York State disability benefits under the New York State Disability Benefits Law, and approximately \$3,009 per month in Hawaii State short term disability.

¹⁵ If an Employee elects to pay for long-term disability benefits him or herself, in the event such Employee becomes disabled, benefit payments are not taxable income.

Commencement Date, the Debtors estimate there are no prepetition amounts owing to Aetna on account of the STD Plan or LTD Plan.

(6) Long Term Care

54. The Debtors also offer optional long-term care insurance through CNA (the “LTC Benefits”) that helps cover the cost of nursing home care or home health care. The Debtors estimate that sixty-two (62) Employees have opted to pay for LTC Benefits, and, prior to the Commencement Date, the Debtors withheld approximately \$3,000 in Full-Time Employee contributions for such benefits, which amount has not yet been transferred to CNA.

(7) Business Accident Insurance

55. The Debtors maintain business travel accident insurance for all Full-Time Employees through Life Insurance Company of North America (the “Accident Insurance”). If a Full-Time Employee dies or suffers a disability or loss of limbs, hearing or sight while traveling on company business, the eligible Employee is entitled to two times annual earnings up to a maximum of \$1 million. The Debtors pay approximately \$125 per month in premiums for the Accident Insurance. The Debtors estimate that, as of the Commencement Date, they do not owe any amounts in outstanding Accident Insurance premiums.

(8) The Borders Group Foundation

56. The Borders Group Foundation is a nonprofit, charitable organization under section 503(c)(1) of title 26 of the United States Code (the “Tax Code”) that coordinates programs to strengthen and support the Debtors’ Full-Time and Part-Time Employees and their families, or eligible former employees of the Debtors on the job for at least ninety days. The Borders Group Foundation’s core program provides assistance to Employees and former employees who have had their jobs eliminated through a reduction in force or position elimination with at least six months of service, or who have demonstrated financial need arising

from severe hardship and/or emergency circumstances. Such situations include, but are not limited to, needs arising from one of the following life events: being a victim of crime, the death of an Employee or an Employee's family member, divorce or legal separation, natural disaster, or serious medical condition. Additionally, the Borders Group Foundation sends bereavement baskets when any Employee experiences the death of an immediate family member, and awards merit-based scholarships to Employees and their dependents each year to help defray the costs of higher education. Since its inception in 1996, the Borders Group Foundation has provided over \$2.3 million in charitable assistance to the Debtors' Employees.

57. The Debtors deduct approximately \$25,000 per month from the payroll of Employees who have elected to participate in the Borders Group Foundation. Additionally, the Debtors process the payroll for the Borders Group Foundation's employees, and in accordance therewith, the Debtors' payroll department invoices the Borders Group Foundation on a bi-weekly basis for 100% of the cost of the payroll for Borders Group Foundation employees.¹⁶ As of the Commencement Date, approximately \$25,000 of accrued Employee contributions have not yet been remitted to the Borders Group Foundation.

b. Part-Time Employees

58. The Debtors provide separate optional medical, dental, and vision plans administered by Cigna Starbridge (the "Part-Time Plans"), to their Part-Time Employees. The Part-Time Plans include limited benefit health coverage for everyday expenses and dental care from a preferred provider network covering cleanings, fillings, and some major procedures. The costs associated with the Part-Time Plans are fully funded by the enrolled Part-Time Employees. On average, approximately \$102,000 is deducted each month from Part-Time Employee wages

¹⁶ Additionally, two of the Borders Group Foundation's employees provide the Debtors with services for the Debtors' charitable giving. The Debtors pay 10% of the gross wages of such employees that provide this service to the Debtors.

for contributions to the Part-Time Plans. Prior to the Commencement Date, the Debtors estimate that they deducted approximately \$102,000 in Part-Time Employee contributions for the Part-Time Plans, which amount has not yet been transferred to Cigna Starbridge.

59. The Debtors also provide and fund business accident insurance for the Part-Time Employees through Life Insurance Company of North America. Benefit coverage is two times annual base pay, up to \$1 million.

* * *

60. Approximately \$1.1 million is deducted from Employees' wages each month on account of the Health and Welfare Plans, as described above. During calendar year 2010, the Debtors paid approximately \$2.2 million per month to provide the Health and Welfare Plans to their Employees, inclusive of Employee payroll contributions. The Debtors estimate that, as of the Commencement Date, their incurred prepetition obligations that have not been paid to or on behalf of the Employees under the Health and Welfare Plans (including premiums, employee contributions, claims, and administrative fees to benefit providers) aggregate approximately \$354,500.

61. By this Motion, the Debtors seek authority, but not direction, to (a) pay all prepetition amounts under the Health and Welfare Plans as and when they come due, and (b) continue to offer such plans and honor their obligations thereunder in the ordinary course during the administration of these chapter 11 cases.

2. Vacation Time and Leaves of Absence

62. As described in greater detail below, the Debtors offer their Employees certain Vacation Time, and also allow their Employees to take certain other leaves of absence for personal reasons that include (a) jury duty, (b) bereavement, (c) family medical leaves, (d) voting leaves, and (e) military leave. Many of these leave policies are required by law.

a. Vacation Time

63. Full-Time Employees in the positions of Director Employee or higher receive vacation grants for their Vacation Time. Director Employees are eligible for three (3) weeks of vacation each vacation plan year. After five years of service, eligibility increases to four (4) weeks, and after twenty years of service, to five (5) weeks. Vice presidents and more senior Employees are eligible for four (4) weeks of vacation each plan year, increasing to five (5) weeks after twenty years of service.

64. Full-Time Employees that are in positions junior to Director Employee are eligible for Vacation Time based on number of years of continuous full-time employment or time since the most recent change to full-time status, as follows: (i) ten (10) days' Vacation Time for one to four years; (ii) fifteen (15) days' Vacation Time for five to nine years; (iii) twenty (20) days' Vacation Time for ten to nineteen years; and (iv) twenty-five (25) days' Vacation Time for twenty years or more. The amount of Vacation Time a Full-Time Employee junior to Director Employee is eligible to accrue in the first year is determined based on the calendar month of the associate's date of full-time hire or change to full-time status. Part-Time and Contingent Employees are not eligible for Vacation Time.

65. Additionally, the Debtors allow certain Full-Time and Part-Time Employees based in the Debtors' headquarters in Ann Arbor, Michigan, hired prior to October 1 of the year (which runs February 1 through January 31) the option to purchase up to five additional vacation days per year. As of the Commencement Date, the Debtors estimate that the value of accrued and unused or unpaid Vacation Time equals approximately \$2.1 million.¹⁷ This amount is not an

¹⁷ The Debtors' year, for Vacation Time purposes, commenced on February 1, 2011. Vacation Time may only be carried over from prior years in the event Employees are asked not to use their Vacation Time due to extenuating work circumstances. Accordingly, the value of accrued and unused Vacation Time as of the Commencement Date is likely at the lower end of the spectrum as compared with months that are later in the

obligation that must be satisfied at one time. Rather, it is satisfied as and when Employees take their Vacation Time, or in the event they are terminated.

3. Employee Savings and Retirement Plans

a. 401(k) Plan

66. The Debtors maintain a retirement savings plan pursuant to section 401 of the Internal Revenue Code (the “401(k) Plan”) for the benefit of all Full-Time Employees. Merrill Lynch is the Trustee and record keeper of the 401(k) Plan. Full-Time Employees who are over the age of twenty-one and who have completed 180 days of employment are eligible to participate in the 401(k) Plan.¹⁸ The 401(k) Plan allows for automatic pre-tax salary deductions of eligible compensation up to the statutorily prescribed dollar amounts. Approximately 1,958 Full-Time Employees currently participate in the 401(k) Plan,¹⁹ and the approximate monthly amount withheld from the participating Employees’ paychecks for 401(k) contributions (the “Employee 401(k) Contributions”) is \$404,000.²⁰

67. In addition, the Debtors spend approximately \$148,000 per year in record-keeping and advisory fees for the 401(k) Plan, depending on fund performance. The Debtors pay up to approximately \$37,000 per quarter to Merrill Lynch for record-keeping and related fees (the “401(k) Administrative Fees” and with the Employee 401(k) Contributions, the “401(k) Plan Obligations”). However, the Debtors receive revenue sharing credits to offset the administrative

vacation year. Additionally, Employees’ use of Vacation Time throughout various months of the year varies widely due to the seasonality of the Debtors’ business.

¹⁸ Employees located in Puerto Rico do not participate in the 401(k) Plan, and instead participate in the Puerto Rico Savings Plan, as defined herein and discussed *infra*.

¹⁹ In addition, there are approximately 1,514 terminated or suspended participants in the 401(k) Plan. Suspended participants cannot make contributions (typically due to having taken a distribution that is not yet fully repaid). Terminated participants are no longer the Debtors’ Employees but have not yet rolled over their 401(k) accounts into other qualified retirement plans or individual retirement accounts.

²⁰ The Debtors historically matched contributions under the 401(k) Plan, but suspended this policy with respect to payroll periods in or after 2008 as a cost-saving measure. At this time the Debtors do not seek relief with respect to matching contributions.

fees paid to Merrill Lynch, which at times have funded such fees almost entirely. As of the Commencement Date, the accrued and unpaid portion of the Debtors' 401(k) Plan Obligations totaled approximately \$202,000. By this Motion, the Debtors seek authority, but not direction, to continue the 401(k) Plan in the ordinary course of business and pay all accrued 401(k) Plan Obligations.

b. Puerto Rico Savings Plan

68. The Debtors also offer a Savings Plan for Employees Working in Puerto Rico (the "Puerto Rico Savings Plan"). Employees located in Puerto Rico can make pre-tax contributions of 1% to 50% of their eligible compensation (or such lesser percentages with respect to highly compensated employees) subject to maximum contributions, as well as after-tax contributions that reduce such amount of pre-tax contributions.

69. Approximately twenty (20) Employees currently participate in the Puerto Rico Savings Plan, and the approximate monthly amount withheld from the participating Employees' paychecks for Puerto Rico Savings Plan contributions (the "Puerto Rico Employee Contributions") is \$1,200.²¹ Puerto Rico Employee Contributions are remitted immediately. Banco Popular is the Trustee and Merrill Lynch is the record keeper of the Puerto Rico Savings Plan. The Debtors pay on a quarterly basis up to approximately \$1,450 to Banco Popular for Trustee fees, and approximately \$375 per quarter to Merrill Lynch in record-keeping fees, for the Puerto Rico Savings Plan (together, the "Puerto Rico Savings Plan Administrative Fees" and with the Puerto Rico Employee Contributions, the "Puerto Rico Savings Plan Obligations"). As of the Commencement Date, the accrued and unpaid portion of the Debtors' Puerto Rico Savings Plan Obligations totaled approximately \$1,825. By this Motion, the Debtors seek authority, but

²¹ The Debtors have, in the past, made discretionary matching contributions with respect to the Puerto Rico Savings Plan. The Debtors are not matching at this time.

not direction, to continue the Puerto Rico Savings Plan in the ordinary course of business and pay all accrued Puerto Rico Savings Plan Obligations.

c. Deferred Compensation Plan

70. The Debtors provide a non-qualified deferred compensation plan (the “Excess Plan”) for certain Employees whose participation in the 401(k) Plan was limited by applicable Treasury regulations. Under the Excess Plan, Employees that attain the level of Director Employee or above are permitted to contribute up to 100% of their base salary and/or annual bonus, after all other required deductions are made. The Excess Plan offers flexible distribution options, including both a retirement account and up to five in-service distribution accounts for pre-retirement needs. In-service accounts have separate “buckets” that can be set up for different objectives (*e.g.*, college tuition), with each “bucket” having its own investment strategy and a distribution date the Employee selects. Distribution options permit the payout of a retirement benefit in a lump sum or in installment payments over ten years. Distributions from in-service accounts can be made in a lump sum or in installment payments over two to five years. The Excess Plan also allows Employees to elect to have their entire account balance distributed in certain circumstances. As of the Commencement Date, eighteen (18) participants have accounts under the Excess Plan aggregating approximately \$582,000. The Debtors pay Merrill Lynch approximately \$450 per quarter for its administrative services in connection with the Excess Plan. As of the Commencement Date, the accrued and unpaid prepetition fees owed to Merrill Lynch in connection with the administration of the Excess Plan were approximately \$450. By this Motion, the Debtors seek authority, but not direction, to continue the Excess Plan in the ordinary course of business and to pay all accrued obligations to Merrill Lynch and payouts elected by Employees with respect thereto.

4. Other Benefits Programs

a. Automobile Program

71. The Debtors currently lease approximately sixty (60) automobiles for Employees who require transportation as part of their employment (the “Automobile Costs”).²² A nominal amount is deducted from employee payroll, in accordance with applicable Treasury regulations, on account of Employees’ personal use of the leased automobiles. In 2010, the Debtors paid approximately \$777,517 in Automobile Costs, net of approximately \$18,495 in Employee deductions. As of the Commencement Date, the Debtors estimate that no outstanding amounts are owed on account of Automobile Costs.

b. Relocation Program

72. The Debtors offer a relocation reimbursement program (the “Relocation Program”) to certain Employees who transfer to a different geographical location to fulfill their job responsibilities. The scope of benefits under the Relocation Program varies depending on the category of Employee.²³ In general, affected Employees are provided, among other things, relocation allowances between \$2,000 and \$64,500 (depending on their position), transportation services for household goods, renters’ assistance, temporary housing, home marketing and home sale assistance, reimbursement for residence-finding trips, and reimbursement for other moving expenses, all in accordance with Internal Revenue Service guidelines.

²² The Automobile Costs include lease payments, title and license fees, maintenance fees, repair costs, excess mileage charges, fuel costs, insurance premiums and related costs.

²³ There are five (5) tiers of Employees who are eligible for reimbursement benefits under the Relocation Program comprised of full-time exempt salaried Employees, including executive Employees.

73. As of the Commencement Date, the Debtors estimate that accrued and unpaid obligations related to the Relocation Program with respect to current Employees totaled approximately \$204,000.²⁴

c. Flexible Benefit Plan

74. The Debtors offer their Full-Time Employees the ability to contribute a portion of their pre-tax compensation to flexible spending accounts to pay for eligible out-of-pocket health care and dependent care premiums and expenses (the “Flexible Benefit Plan”). Approximately 358 Employees participate in the health care portion of the Flexible Benefit Plan and approximately thirty-two (32) Employees participate in the dependent care portion of the Flexible Benefit Plan. The Debtors pay fees of approximately \$2,000 per month to Aetna to administer the Flexible Benefit Plan.

75. On average, Employees participating in the Flexible Benefit Plan designate approximately \$38,000 in the aggregate each month to be withheld through payroll deductions. Regardless of an Employee’s contributions for the health care portion of the Flexible Benefit Plan, an Employee may seek reimbursement or payment directly to a health care provider for all amounts up to the designated annual contribution at any point during the year.²⁵ However, an Employee may only seek reimbursement or direct payments to a provider for dependent care expenses up to the actual amount in his or her dependent care spending account. Any unspent amounts in health care or dependent care accounts at the end of the calendar year do not roll over to the following year, although Employees may submit reimbursement or payment requests for

²⁴ This amount excludes any tax payments that are estimated to be owed to the applicable Taxing Authorities on account of taxable relocation benefits, which tax payments the Debtors are not seeking authority to pay on behalf of Employees to Taxing Authorities at the end of the calendar year.

²⁵ As a result, the Debtors’ payments under the Flexible Benefit Plan could exceed Employee contributions. For 2010, payments under the Flexible Benefit Plan exceeded Employee contributions to spending accounts by approximately \$12,000.

the preceding year until March 31 of the following year. As of the Commencement Date, the Debtors estimate that they hold approximately \$15,000 on account of designated Flexible Benefit Plan contributions.

76. By this Motion, the Debtors seek authority, but not direction, to continue their Other Benefit Programs and honor their obligations with respect thereto, and to pay all prepetition amounts due under the Other Benefit Programs as and when such amounts come due in the ordinary course of business.

BASIS FOR THE RELIEF REQUESTED

A. Cause Exists to Authorize the Payment of the Debtors' Employee Obligations

77. Pursuant to section 507(a)(4)(A) of the Bankruptcy Code, employee claims for “wages, salaries, or commissions, including vacation, severance, and sick leave pay” earned within 180 days before the Commencement Date are afforded priority unsecured status to the extent of \$11,725 per employee. Similarly, section 507(a)(5) of the Bankruptcy Code provides that employees’ claims for contributions to certain employee benefit plans also are afforded priority unsecured status to the extent of \$11,725 per employee covered by such plan, less any amount paid pursuant to section 507(a)(4) of the Bankruptcy Code.

78. Furthermore, section 363(b)(1) of the Bankruptcy Code provides, in pertinent part, that the trustee, after notice and a hearing, “may use, sell, or lease, other than in the ordinary course of business, property of the estate . . .” 11 U.S.C. § 363(b)(1). Section 105(a) of the Bankruptcy Code further provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a).

79. The Debtors believe that the substantial portion of the Employee Obligations relating to the period prior to the Commencement Date constitute priority claims under sections 507(a)(4) and (5) of the Bankruptcy Code. As priority claims, the Employee Obligations must be paid in full before any general unsecured obligations of the Debtors may be satisfied. Accordingly, the relief requested herein likely may affect only the timing of the payment of these priority obligations and should not prejudice the rights of general unsecured creditors or other parties in interest. The Debtors submit that, to the extent any Employee is owed in excess of \$11,725 or a requested payment is on account of a Supplemental Worker or Independent Contractor, satisfaction and payment of such amount is necessary and appropriate, and may be authorized under sections 105(a) and 363(b) of the Bankruptcy Code pursuant to the “doctrine of necessity.”²⁶

80. A Bankruptcy Court’s use of its equitable powers to “authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989); *see In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that the court is authorized under section 105(a) to allow immediate payment of prepetition claims of vendors found to be critical to the debtor’s reorganization) (citing *In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972)); *In re Columbia Gas Sys. Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (noting that the debtor may pay prepetition claims that are essential to the continued operation of its business).

²⁶ However, as noted above, at this time, the Debtors do not seek authority to pay amounts of accrued and unpaid prepetition wages or salaries in excess of \$11,725 to the Debtors’ Chief Executive Officer.

81. The “necessity of payment” doctrine “recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor.” *Ionosphere Clubs*, 98 B.R. at 176 (authorizing the payment of prepetition employee wages and benefits); *see also Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285-86, 287 (S.D.N.Y. 1987) (approving bankruptcy court order authorizing payment of prepetition wages, salaries, expenses, and benefits and recognizing that the fundamental purpose of reorganization and equity powers of bankruptcy courts “is to create a flexible mechanism that will permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately”). This doctrine is consistent with the paramount goal of chapter 11 of “facilitating the continued operation and rehabilitation of the debtor. . . .” *Ionosphere Clubs*, 98 B.R. at 176.

82. The relief requested in this Motion is necessary for the Debtors’ business to continue to operate in the ordinary course of business and, most importantly, to maximize value for all stakeholders. The Employees are vital to the continuing operations of the Debtors’ business and the Debtors’ successful reorganization. The relief sought herein is entirely consistent with the intent of section 105(a) of the Bankruptcy Code and the rehabilitative purpose of chapter 11, and represents the exercise of sound business judgment. In these cases, any delay or failure to pay wages, salaries, benefits, and other similar items would irreparably impair the Employees’ morale, dedication, confidence, and cooperation, and would adversely impact the Debtors’ relationship with their Employees at a time when the Employees’ support is critical to these chapter 11 cases and to the Debtors’ reorganization efforts. At this early stage, the Debtors

simply cannot risk the substantial damage to their business enterprise that would inevitably result from a rapid decline in Employee morale.

83. Further, absent the relief requested herein, the Employees will suffer undue hardship and, in many instances, serious financial difficulties, as the amounts in question are needed to enable the Employees to meet their own personal financial obligations. Likewise, any interruption to the Employee benefits provided by the Debtors could have a material, negative effect on the physical well-being and morale of the Debtors' employees and their families. Without the requested relief, the stability of the Debtors' business will be undermined, perhaps irreparably, by the distinct possibility that otherwise loyal Employees will seek other employment alternatives. In addition, to the extent the Debtors owe Employees for Business Expenses incurred prepetition, it would be inequitable to require the Debtors' Employees to bear personally the cost of any Business Expenses they incurred for the benefit of the Debtors with the understanding that they would be reimbursed. Further, Employees could become concerned about personal liability for business charges, which could distract them from devoting attention to their responsibilities. Likewise, the Debtors believe it is necessary to continue payment of amounts due on the Purchase Cards to Bank of America. Without the continued use of the Purchase Cards, the Debtors will be unable to manage their Business Expenses in an efficient and cost-effective manner.

84. The Debtors further believe it is critical that they be authorized to honor severance obligations to Severance Employees terminated prior to the Commencement Date and to continue providing Severance Payments and related benefits in the ordinary course of business, subject, of course, to the requirements of section 503(c)(2) of the Bankruptcy Code, to

such Employees.²⁷ The financial well-being of the Debtors' Severance Employees who received severance prior to the Commencement Date depends on the receipt of such payments. Moreover, the continuation of the Severance Plan as requested herein is necessary to preserve the goodwill and morale of current Employees during the Debtors' reorganization efforts.

85. With respect to Payroll Tax Obligations, the payment of such taxes will not prejudice other creditors of the Debtors' estates, as the relevant Taxing Authorities generally would hold priority claims under section 507(a)(8) of the Bankruptcy Code in respect of such obligations. Moreover, the portion of the payroll taxes withheld from an Employee's wages on behalf of the applicable Taxing Authority is held in trust by the Debtors. As such, these Employee Withholding Taxes are not property of the Debtors' estates under section 541 of the Bankruptcy Code. *See, e.g., Begier v. IRS*, 496 U.S. 53, 59, 66-67 (1990) (withholding taxes are property held by a debtor in trust for another and, as such, are not property of the debtor's estate).

86. In addition, the Debtors believe it is necessary to continue payment of administrative fees to the various vendors that administer the Debtors' Employee Benefit Plans. Without the continued services of these administrators, the Debtors will be unable to continue to honor their Employee Benefit Plans in an efficient and cost-effective manner.

87. The Debtors do not seek to alter their compensation, vacation, or other benefit policies at this time. This Motion is intended only to permit the Debtors, in their discretion, to make payments consistent with the Debtors' existing policies to the extent that, without the benefit of an order approving this Motion, such payments may be inconsistent with the relevant

²⁷ Section 503(c)(2) permits severance payments to insiders (as defined in section 101(31) of the Bankruptcy Code) if they are part of a program applicable to all employees, and are less than ten times the mean of severance payments made to non-management employees during that calendar year. 11 U.S.C. § 503(c)(2). The Debtors do not seek authority at this time to make severance payments to any insiders.

provisions of the Bankruptcy Code, and to permit the Debtors, in their discretion, to continue to honor their practices, programs, and policies with respect to their Employees, as such practices, programs, and policies were in effect as of the Commencement Date.²⁸ Payment of Employee Obligations as requested herein and in accordance with the Debtors' prepetition business practices is in the best interests of the Debtors' estates, their creditors, and all parties in interest and will enable the Debtors to continue to operate their businesses in an economic and efficient manner, without disruption. Moreover, the total amount sought to be paid herein is relatively modest compared with the size of the Debtors' overall businesses and the importance of the Employees to the Debtors' chapter 11 cases and rehabilitation efforts.

88. In other chapter 11 cases, courts in this district have approved payment of prepetition claims similar to those described herein.²⁹ *See, e.g., In re The Great Atl. & Pac. Tea Co.*, Ch. 11 Case No. 10-24549 (RDD) (Bankr. S.D.N.Y. Jan. 13, 2011) [Docket No. 497]; *In re Blockbuster Inc.*, Ch. 11 Case No. 10-14997 (BRL) (Bankr. S.D.N.Y. Oct. 21, 2010) [Docket No. 354]; *In re Uno Rest. Holdings Corp.*, Ch. 11 Case No. 10-10209 (MG) (Bankr. S.D.N.Y. Feb. 17, 2010) [Docket No. 150]; *In re Finlay Enters., Inc.*, Ch. 11 Case No. 09-14873 (JMP) (Bankr. S.D.N.Y. Sept. 3, 2009) [Docket No. 190]; *In re General Motors Corp.*, Ch. 11 Case No. 09-50026 (REG) (Bankr. S.D.N.Y. June 1, 2009) [Docket No. 164]; *In re U.S. Shipping Partners L.P.*, Ch. 11 Case No. 09-12711 (RDD) (Bankr. S.D.N.Y. Apr. 30, 2009) [Docket No. 37]; *In re General Growth Props., Inc.*, Ch. 11 Case No. 09-11977 (ALG) (Bankr. S.D.N.Y. May 11, 2009) [Docket No. 461]; *In re BearingPoint, Inc.*, Ch. 11 Case No. 09-10691 (REG) (Bankr. S.D.N.Y. Feb. 13, 2009) [Docket No. 28]; *In re Tronox Inc.*, Ch. 11 Case No. 09-10156 (ALG)

²⁸ The Debtors believe that continuation of the Employee Benefit Obligations consistent with their prepetition practices and policies is within the ordinary course of their business.

²⁹ Because of the voluminous nature of the unreported orders cited herein, such orders are not annexed to the Motion. Copies of these orders are available upon request of Debtors' counsel.

(Bankr. S.D.N.Y. Jan. 13 and Feb. 6, 2009) [Docket Nos. 45 and 143]; *In re Lyondell Chem. Co.*, Ch. 11 Case No. 09-10023 (REG) (Bankr. S.D.N.Y. Jan. 9 and 26, 2009) [Docket Nos. 90 and 408]; *In re Lenox Sales, Inc.*, Ch. 11 Case No. 08-14679 (ALG) (Bankr. S.D.N.Y. Nov. 25, 2008) [Docket No. 25]; *In re Stone Barn Manhattan, LLC (Steve & Barry's I)*, Ch. 11 Case No. 08-12579 (ALG) (Bankr. S.D.N.Y. July 10, 2008) [Docket No. 49]; *In re Lexington Precision Corp.*, Ch. 11 Case No. 08-11153 (MG) (Bankr. S.D.N.Y. Apr. 2 and 22, 2008) [Docket Nos. 27 and 77]; *In re PRC, LLC*, Ch. 11 Case No. 08-10239 (MG) (Bankr. S.D.N.Y. Jan. 24, 2008) [Docket No. 27]; *In re Silicon Graphics, Inc.*, Ch. 11 Case No. 06-10977 (BRL) (Bankr. S.D.N.Y. May 10 and 31, 2006) [Docket Nos. 51 and 146]; *In re Atkins Nutritionals, Inc.*, Ch. 11 Case No. 05- 15913 (ALG) (Bankr. S.D.N.Y. Aug. 1, 2005) [Docket No. 31].

B. Cause Exists to Authorize the Payment of the Debtors' Supplemental Work Force and Independent Contractors

89. The Debtors also seek authority to pay pre- and postpetition amounts payable with respect to the Supplemental Workers and Independent Contractors as they become due and owing. The Debtors believe that payment of this compensation is consistent with the underlying policy in the Bankruptcy Code and will promote a successful reorganization for the benefit of all parties in interest. *See In re Wang Labs., Inc.*, 164 B.R. 404, 405-08 (Bankr. D. Mass. 1994).

90. Moreover, as described above, the “necessity of payment doctrine” provides a mechanism by which this Court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. Here, the Debtors require the services of their Supplemental Workforce and Independent Contractors to the same extent as they do their Employees. Without such services, the Debtors’ operations would be significantly impaired, and, pursuant to section 105(a) of the Bankruptcy Code, this Court is empowered to grant the relief requested herein.

C. Applicable Banks Should be Authorized to Honor and Pay Checks Issued and Make Other Transfers to Pay the Employee Obligations

91. In furtherance of the relief requested herein, the Debtors request that the Court authorize and direct the Banks, including, but not limited to, those identified on Exhibit 1 to the Interim Order and Final Order, to receive, honor, process, and pay, to the extent of funds on deposit, any and all checks or electronic transfers requested or to be requested by the Debtors relating to the Employee Obligations and all amounts incident thereto, including those checks or electronic transfers that have not cleared the Banks as of the Commencement Date, without the need for further Court approval.

92. The Debtors also seek authority to replace any prepetition checks or electronic transfers relating to the Employee Obligations and all amounts incident thereto that may be dishonored or rejected. Each of the checks or electronic transfers can be readily identified as relating directly to the authorized payment of the Employee Obligations. The Debtors believe that prepetition checks and electronic transfers, other than those for Employee Obligations, or those authorized by another order of the Court, will not be honored inadvertently.

93. The Debtors also request that the Banks be authorized and directed to rely on the representations of the Debtors as to which checks and electronic transfers are in payment of the Employee Obligations.

94. Authorization to pay all amounts on account of prepetition Employee Obligations shall not be deemed to constitute postpetition assumption or adoption of any contract, program, or policy pursuant to section 365 of the Bankruptcy Code. The Debtors are in the process of reviewing these matters and reserve all of their rights under the Bankruptcy Code with respect thereto. Moreover, authorization to pay all amounts in respect of prepetition Employee Obligations shall not affect the Debtors' right to contest the amount or validity of any Employee

Obligation, including without limitation, the Payroll Tax Obligations that may be due to any Taxing Authority.

D. Waiver and/or Compliance With Applicable Bankruptcy Rules

1. Compliance With Bankruptcy Rule 6003(b)

95. Bankruptcy Rule 6003(b) provides that to the extent “relief is necessary to avoid immediate and irreparable harm,” a Bankruptcy Court may approve a motion to “pay all or part of a claim that arose before the filing of the petition” prior to twenty-one days after the Commencement Date. Fed. R. Bankr. P. 6003(b). As described herein and in the First Day Declaration, the continuity and viability of the Debtors’ business operations rely heavily on their Employees. The failure of the Debtors to honor their Employee Obligations would have immediate and detrimental consequences to the Debtors’ business operations and would decrease value to the detriment and prejudice of all stakeholders. Accordingly, the Debtors submit that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and, therefore, Bankruptcy Rule 6003(b) is satisfied.

2. Waiver of Bankruptcy Rules 6004(a) and (h)

96. Bankruptcy Rule 6004(a) provides that notice of a “proposed use, sale, or lease of property, other than cash collateral, not in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c)(1), (i), and (k).” Fed. R. Bankr. P. 6004(a). Bankruptcy Rule 2002(a) provides that at least twenty-one (21) days’ notice by mail shall be given to all creditors and indenture trustees of “a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice.” Fed. R. Bankr. P. 2002(a). Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h).

97. To implement the foregoing immediately, the Debtors seek a waiver of the notice requirements, to the extent applicable, under Bankruptcy Rule 6004(a) and the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

NOTICE

98. No trustee or examiner has been appointed in these chapter 11 cases. The Debtors have served notice of this Motion on: (i) the Office of the United States Trustee for the Southern District of New York (Attn: Tracy Davis, Esq. and Linda Riffkin, Esq.); (ii) those creditors holding the thirty largest unsecured claims against the Debtors' estates; (iii) counsel for the DIP Agents: (x) Morgan, Lewis & Bockius LLP (Attn: Wendy Walker, Esq. and Sandra Vrejan, Esq.), counsel for the Working Capital Agent, (y) Riemer & Braunstein LLP (Attn: Donald E. Rothman, Esq.), counsel for GA Capital LLC; (iv) Kelley Drye & Warren LLP, attorneys for certain landlords (Attn: James S. Carr, Esq., Robert L. LeHane, Esq., and Benjamin D. Feder, Esq.); (v) Lowenstein Sandler PC, attorneys for certain trade vendors (Attn: Kenneth A. Rosen, Esq., Bruce D. Buechler, Esq., Bruce S. Nathan, Esq., and Paul Kizel, Esq.); (vi) Fried, Frank, Harris, Shriver & Jacobson LLP, attorneys for General Growth Properties, Inc. (Attn: Brad Eric Scheler, Esq.); and (vii) Bingham McCutchen LLP, attorneys for Bank of America, N.A. (Attn: Julia Frost-Davies, Esq. and Andrew Gallo, Esq.) (collectively, the "Notice Parties"). The Debtors submit that no other or further notice need be provided.

99. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: February 16, 2011
New York, New York

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP

By: /s/ David M. Friedman
David M. Friedman (DFriedman@kasowitz.com)
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*Attorneys for Debtors
and Debtors-in-Possession*

EXHIBIT A

INTERIM ORDER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

BORDERS GROUP, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 11-_____ (___)

(Joint Administration Pending)

INTERIM ORDER PURSUANT TO 11 U.S.C §§ 105(a), 363(b), AND 507 AND FED. R. BANKR. P. 6003 AND 6004 (I) AUTHORIZING THE DEBTORS TO PAY CERTAIN EMPLOYEE OBLIGATIONS AND MAINTAIN AND CONTINUE EMPLOYEE BENEFITS AND PROGRAMS AND (II) DIRECTING BANKS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS

Upon the Motion², dated February 16, 2011, of Borders Group, Inc. (“BGI”) and its debtor subsidiaries, including Borders, Inc., as debtors and debtors in possession (collectively, the “Debtors”), for an order, pursuant to sections 105(a), 363(b), and 507 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004 (i) authorizing, but not directing the Debtors to (a) pay, in their sole discretion, all Employee Obligations and all costs and expenses incident to the foregoing, and (b) maintain and continue to honor and pay all amounts with respect to their practices, programs, and policies for their employees as they were in effect as of the Commencement Date, and as such may be modified, amended, or supplemented from time to time in the ordinary course, (ii) directing the Banks to receive, honor, process, and pay any and all checks and transfers drawn on the Debtors’ disbursement Bank Accounts, to the extent that such checks or transfers relate to any of the foregoing, and (iii) scheduling a final hearing (the

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Borders Group, Inc. (4588); Borders International Services, Inc. (5075); Borders, Inc. (4285); Borders Direct, LLC (0084); Borders Properties, Inc. (7978); Borders Online, Inc. (8425); Borders Online, LLC (8996); and BGP (UK) Limited.

² Capitalized terms used herein, and not otherwise defined, shall have the meanings ascribed to them in the Motion.

“Final Hearing”) to consider the relief requested on a permanent basis, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “Interim Hearing”); and upon the record of the Interim Hearing and all of the proceedings had before the Court; and upon the First Day Declaration; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, and creditors, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. The Motion is granted as provided herein on an interim basis.

2. The Debtors are authorized, but not directed, to pay or otherwise honor all Employee Obligations, the most significant of which are described in the Motion, including, but not limited to, all obligations incurred under or related to Compensation Obligations, Payroll Tax Obligations, Garnishment Obligations, Supplemental Workforce Obligations, Independent Contractor Obligations, Business Expenses, Incentive Obligations, Severance Payments and Employee Benefit Obligations, and all costs and expenses incident to the foregoing and all programs related thereto that come due prior to the Final Hearing, including those Employee

Obligations that (i) were or are due and payable and relate to the period prior to the Commencement Date, and (ii) are or become due and payable or relate to the period after the Commencement Date, except that the Debtors shall not pay any Director Obligations prior to the Final Hearing.

3. The Debtors are authorized to maintain and continue to honor their practices, programs, and policies (as more fully described in the Motion) for their Employees with respect to the Employee Obligations as they were in effect as of the Commencement Date, and as such may be modified, amended, or supplemented from time to time in the ordinary course of business, provided that no Employee shall be paid an amount in excess of \$11,725 in accrued and unpaid prepetition wages or salaries.

4. The Debtors are authorized to pay, in their sole discretion, compensation owed to the Supplemental Workforce through the Agencies.

5. The Debtors are authorized to pay, in their sole discretion, compensation owed to Independent Contractors, up to the amount of \$11,725 per Independent Contractor.

6. The Debtors are authorized to replace any prepetition checks or electronic transfers relating to the Employee Obligations that may be dishonored or rejected.

7. The Banks may rely on the representations of the Debtors as to which checks or electronic transfers are in payment of the Employee Obligations.

8. The Debtors are authorized, but not directed, to pay any and all costs and other obligations in connection with maintaining or paying third parties to maintain, administer, and provide record-keeping relating to the Employee Obligations that they may have outstanding as of the Commencement Date, and to continue so paying, in the ordinary course of business.

9. Neither this Order, nor any payments made by the Debtors pursuant to the Motion or this Order, shall be deemed to change the classification of any claim or to in any way change the rights or create new rights of any Employee or other person, including without limitation, the creation of any right to payment entitled to administrative expense priority pursuant to sections 503 and 507 of the Bankruptcy Code.

10. Nothing contained in this Order shall be deemed to constitute the assumption or rejection of any employee benefit plan, employment agreement, or any other contract, program, or agreement under section 365 of the Bankruptcy Code, and all the Debtors' rights are reserved with respect thereto.

11. Notwithstanding any provision in the Bankruptcy Code or Bankruptcy Rules to the contrary, the Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order, and the Debtors may, in their discretion and without further delay, take any action and perform any act authorized under or contemplated by this Order.

12. The requirements of Bankruptcy Rule 6003(b) are satisfied.

13. The requirements of Bankruptcy Rule 6004(a) are waived.

14. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms and provisions of this Order shall be immediately effective and enforceable upon its entry.

15. The Final Hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on [_____] [___], 2011 at [_:__] [].m. (Eastern Time); and any objections to entry of such order shall be in writing, filed with the Court in accordance with General Order M-242 and served upon the attorneys for the Debtors, the Notice Parties, and any

official committee of unsecured creditors appointed in these chapter 11 cases, in each case so as to be received no later than []:00 [].m. (Prevailing Eastern Time) on [_____] [___], 2011.

16. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation or interpretation of this Order.

[_____] , 2011
New York, New York

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

BANK ACCOUNTS

Exhibit 1

Banks

BANK	BANK MAILING ADDRESS	LAST FOUR DIGITS OF ACCOUNT #	ACCOUNT TYPE
PNC Bank, N.A.		6979	A/P Controlled Disbursement
		6303	P/R Controlled Disbursement
		6952	A/P Controlled Disbursement
		5413	P/R Controlled Disbursement
		5376	P/R Controlled Disbursement
		5413	A/P Controlled Disbursement
		3572	A/P Controlled Disbursement
		1863	P/R Controlled Disbursement
		8768	A/P Controlled Disbursement
		8741	P/R Controlled Disbursement
		6282	P/R Controlled Disbursement
		1855	P/R Controlled Disbursement
3628	A/P Controlled Disbursement		
Banco Popular		6290	Puerto Rico Payroll Check Issuance
Bank of America		4060	Concentration

EXHIBIT B

FINAL ORDER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

BORDERS GROUP, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 11-_____ (___)

(Joint Administration Pending)

FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 363(b), AND 507 AND FED. R. BANKR. P. 6003 AND 6004 (I) AUTHORIZING THE DEBTORS TO PAY CERTAIN EMPLOYEE OBLIGATIONS AND MAINTAIN AND CONTINUE EMPLOYEE BENEFITS AND PROGRAMS AND (II) DIRECTING BANKS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS

Upon the Motion², dated February 16, 2011, of Borders Group, Inc. (“BGI”) and its debtor subsidiaries, including Borders, Inc., as debtors and debtors in possession (collectively, “Borders” or the “Debtors”), for an order, pursuant to sections 105(a), 363(b) and 507 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004 (i) authorizing, but not directing the Debtors to (a) pay, in their sole discretion, all Employee Obligations and all costs and expenses incident to the foregoing, and (b) maintain and continue to honor their practices, programs, and policies for their employees as they were in effect as of the Commencement Date, and as such may be modified, amended, or supplemented from time to time in the ordinary course, (ii) directing the Banks to receive, honor, process, and pay any and all checks and transfers drawn on the Debtors’ disbursement Bank Accounts, to the extent that such checks or transfers relate to any of the foregoing, and (iii) scheduling a final hearing (the “Final Hearing”) to consider the relief

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Borders Group, Inc. (4588); Borders International Services, Inc. (5075); Borders, Inc. (4285); Borders Direct, LLC (0084); Borders Properties, Inc. (7978); Borders Online, Inc. (8425); Borders Online, LLC (8996); and BGP (UK) Limited.

² Capitalized terms used herein, and not otherwise defined, shall have the meanings ascribed to them in the Motion.

requested on a final basis, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and grant the requested relief in accordance with 28 U.S.C. §§ 157 and 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no further notice need be provided; and the Court having held a hearing to consider the requested relief; and a hearing to consider approval of the Motion on an interim basis having been held (the “Interim Hearing”); and the Court having entered an interim order (the “Interim Order”) granting the relief requested in the Motion, pending the Final Hearing; and it appearing that due and proper notice of the Final Hearing having been given and that no other or further notice need be provided; and upon the record of the Interim Hearing and the Final Hearing and all of the proceedings had before the Court; and upon the First Day Declaration; and the Court having found and determined that the relief sought in the Motion 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 establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as provided herein.
2. The Debtors are authorized, but not directed, to pay or otherwise honor all Employee Obligations, the most significant of which are described in the Motion, including, but not limited to, all obligations incurred under or related to Compensation Obligations, Garnishment Obligations, Supplemental Workforce Obligations, Independent Contractor

Obligations, Business Expenses, Payroll Tax Obligations, Incentive Programs, Severance Payments, and Employee Benefit Obligations comprised of Employees' own funds subject to reimbursement, and all costs and expenses incident to the foregoing, including those Employee Obligations that (i) were or are due and payable and relate to the period prior to the Commencement Date and (ii) are or become due and payable or relate to the period after the Commencement Date, in all cases, without further order of the Court.

3. The Debtors are authorized to maintain and continue to honor their practices, programs, and policies (as more fully described in the Motion) for their Employees with respect to the Employee Obligations as they were in effect as of the Commencement Date, and as such may be modified, amended, or supplemented from time to time in the ordinary course of business, provided that no Employee shall be paid an amount in excess of \$11,725 in accrued and unpaid prepetition wages or salaries.

4. The Debtors are authorized to pay, in their sole discretion, compensation owed to the Supplemental Workforce through the Agencies.

5. The Debtors are authorized to pay, in their sole discretion, compensation owed to Independent Contractors, up to the amount of \$11,725 per Independent Contractor.

6. Notwithstanding anything to the contrary herein, Severance Payments to any Employee pursuant to this Order shall be subject in all respects to the provisions of section 503(c)(2) of the Bankruptcy Code.

7. The banks set forth on Exhibit 1 annexed hereto and any other bank authorized to administer the Debtors' bank accounts under the Cash Management Motion (the "Banks") are authorized and directed, when the Debtors request in their sole discretion, to receive, honor, process, and pay, to the extent of funds on deposit, any and all checks or electronic transfers

drawn on the Debtors' Bank Accounts relating to the Employee Obligations, including those checks or electronic transfers that have not cleared the Banks as of the Commencement Date.

8. The Debtors are authorized to replace any prepetition checks or electronic transfers relating to the Employee Obligations that may be dishonored or rejected.

9. The Banks may rely on the representations of the Debtors as to which checks or electronic transfers are in payment of the Employee Obligations.

10. The Debtors are authorized, but not directed, to pay any and all costs and other obligations in connection with maintaining or paying third parties to maintain, administer, and provide record-keeping relating to the Employee Obligations that they may have outstanding as of the Commencement Date, and to continue so paying, in the ordinary course of business.

11. Neither this Order, nor any payments made by the Debtors pursuant to the Motion or this Order, shall be deemed to change the classification of any claim or to in any way change the rights or create new rights of any Employee or other person, including without limitation, the creation of any right to payment entitled to administrative expense priority pursuant to sections 503 and 507 of the Bankruptcy Code.

12. Nothing contained in this Order shall be deemed to constitute the assumption or rejection of any employee benefit plan, employment agreement, or any other contract, program, or agreement under section 365 of the Bankruptcy Code, and all the Debtors' rights are reserved.

13. Notwithstanding any provision in the Bankruptcy Code or Bankruptcy Rules to the contrary, the Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order, and the Debtors may, in their discretion and without further delay, take any action and perform any act authorized under or contemplated by this Order.

14. The requirements of Bankruptcy Rule 6004(a) are waived.

15. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms and provisions of this Order shall be immediately effective and enforceable upon its entry.

16. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation or interpretation of this Order.

[_____] , 2011
New York, New York

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

BANK ACCOUNTS

Exhibit 1

Banks

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		6282	P/R Controlled Disbursement
		1855	P/R Controlled Disbursement
	3628	A/P Controlled Disbursement	
Banco Popular		6290	Puerto Rico Payroll Check Issuance
Bank of America		4060	Concentration