



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed November 10, 2016


United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re § Chapter 11
ERICKSON INCORPORATED, *et al.*,¹ § Case No. 16-34393-hdh
Debtors. § (Joint Administration Requested)
§

**ORDER (I) AUTHORIZING CONTINUED USE OF EXISTING BUSINESS FORMS
AND RECORDS; (II) AUTHORIZING MAINTENANCE OF EXISTING CORPORATE
BANK ACCOUNTS AND CASH MANAGEMENT SYSTEM,
(III) WAIVING CERTAIN U.S. TRUSTEE REQUIREMENTS, AND
(IV) AUTHORIZING CONTINUATION OF INTERCOMPANY TRANSACTIONS
WITH SECTION 364(a) ADMINISTRATIVE PRIORITY**

Upon the motion (the “**Motion**”)² of the above-referenced Debtors (the “**Debtors**”) for
an Order (i) Authorizing Continued Use of Existing Business Forms and Records; (ii)

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Erickson Incorporated (7561); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Erickson Transport, Inc. (9162); Evergreen Helicopters International, Inc. (1311); Evergreen Equity, Inc. (9209); and Evergreen Unmanned Systems, Inc. (3961). The location of the Debtors’ service address is 5550 SW Macadam Avenue, Suite 200, Portland, OR 97239.



Authorizing Maintenance of Existing Corporate Bank Accounts and Cash Management System; (iii) Waiving Certain U.S. Trustee Requirements, and (iv) Authorizing Continuation of Intercompany Transactions with Section 364(a) Administrative Priority, all as more fully described in the Motion; and the Court finding that: (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; (iv) proper and adequate notice of the Motion has been given and no other or further notice is necessary; and (v) upon the record herein after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein; it is hereby ORDERED:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized to continue using their existing Cash Management System as described in the Motion, subject to the terms and conditions of the debtor-in-possession financing, for which the Debtors have sought authority by separate motion.

3. The Debtors shall maintain records of all transfers within the Cash Management System so that all transfers and transactions shall be adequately and promptly documented in, and ascertainable from, the Debtors' books and records, to the same extent as maintained prior to the commencement of the Chapter 11 Cases.

Cash Management System and Bank Accounts

4. Subject to the terms and conditions of the debtor-in-possession financing, for which the Debtors have sought authority by separate motion, the Debtors are authorized but not directed to (a) maintain and continue to use the Bank Accounts in the same manner and with the same account numbers, styles, and document forms as are currently employed, (b) deposit funds

² All capitalized terms used but otherwise not defined herein shall have the meanings set forth in the Motion.

in, and withdraw funds from, the Bank Accounts by all usual means, including checks, wire transfers, automated clearinghouse (“ACH”) transfers, drafts, electronic fund transfers, or other items presented, issued or drawn on the Bank Accounts, (c) pay postpetition ordinary course bank fees in connection with the Bank Accounts, (d) perform their obligations under the documents and agreements governing the Bank Accounts, and (e) treat the Bank Accounts for all purposes as accounts of the Debtors in their capacities as debtors in possession.

5. The Debtors are authorized (i) to maintain their Bank Accounts subject to control agreements in place now with the Prepetition Revolving Agent and such other agreements that may be in form and substance acceptable to the DIP Revolving Agent (as defined in the DIP Financing Motion) and (ii) to continue in place the first-priority perfected liens on all of the cash in the Bank Accounts in favor of the Prepetition Revolving Agent (and thereafter the DIP Revolving Agent) and grant the DIP Revolving Agent and/or its authorized representative “view-only” electronic access to each of the Bank Accounts.

6. The Debtor shall: (i) instruct Wells Fargo to add the designation, “Debtor-in-Possession Case No. 16-34393” to its current and any future domestic Accounts; (ii) treat the Accounts for all purposes as Accounts of the Debtor as Debtor-in-Possession; and (iii) maintain records that recognize the distinction between prepetition and postpetition transfers.

7. Wells Fargo is authorized to (a) continue to administer, service, and maintain the Bank Accounts as such accounts were administered, serviced, and maintained prior to the Petition Date, without interruption in the usual and ordinary course and in accordance with the Account Agreements (defined below) and (b) pay any and all checks, drafts, wires, ACH transfers, electronic fund transfers, or other items presented, issued, or drawn on the Bank Accounts (collectively, the “Debits”) on account of a claim arising on or after the Petition Date so long as there are sufficient cleared funds in the relevant Bank Accounts.

8. Wells Fargo is restrained and prohibited from honoring any Debit presented, issued, or drawn on any Bank Account on account of a claim arising prior to the Petition Date (a “**Prepetition Debit**”), unless the payment of such claim (a) has been represented by the Debtors to have been authorized by an order of this Court, (b) has been directed by the Debtors and not otherwise prohibited by a “stop payment” request received by the relevant Bank from the Debtors, and (c) is supported by sufficient cleared funds in the relevant Bank Account.

9. Notwithstanding anything herein to the contrary, (a) those certain existing deposit agreements between the Debtors and Wells Fargo (the "**Account Agreements**") shall continue to govern the postpetition cash management relationship between the Debtors and Wells Fargo, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect, and (b) in the course of providing cash management services to the Debtors, Wells Fargo is authorized, without further Order of this Court, to deduct from the appropriate accounts of the Debtors its customary fees and expenses (including without limitation customary fees and expenses associated with honoring "stop payment" requests) associated with the nature of the deposit and cash management services rendered to the Debtors, whether arising prepetition or postpetition (collectively, the “**Bank Fees**”), and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including, without limitation, returned items that result from automated clearing house transactions, wire transfers, or other electronic transfers of any kind (collectively, "**Returned Items**"), regardless of whether such items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers.

10. Wells Fargo is authorized to debit from the appropriate accounts of the Debtors in the ordinary course of business and without further order of this Court on account of all checks

drawn on the Debtors' accounts which are cashed at Wells Fargo's counters or exchanged for cashier's or official checks by the payees thereof prior to the Petition Date.

11. The Debtors shall at all times maintain sufficient balances in the Bank Accounts so as to secure their obligations to the Banks for cash management and related services to the Debtors, and no liens on any Bank Account granted to any creditor (including the DIP Revolving Agent or any other secured creditor with such liens (in each case, as defined in the DIP Financing Orders)) shall take priority over the Bank Fees of the Bank where the account is located.

12. Subject to the provisions of this Order, Wells Fargo is authorized and directed to rely on the representations of the Debtors as to which Debits are authorized to be honored or dishonored, whether or not such Debits are dated prior to, on, or subsequent to the Petition Date, and whether or not the Bank believes the payment is authorized by an order of the Court. No Bank (as defined below) shall be liable to the Debtors or their estates, or otherwise held in violation of this Order, for honoring a Prepetition Debit or other Debit at the direction of the Debtors to honor such Prepetition Debit or other Debit. To the extent that the Debtors direct that any Debit be dishonored, the Debtors may issue replacement Debits consistent with the orders of this Court.

13. The Debtors' banks and other financial institutions (collectively, the "**Banks**") shall be and hereby are authorized and directed to receive, process, honor and pay all prepetition checks and electronic fund transfers that are authorized under this Order, provided that sufficient and cleared funds are on deposit in the applicable accounts to cover such payments. In doing so, the Banks are authorized to rely on the representations of the Debtors as to which checks and fund transfers are issued or authorized to be paid pursuant to this Order. If any of the Banks honors a prepetition check or other item drawn on any account that is the subject of this Order:

(a) at the direction of the Debtors to honor such prepetition check or item, (b) in good faith belief that this Court has authorized such prepetition check or item to be honored, or (c) as a result of an innocent mistake, such Banks shall not be deemed to be liable to the Debtors or their estates or otherwise in violation of this Order.

14. Wells Fargo is authorized to continue to honor any standing instructions of the Debtors with respect to daily or periodic wires, ACH transfers or other debits made to the Bank Accounts in accordance with the Debtors' prepetition instructions.

15. The Debtors are authorized to implement such changes to the Cash Management System as the Debtors may deem necessary or appropriate, including, without limitation, closing any of the Bank Accounts or opening any additional bank accounts (the “**New Accounts**”), wherever the Debtors deem that such accounts are needed or appropriate, and whether or not the banks in which such accounts are opened are designated depositories in the Northern District of Texas and all such New Accounts shall be deemed to be Bank Accounts; provided that (a) any such changes to the Cash Management System are permitted under the terms of the DIP Credit Agreements and DIP Financing Orders in favor of the DIP Revolving Agent, (b) the Debtors have obtained the prior written consent of the DIP Revolving Agent (as defined in the DIP Financing Motion) or, if such consent is not provided, obtained further order of the Court after notice and a hearing, (b) any New Account shall be (i) with a bank that is organized under the laws of the United States of America or any state therein and that is insured by the Federal Deposit Insurance Corporation and (ii) designated a “Debtor-in-Possession” account by the relevant bank, and (c) the Debtors shall provide the U.S. Trustee with notice of any New Accounts. Subject to the terms of the DIP Credit Agreements and the DIP Financing Orders in favor of the DIP Revolving Agent and, with respect to all New Accounts subject to a control agreement in favor of Wells Fargo as secured party, with Wells Fargo's prior written consent,

Banks, including Wells Fargo, are authorized to honor the Debtors' requests to open or close (as the case may be) such New Account(s). If upon receipt of notice of such New Accounts the U.S. Trustee advises the Debtors that such New Accounts are not Approved Depositories in the Northern District of Texas and/or the parties are not able to reasonably resolve disputes, if any, regarding such New Accounts, the Debtors shall seek approval of the Court, pursuant to 11 U.S.C. § 345.

16. Notwithstanding anything in this Order to the contrary, the authority and approvals granted by the terms of this Order to the Debtors, including with respect to the opening and closing of Bank Accounts and continuation of the Cash Management System, shall be in all respects subject to the terms, conditions, limitations, and requirements set forth in the financing orders (together with any and all approved budgets thereto) entered in the Chapter 11 Cases in favor of Wells Fargo Bank, N.A., as DIP Revolving Agent.

17. Pursuant to sections 503(b)(1) and 364(a) of the Bankruptcy Code, postpetition Intercompany Transfers to the extent unpaid shall be afforded administrative expense claim status, subject in all instances to the superpriority claims and liens granted under the DIP Facilities, including such claims under sections 507(b) and 364(c)(1) of the Bankruptcy Code (as defined in the DIP Financing Motion).

Waiver of U.S. Trustee Guidelines

18. The U.S. Trustee Guideline requiring that the Debtors close all existing Bank Accounts and open new debtor-in-possession accounts is waived.

19. The U.S. Trustee Guideline requiring that the Debtors open separate debtor-in-possession accounts for payroll is waived.

20. The U.S. Trustee Guidelines requiring that the Debtors open separate debtor-in-possession accounts for the payment of taxes and deposit to such specific tax accounts sufficient funds to pay any tax liability (when incurred) associated with the Debtors' payroll are waived.

21. The Debtors are authorized to continue using check stock in the forms existing immediately prior to the Petition Date, but are required to note the Debtors' status of "Debtors-in-Possession Case No. 16-34393" in the memo line of any check issued. In the event that the Debtors generate new checks during the pendency of these cases other than from their existing stock of checks, such checks shall include a legend referring to the Debtors as "Debtor-in-Possession."

22. The Debtors are authorized to use all correspondence and other business forms (including, without limitation, letterhead, purchase orders, and invoices) substantially in the forms existing immediately prior to the Petition Date, without reference to the Debtors' status as debtors in possession.

23. Notwithstanding anything to the contrary in the Motion (or any document attached thereto), to the extent that there is a conflict between the terms and conditions of the Motion (or any document attached thereto) and the terms and conditions of this Order, the terms and conditions of this Order shall govern.

24. To the extent that the U.S. Trustee Guidelines otherwise conflict with (a) the Debtors' existing practices under the Cash Management System or (b) any action taken by the Debtors in accordance with this Order or any other order entered in the Debtors' Chapter 11 Cases, such Guidelines are waived.

25. To the extent that the requirements set forth in Section 345(b) of the Bankruptcy Code are inconsistent, or otherwise conflict, with (a) the Debtors' cash management practices under the Cash Management System as approved by this Order or (b) any action taken by the

Debtors in accordance with this Order or any other order entered in the Chapter 11 Cases, such requirements are and shall be waived; provided, however, that the Debtors shall not place funds in any Bank Account that is not insured or exceeds the amount insured by the FDIC.

Other Orders

26. To the extent necessary, the Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

27. To the extent applicable, the requirements of Bankruptcy Rule 6004(a) are waived.

28. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

29. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

###END OF ORDER###

Submitted By:

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PROPOSED ATTORNEYS FOR DEBTORS