

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10527 (MWF)

(Jointly Administered)

Ref. Docket No. 9

**INTERIM ORDER (A) AUTHORIZING THE DEBTORS TO (I) CONTINUE TO SELL
CONSIGNED GOODS IN THE ORDINARY COURSE OF BUSINESS FREE AND
CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; AND (II)
GRANT ADMINISTRATIVE EXPENSE PRIORITY AND PURCHASE MONEY
SECURITY INTERESTS TO CONSIGNMENT VENDORS FOR CONSIGNED GOODS
DELIVERED POSTPETITION; AND (B) GRANT REPLACEMENT LIENS TO
CONSIGNMENT VENDORS WITH SECURITY INTERESTS AND/OR HOLDING
TITLE OR OWNERSHIP RIGHTS IN CONSIGNED GOODS AND/OR REMIT THE
CONSIGNMENT SALE PRICE ARISING FROM SALE OF CONSIGNED GOODS TO
PUTATIVE CONSIGNMENT VENDORS**

Upon the *Debtors' Motion for Interim and Final Orders (a) Authorizing the Debtors to (i) Continue to Sell Consigned Goods in the Ordinary Course of Business Free and Clear of All Liens, Claims and Encumbrances and (ii) Grant Administrative Expense Priority to Consignment Vendors for Consigned Goods Delivered Postpetition; and (b) Grant Replacement Liens to Consignment Vendors with Perfected Security Interests in Consigned Goods and/or Remit the Consignment Sale Price Arising from Sale of Consigned Goods to Putative Consignment Vendors* (the "Motion")² filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); and objections to the Motion having been asserted, either in a

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings, Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.

² All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.



writing filed with the Court or orally at the hearing on the Motion on March 3, 2016, by various Consignment Vendors of the Debtors, including (without limitation) Agron, Inc., Gordini, SGS Sports, Castlewood Apparel Corp., Implus Footcare, LLC, and Asics America Corporation; and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and the Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the Court having considered the First Day Declaration; and upon the record of the hearing and all of the proceedings had before the Court; and the Court having overruled the objections solely to the extent necessary for entry of this Interim Order and the relief provided for herein, and the Court having found that the relief sought in the Motion, as modified by the Debtors at the hearing and as set forth in this Interim Order, is in the best interests of the Debtors and their estates; and the Court having found that the legal and factual bases set forth in the Motion and on the record of the hearing 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 as set forth herein on an interim basis until such time as the Court conducts a final hearing on this matter (the "Final Hearing").
2. The Final Hearing shall take place on March 29, 2016 at 1:00 p.m. (prevailing Eastern Time). Any objections or responses to the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on March 22, 2016 and served on the parties required by Local Rule

2002-1(b). All objections previously filed with respect to the Motion shall be deemed to apply at the Final Hearing, shall be considered by the Court in connection therewith, and are not required to be re-filed. Any Consignment Vendor who previously filed an objection to the Motion or who joined in a previously filed objection may file a supplement to the prior objection or joinder by the March 22, 2016 deadline set forth above. The Court did not make any final ruling on the previously filed objection(s) or joinder(s) at the interim hearing and nothing set forth in this Interim Order constitutes a ruling with respect to any such objection or joinder with respect to the Final Hearing.

3. Subject to the entry of a final order and to the terms of each applicable consignment agreement (except as specifically modified by this Interim Order), the Debtors are authorized to sell the Consigned Goods received before the Petition Date (the “Prepetition Consigned Goods”) from the Consignment Vendors, with all liens, claims and interests in the Prepetition Consigned Goods, if any, to attach to the applicable proceeds of sale of the Prepetition Consigned Goods (the “Consignment Sale Proceeds”) in each case with the same legal, right, title and/or ownership or other interest and/or the same validity, priority, enforceability and effect as existed as of the Petition Date with respect to such Prepetition Consigned Goods.

4. The Debtors shall deposit all the Consignment Sale Proceeds from the post-petition sale of Prepetition Consigned Goods into a separate escrow account at Wells Fargo Bank, N.A. (the “Escrow Account”). The contents of the Escrow Account (the “Escrow Proceeds”) shall remain segregated until the earliest of the following to occur: (a) written agreement by the Debtors; the DIP Agent; the DIP FILO Agent; Bank of America, N.A., as agent under the ABL Credit Agreement (the “ABL Agent”); the FILO Agent; and Wilmington Savings

Fund Society, FSB, as successor administrative agent (the "Term Agent") under that certain Amended and Restated Credit Agreement, dated as of November 16, 2010, by and among The Sports Authority, Inc., as borrower, Slap Shot Holdings Corp., TSA Stores, Inc., and TSA Gift Card, Inc. as guarantors, Bank of America, N.A., as administrative agent, and the lenders named therein (the DIP Agent, the DIP FILO Agent, the ABL Agent, the FILO Agent, and the Term Agent, collectively, the "Secured Lender Agents"); and any Consignment Vendor that asserts an interest in the Escrow Proceeds, or (b) further order of this Court that directs the Debtors where and when to disburse the Escrow Proceeds. The Debtors shall maintain a record of all Prepetition Consigned Goods that are sold on and after the Petition Date and the corresponding Consignment Sale Proceeds. The Debtors shall provide each Consignment Vendor but no more frequently than once every week, a report regarding the sale of each Consignment Vendor's respective Consigned Goods, the amount of Consignment Sale Proceeds in the Escrow Account, and any amounts disbursed from the Escrow Account. At any time on or after March 10, 2016, a Consignment Vendor may provide the Debtors with written notice to stop selling such Consignment Vendor's Prepetition Consigned Goods. Upon receipt of such notice, the Debtors shall segregate the Prepetition Consigned Goods provided by that Consignment Vendor and cease all sales thereof pending further order of the Court.

5. Upon the agreement referenced in Paragraph 4(a) above, the Debtors are hereby authorized to release that amount of the Escrow Proceeds received on account of the sale of the subject Consignment Vendor's Prepetition Consigned Goods.

6. To the extent that the Debtors believe after reasonable due diligence that there is a legitimate case or controversy as to whether a Consignment Vendor has a valid, perfected, unavoidable and senior lien or ownership right or interest in the Prepetition Consigned Goods,

then the Debtors shall, in their discretion, on or before March 23, 2016, file an adversary proceeding (a "Consignment Challenge") in this Court seeking, among other things, a declaration that such Consignment Vendor does not have a valid, perfected, unavoidable and senior lien or ownership right or interest in the Prepetition Consigned Goods, or be forever barred from bringing such action. The Secured Lender Agents shall also have standing to assert any Consignment Challenge with respect to the matters described in this Paragraph 6 to the extent that the Debtors inform them and the respective Consignment Vendor on, or before March 16, 2016, that the Debtors do not intend to bring a Consignment Challenge with respect to a particular Consignment Vendor. Upon the filing of a Consignment Challenge, absent written consent of the Consignment Vendor, the Debtors shall immediately (i) cease, desist, and refrain from selling any of the Consignment Vendor's Prepetition Consigned Goods; and (ii) segregate and account to the Consigned Vendor for all remaining Consigned Vendor's Prepetition Consigned Goods. To the extent that a Consignment Challenge is brought against a Consignment Vendor (whether by the Debtors or any of the Secured Lender Agents), the Debtors shall not settle or otherwise resolve such Consignment Challenge without first consulting with each Secured Lender Agent asserting an interest in the Prepetition Consigned Goods. This Court shall retain jurisdiction over all matters related to any Consignment Challenge. Nothing in this Interim Order shall preclude a Consignment Vendor from bringing an action seeking to recover any portion of the Escrow Proceeds in which the Consignment Vendor asserts an interest that is not otherwise subject to a Consignment Challenge.

7. The Debtors are authorized to order and receive Consigned Goods from Consignment Vendors. In exchange for the postpetition delivery of such Consigned Goods (the "Postpetition Consigned Goods"), the applicable Consignment Vendor shall hold (i) a first

priority purchase money security interest in such Postpetition Consigned Goods and in the Consignment Sale Proceeds therefrom, (ii) a superpriority administrative expense claim under section 507(b) of the Bankruptcy Code to the extent of any diminution in the value of the Consignment Vendor's postpetition secured claim, and (iii) an allowed administrative expense claim under section 503(b) of the Bankruptcy Code. The Consignment Vendor's section 507(b) superpriority claim will be treated *pari passu* with any other superpriority claim granted in this bankruptcy case. The perfection of the postpetition security interest in Postpetition Consigned Goods and proceeds thereof will be deemed effective without the need to file any financing statement or further notice to any party in interest, including the Secured Lender Agents. The Debtors shall remit the Consignment Sale Price to the applicable Consignment Vendors on account of the sale of their respective Postpetition Consigned Goods in the ordinary course of business.

8. This Interim Order shall not constitute findings of fact or conclusions of law with respect to any potential case or controversy regarding the Consigned Goods, including but not limited to a determination that any Consignment Vendor is or is not entitled to adequate protection, that the Consigned Goods are property of the Debtors' estates as that term is defined at section 541 of the Bankruptcy Code, that any Consignment Vendor does or does not have a consignment relationship with the Debtors, that any Consignment Vendor holds or does not own, hold right, title to, or have any ownership or other interest in Consigned Goods or otherwise, or that any Consignment Vendor has or does not have a valid, enforceable, non-avoidable and perfected lien or encumbrance on any Consigned Goods, and it is expressly understood that all parties are reserving all rights on such issues. All such rights shall be unaffected by this Interim Order and the status quo of such rights as of the Petition Date is to be undisturbed.

9. Except as expressly provided herein, nothing in this Interim Order shall decrease or increase the rights of any party with respect to the Consigned Goods, or take away or provide any Consignment Vendor with any interest in the proceeds of any Consigned Goods that are less than or greater than the interest that such Consignment Vendor would have absent the entry of this Interim Order. The Debtors shall not settle or otherwise resolve any Consignment Challenge without first providing the Secured Lender Agents with no fewer than ten (10) days' advance written notice of a motion pursuant to Bankruptcy Rule 9019 seeking approval of the terms of such proposed settlement or resolution, and thereafter consulting with the Secured Lender Agents with respect to such proposed settlement or resolution. All rights of the Secured Lenders and the Secured Lender Agents to intervene in any Consignment Challenge and/or to commence any action against any Consignment Vendor or any other party to preserve, defend, or assert any rights or interests that the Secured Lenders and the Secured Lender Agents may have are expressly reserved and are not impaired by this Interim Order.

10. This Interim Order shall govern the treatment of Prepetition Consigned Goods and Consignment Sale Proceeds with respect to all sales by the Debtors, including going out of business ("GOB") sales. To the extent that the Court's interim order granting the Debtors' motion regarding closing store procedures on a limited basis (Doc. 156), or future order granting the Debtors' motion for authority to sell substantially all assets (Doc. 106), conflicts with the terms of this Interim Order as to the treatment of the Consignment Sale Price, the terms of this Interim Order shall govern as to the treatment of the Consignment Sale Price.

11. Nothing in the Motion or this Interim Order shall be deemed or construed as:
(a) an admission as to the existence or validity of any claim, lien, or encumbrance against the Debtors or their estates; (b) an admission or waiver with respect to any claim of ownership or

other interest in the Consigned Goods and/or proceeds therefrom; (c) a waiver of the Debtors' right to dispute any claim, lien, or encumbrance; (d) an approval or assumption of any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (e) an admission of the priority status of any claim; or (f) a modification of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Consignment Vendor.

12. To the extent that Bankruptcy Rule 6004(h) is applicable, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

14. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

15. The Debtors shall serve a copy of this Order, within one (1) business day after entry of this Order upon each Consignment Vendor, by first class mail and by either facsimile or email, and shall immediately thereafter file a certification of service that includes the facsimile number or email address used for such service.

Dated: March 11, 2016
Wilmington, Delaware



MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE