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Hearing Date: July 29, 2009, at 10:00 a.m. (ET)
Objection Deadline: July 23, 2009, at 4:00 p.m. (ET)

Attorneys for General Growth Properties, Inc.,
Debtors and Debtors-in-Possession, and
Turnberry Associates

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re)	Chapter 11
)	
CRABTREE & EVELYN, LTD.,)	
)	Case No. 09-14267 (BRL)
Debtor.)	
)	

OBJECTION OF GENERAL GROWTH PROPERTIES, INC., AND TURNBERRY ASSOCIATES TO DEBTOR'S MOTION FOR FINAL ORDER (I) AUTHORIZING DEBTOR TO OBTAIN POST-PETITION FINANCING PURSUANT TO SECTION 364 OF THE BANKRUPTCY CODE, (II) AUTHORIZING USE OF CASH COLLATERAL PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE, (III) GRANTING LIENS AND SUPER-PRIORITY CLAIMS, (IV) GRANTING ADEQUATE PROTECTION TO THE PRE-PETITION LENDER

General Growth Properties, Inc., debtor and debtor in possession, and Turnberry Associates (collectively, the "Landlords"), by and through their undersigned counsel, Kelley Drye & Warren LLP, hereby object to the motion of the above-captioned debtor, Crabtree & Evelyn, Ltd. (the "Debtor"), for a final order: (i) authorizing the Debtor to obtain post-petition financing pursuant to section 364 of the bankruptcy code, (ii) authorizing use of cash collateral pursuant to section 363 of the bankruptcy code, (iii) granting liens and super-priority claims,

(iv) granting adequate protection to the pre-petition lender (the “DIP Motion”).¹ In support of their objection, the Landlords respectfully state as follows:

BACKGROUND

1. On July 1, 2009 (the “Petition Date”), the Debtor filed its voluntary petition for relief under Chapter 11 of the United States Code in the Bankruptcy Court for the Southern District of New York.

2. On July 2, 2009, the Court held a hearing on the first day motions and entered an order approving, *inter alia*, post-petition financing on an interim basis (the “Interim DIP Order”).²

3. The Debtor remains in possession of its properties and continues to manage its businesses as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner.

4. On July 10, 2009, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors.³

THE LEASES

5. The Landlords are the owners or managing agents for the owners of numerous shopping centers located throughout the United States. The Debtor leases retail space from the Landlords at the Debtor’s stores on the list attached hereto as **Exhibit A** (collectively, the “Leased Premises”) pursuant to separate written lease agreements for each of the Leased Premises (collectively, the “Leases”).

¹ Docket no. 16.
² Docket no. 34.
³ Docket no. 74.

6. All of the Leased Premises are located in shopping centers as that term is used in section 365(b)(3) of the Bankruptcy Code. See *In re Joshua Slocum, Ltd.*, 922 F.2d 1081 (3d Cir. 1990).

THE DIP LENDER'S COLLATERAL ACCESS RIGHTS IN THE EVENT OF DEFAULT

7. Counsel for the Landlords have had productive discussions with counsel for the Debtor and the DIP Lender⁴ regarding the proposed final DIP order, and the parties have reached an agreement on several issues. However, the extent of the DIP Lender's right to use and occupy the Leased Premises ("Collateral Access Rights"), without further Order of the Bankruptcy Court, in the event of a default by the Debtor remains unresolved.

8. The Interim DIP Order provides that unless the DIP Lender is party to a separate agreement with a particular landlord, in which case that agreement controls, the DIP Lender may only access the Leased Premises if "(i) the DIP Lender has the right to enter onto the leased premises to access the Collateral pursuant to applicable non-bankruptcy law, (ii) the applicable landlord consents, or (iii) the Debtor or the DIP Lender returns to Court on appropriate notice to the affected landlords and obtains entry of a subsequent order authorizing such access to the leased premises."⁵

9. Upon information and belief, the proposed final DIP order will not restrict Collateral Access Rights to the same extent as the Interim DIP Order, and it appears the only limit imposed on the DIP Lender is the existence of a separate agreement with the relevant landlord that may or may not restrict Collateral Access Rights.⁶

⁴ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Final DIP Motion.

⁵ Interim DIP Order at ¶ 13.

⁶ Proposed Final DIP Order at ¶ 13.

OBJECTION

A. The DIP Lender's Right to Enter, Use and Occupy the Leased Premises In the Event of Default Must Be on the Consent of the Landlords and Subject to Further Order of the Court

10. The Landlords object to entry of an order that would authorize the DIP Lender to use and occupy the Leased Premises in the event that the Debtor defaults under the terms of the DIP financing documents without sufficient landlord consent or the opportunity for a hearing following such default. Pursuant to the proposed final DIP orders, the Landlords will be given written notice of the default but will not be given notice of when the DIP Lenders will access the Leased Premises nor the duration of their occupancy.

11. While the final DIP order grants the DIP Lender all of the Debtor's rights and privileges under the Lease, the only obligation mentioned is that the DIP Lender will be responsible for paying rent and royalties under the Lease that first accrue after written notice to the Landlords. As such, the final DIP order is silent with respect to other obligations of the lessee under the Lease. If the DIP Lender wants the benefits of the lessee under the Lease, the Landlords assert that equity demands the DIP Lender be bound by all obligations of the lessee under the Lease.

12. While the Landlords appreciate the DIP Lender's desire to access its collateral, they cannot allow for unapproved access to their property for an indeterminate amount of time. To protect the rights of the Landlords, the final DIP order must prohibit the DIP Lender from entering and using the Leased Premises absent the express written consent of the Landlords, without further order of this Court, after a separate motion requesting such relief on appropriate notice to the Landlords, or under whatever rights the DIP Lender may have under applicable non-bankruptcy law. The Landlords believe these restrictions on Collateral Access

Rights are warranted. Multiple courts across the country, including this district, have entered precisely the same language that the Landlords seek to have included in the Final DIP Order in this case.⁷ The relevant portions of those DIP orders are attached hereto as **Exhibit B**.

13. Alternatively, if this Court does grant collateral access in the event of a default upon solely the DIP Lender's notice to the Landlords, the final DIP order should require the DIP Lender to exercise such Collateral Access Rights and provide notice of their exercise, within two days of the default by the Debtors, and the DIP Lender should be responsible for all outstanding post-petition charges due under the Lease, and additionally the duration of the DIP Lender's access should be limited to 30 days.

⁷ See *In re Fortunoff Holdings, LLC and Fortunoff Card Co., LLC*. (Bankr. S.D.N.Y.) 00-10497 (RDD) (entered on 3/12/09); *In re Circuit City Stores, Inc., et al.* (Bankr. E.D.Va) 08-35653 (KRH) (entered on 12/23/08); *In re Goody's Family Clothing, Inc., et al.* (Bankr. D. Del.) 08-11133 (CSS) (entered on 7/16/08); *In re Sportsman's Warehouse, Inc., et al.* (Bankr. D. Del.) 09-10990 (CSS) (entered on 4/16/09); *In re S&K Famous Brands, Inc.* (Bankr. E.D.Va.) 09-30805 (KRH) (entered on 3/6/09); *In re Linens Holding Co., et al.* (Bankr. D. Del.) 08-10832 (CSS) (entered on 5/28/08).

CONCLUSION

WHEREFORE, the Landlords respectfully request that the Court enter an order (i) requiring the Debtor or the DIP Lender to seek a further order of the Court on notice to the Landlords before the DIP Lender may use or occupy the Leased Premises; and (ii) granting such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 24, 2009

KELLEY DRYE & WARREN LLP

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EXHIBIT A

GENERAL GROWTH PROPERTIES, INC. (Debtor and Debtor in Possession)	
Mall Name	Location
Beachwood Place	Beachwood, OH
Burlington Town Center	Burlington, VT
Coronado Center	Albuquerque, NM
Faneuil Hall Marketplace	Boston, MA
Ala Moana Center	Honolulu, HI
The Maine Mall	South Portland, ME
Staten Island Mall Phase I	Staten Island, NY
St. Louis Galleria	St. Louis, MO
Woodbridge Center	Woodbridge, NJ
Alderwood	Lynwood, WA
Bridgewater Commons	Bridgewater, NJ
Glendale Galleria	Glendale, CA
Kenwood Towne Center	Cincinnati, OH
Natick Mall	Natick, MA
Oakbrook Center	Oakbrook, IL
Paramus Park	Paramus, NJ
Perimeter Mall	Atlanta, GA
The Mall in Columbia	Columbia, MD
The Streets at Southpoint	Durham, NC
Towson Town Center	Towson, MD
Village of Merrick Park	Coral Gables, FL
Water Tower Place	Chicago, IL

TURNBERRY ASSOCIATES	
Mall Name	Location
Las Vegas Town Square	Las Vegas, NV
Aventura Mall	Aventura, FL

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
In re: : Chapter 11
: :
FORTUNOFF HOLDINGS, LLC, and : Case No. 09-10497(RDD)
FORTUNOFF CARD COMPANY, LLC : :
: :
Debtors. : (Jointly Administered)
----- X

FINAL ORDER PURSUANT TO 11 U.S.C. SECTIONS 105, 361, 362, 363 AND 364 AND RULES 2002, 4001 AND 9014 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE (1) AUTHORIZING INCURRENCE BY THE DEBTOR OF POST-PETITION SECURED INDEBTEDNESS WITH PRIORITY OVER ALL SECURED INDEBTEDNESS AND WITH ADMINISTRATIVE SUPERPRIORITY, (2) GRANTING LIENS, (3) AUTHORIZING USE OF CASH COLLATERAL BY THE DEBTOR PURSUANT TO 11 U.S.C. SECTION 363 AND PROVIDING FOR ADEQUATE PROTECTION, AND (4) MODIFYING THE AUTOMATIC STAY

THIS MATTER having come before the Court upon the Motion (the “**DIP Motion**”) of Fortunoff Holdings, LLC and Fortunoff Card Company, LLC, each a debtor and debtor-in-possession (collectively, the “**Debtors**”) in the above captioned Chapter 11 Case (the “**Chapter 11 Case**”), seeking, among other things, the entry of an interim order (the “**Interim Order**”) and a final order authorizing the Debtors to:

(i) Obtain credit and incur debt pursuant to Sections 363, 364(c) and 364(d) of the Bankruptcy Code, up to the aggregate committed amount of \$80,000,000 (on terms and conditions more fully described herein) secured by first priority, valid, priming, perfected and enforceable liens (as defined in Section 101(37) of Chapter 11 of Title 11 of the United States Code, as amended (the “**Bankruptcy Code**”)) on property of the Debtors’ estates pursuant to Sections 364(c)(2), 364(c)(3) and 364(d) of the Bankruptcy Code, and with priority, as to administrative expenses, as provided in Section 364(c)(1) of the Bankruptcy Code, subject to the terms and conditions contained herein;

(ii) (a) Establish that financing arrangement (the “**DIP Facility**”) pursuant to: (I) that certain Debtor-In-Possession Credit Agreement, substantially in the form filed of record in the Chapter 11 Case by and among Fortunoff Holdings, LLC, as Lead Borrower, Fortunoff Card Company, LLC, as

- (l) a termination of or material breach by any party to the Agency Agreement.

Unless and until the Pre-Petition Liabilities and DIP Obligations are irrevocably repaid in full in cash, all commitments to lend have irrevocably terminated, all Letters of Credit (as defined in the DIP Credit Agreement) have been cash collateralized in accordance with the DIP Credit Agreement, and all DIP Obligations that survive termination of the obligations have been cash collateralized to the reasonable satisfaction of the Pre-Petition Agent and DIP Agent, and the Pre-Petition Indemnity Account has been established, the protections afforded to Pre-Petition Secured Parties and the DIP Secured Parties pursuant to the Interim Order and this Final Order and under the DIP Credit Agreement, and any actions taken pursuant thereto, shall survive the entry of any order confirming a Plan or converting this Chapter 11 Case into a Successor Case, and the DIP Liens, the DIP Superpriority Claim, the Pre-Petition Replacement Liens, and the Pre-Petition Superpriority Claim shall continue in these proceedings and in any Successor Case, and such DIP Liens, DIP Superpriority Claim, Pre-Petition Replacement Liens, and the Pre-Petition Superpriority Claim shall maintain their priority as provided by the Interim Order and this Final Order.

17. **Rights and Remedies Upon Event of Default.**

(a) Any automatic stay otherwise applicable to the Pre-Petition Secured Parties and DIP Secured Parties is hereby modified so that after the occurrence of any Event of Default and at any time thereafter, upon five (5) business days prior written notice of such occurrence, in each case given to each of the Debtors, counsel to the Debtors, counsel to the Creditors' Committee, and the United States Trustee, the Pre-Petition Secured Parties, and the DIP Secured Parties, shall be entitled to exercise their rights and remedies in accordance with the Pre-Petition Credit Agreement and the DIP Credit Agreement, as applicable. Notwithstanding the foregoing, solely with respect to real property leasehold premises, the Pre-Petition Secured Parties and the DIP

Secured Parties' rights and remedies are limited to (i) further order of this Bankruptcy Court; (ii) agreement with the applicable landlord; or (iii) applicable state law. Immediately following the giving of notice by the Pre-Petition Agent of the occurrence of an Event of Default: (i) the Debtors shall continue to deliver and cause the delivery of the proceeds of Collateral to the Pre-Petition Agent as provided in this Final Order; (ii) the Pre-Petition Agent shall continue to apply such proceeds in accordance with the provisions of this Final Order and the Pre-Petition Credit Agreement; and (iii) the Debtors shall have no right to use any of such proceeds, nor any other Cash Collateral other than towards the satisfaction of the Pre-Petition Liabilities and the Carve Out. Following the giving of written notice by the Pre-Petition Agent of the occurrence of an Event of Default, the Debtors shall be entitled to an emergency hearing before this Court solely for the purpose of contesting whether an Event of Default has occurred. If the Debtors do not contest the right of the Pre-Petition Secured Parties to exercise their remedies based upon whether an Event of Default has occurred within such time period, or if the Debtors do timely contest the occurrence of an Event of Default and this Court, after notice and hearing, declines to stay the enforcement thereof, the automatic stay as to the Pre-Petition Secured Parties shall automatically terminate at the end of such notice period.

(b) Subject to the provisions of paragraph 17(a), upon the occurrence of an Event of Default, the Pre-Petition Secured Parties are authorized to exercise their remedies and proceed under or pursuant to the Pre-Petition Credit Agreement. All proceeds realized from any of the foregoing shall be turned over to the Pre-Petition Agent for application to the Carve Out (provided that any application of such proceeds to the Carve Out shall not reduce the Pre-Petition Liabilities), and Pre-Petition Liabilities under, and in accordance with the provisions of, the Pre-Petition Credit Agreement and this Final Order.

(l) No Waivers or Modification of Final Order. The Debtors irrevocably waive any right to seek any modification or extension of this Final Order without the prior written consent of the Agents and no such consent shall be implied by any other action, inaction or acquiescence of the Agents.

(m) Waiver of any Applicable Stay. Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Final Order.

The Bankruptcy Court has and will retain jurisdiction to enforce this Final Order according to its terms.

SO ORDERED by the Court this 12 day of March, 2009.

/s/Robert D. Drain
THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

-----:
In re: : Chapter 11
: :
CIRCUIT CITY STORES, INC., et al. : Case Nos. 08-35653 through 08-35670
Debtors : Jointly Administered
: :
: :
-----:

**FINAL ORDER PURSUANT TO 11 U.S.C. SECTIONS 105, 361, 362, 363 AND 364 AND
RULES 2002, 4001 AND 9014 OF THE FEDERAL RULES OF BANKRUPTCY
PROCEDURE (1) AUTHORIZING INCURRENCE BY THE DEBTORS OF POST-
PETITION SECURED INDEBTEDNESS WITH PRIORITY OVER ALL SECURED
INDEBTEDNESS AND WITH ADMINISTRATIVE SUPERPRIORITY, (2) GRANTING
LIENS, (3) AUTHORIZING USE OF CASH COLLATERAL BY THE DEBTORS
PURSUANT TO 11 U.S.C. SECTION 363 AND PROVIDING FOR ADEQUATE
PROTECTION AND (4) MODIFYING THE AUTOMATIC STAY**

THIS MATTER having come before this Court upon the motion (the “**DIP Motion**”) by
Circuit City Stores, Inc. and its affiliated debtors, each as debtors and debtors-in-possession
(collectively, the “**Debtors**”), in the above captioned chapter 11 cases (collectively, the
“**Cases**”), seeking, among other things, entry of a final order (this “**Final Order**”) authorizing
the Debtors to:



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(b) Subject to the provisions of Paragraph 17(a), upon the occurrence of a DIP Order Event of Default, the DIP Agents and DIP Lenders are authorized to exercise their remedies and proceed under or pursuant to the DIP Financing Agreements; provided that the DIP Agents' and the DIP Lenders' rights to occupy any leased premises and dispose of the DIP Collateral therefrom shall be limited to (i) those rights which the DIP Agents and the DIP Lenders may have under applicable law, (ii) those rights to which the applicable landlord agrees, or (iii) such rights as may be ordered by this Court. All proceeds realized from any of the foregoing shall be turned over to the DIP Agents for application to the Carve Out, the DIP Obligations, the Pre-Petition Debt and, to the extent applicable, to the estate as set forth in the final paragraph of clause 2(e) of this Final Order, under, and in accordance with the provisions of, the DIP Financing Agreements, the Pre-Petition Agreements and this Final Order.

(c) The automatic stay imposed under Bankruptcy Code section 362(a) is hereby modified pursuant to the terms of the DIP Credit Agreement as necessary to (1) permit the Debtors to grant the Pre-Petition Replacement Liens and the Pre-Petition Indemnity Account and the DIP Liens and to incur all liabilities and obligations to the Pre-Petition Secured Parties, the DIP Lender under the DIP Financing Agreements, the DIP Facility, the Interim Order and this Final Order, and (2) authorize the DIP Lender and the Pre-Petition Secured Parties to retain and apply payments hereunder.

(d) Nothing included herein shall prejudice, impair, or otherwise affect Pre-Petition Secured Parties' or DIP Secured Parties' rights to seek any other or supplemental relief in respect of the Debtors nor the DIP Agents' or DIP Lenders' rights, as provided in the DIP Credit Agreement, to suspend or terminate the making of loans under the DIP Credit Agreement.

18. **Proofs of Claim**

prior to the earlier to occur of (i) the effective date of such Plan and (ii) the Commitment Termination Date.

(j) **Inconsistency**. In the event of any inconsistency between the terms and conditions of the DIP Financing Agreements, the Interim Order and this Final Order, the provisions of this Final Order shall govern and control.

(k) **Enforceability**. This Final Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof.

(l) **Objections Overruled**. All objections to the DIP Motion to the extent not withdrawn or resolved, are hereby overruled.

(m) **No Waivers or Modification of Final Order**. The Debtors irrevocably waive any right to seek any modification or extension of this Final Order without the prior written consent of the DIP Agents and the Pre-Petition Agent and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Agents and the Pre-Petition Agent.

(n) **Waiver of any Applicable Stay**. Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Final Order.

(o) **Retention of Jurisdiction**. The Bankruptcy Court has and will retain jurisdiction to enforce this Final Order according to its terms.

SO ORDERED by the Bankruptcy Court this ____ day of December, 2008.

Dec 23 2008

/s/ Kevin Huennekens
UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: 12/23/08

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
GOODY'S FAMILY CLOTHING, Inc., <i>et al.</i>)	Chapter 11
Debtors.)	Case No.: 08-11133 (CSS)
)	Jointly Administered

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364
AND 507 (1) APPROVING POSTPETITION FINANCING, (2) AUTHORIZING
USE OF CASH COLLATERAL, (3) GRANTING LIENS AND PROVIDING
SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (4) GRANTING
ADEQUATE PROTECTION, AND (5) MODIFYING AUTOMATIC STAY**

THIS MATTER having come before the Court upon the motion (the "DIP Motion") by Goody's Family Clothing, Inc. and its direct and indirect subsidiaries (the "Borrowers")¹, each as a debtor and debtor in possession (collectively the "Debtors") in the above-captioned Chapter 11 cases (collectively with any successor cases, the "Cases"), pursuant to Sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the "Bankruptcy Code"), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Del. Bankr. L.R. 4001-2, seeking entry of a final order (this "Final Order") *inter alia*:

- (i) authorizing the Debtors to obtain secured, superpriority postpetition financing (the "DIP Revolver Facility") pursuant to the terms and conditions of that certain Senior Secured,

¹ GFC Aircraft Holdings, Inc., GFC Professional Services, LLC, SYDOG LLC, ISDE, Inc., Trebor of TN, LLC, GOFAMCLO, LLC, Goody's Giftco, LLC, GFC Aircraft Leasing, LLC, GFC Aircraft Management, LLC, GFCFS, LLC, Goody's MS, L.P., GFCTX, L.P., Goody's IN, L.P., GFCTN, L.P., GFCGA, L.P., Goody's Holding TN, LLC, Goody's TNDC, L.P., Goody's ARDC, L.P., and Goody's Retail MS, L.P.

Loan Obligations shall have been paid in full in cash, then the DIP Revolver Agent shall also have been deemed to have consented and the DIP Liens of the DIP Revolver Agent for the benefit of the DIP Revolver Lenders on such DIP Term Loan Priority Collateral shall be automatically released and terminated, with such DIP Liens attaching to the proceeds of such sale, transfer, lease or disposition with the same priorities as set forth in paragraph 7 herein, without any action by or notice to the DIP Revolver Agent, and the DIP Revolver Agent shall upon two (2) business days prior written notice of such sale, deliver or file such documents, instruments and UCC termination statements to terminate such liens and security interests (and in furtherance of the foregoing the DIP Term Loan Agent is hereby authorized to file such documents, instruments and UCC termination upon the expiration of such two (2) business day period); provided that the DIP Revolver Agent's rights to assert any right or interests available to unsecured creditors of the Debtors arising under either the Bankruptcy Code or applicable non-bankruptcy law in connection with such sale, transfer or other disposition are hereby preserved; and (c) if the DIP Revolver Agent and the DIP Revolver Lenders have commenced the enforcement of their remedies against the DIP Revolver Priority Collateral as a result of the occurrence of an Event of Default and pursuant to paragraph 26(a) herein, except as otherwise ordered by the Court in the Cases, any sale, transfer, lease, or disposition of DIP Term Loan Priority Collateral by the DIP Term Loan Agent and the DIP Term Loan Lenders, shall be conditioned upon and expressly subject to full access, use, license and other rights of the DIP Revolver Agent and DIP Revolver Lenders with respect to the DIP Term Loan Priority Collateral as may be required by the DIP Revolver Agent in its reasonable discretion in order for the DIP Revolver Agent on behalf of the DIP Revolver Lenders to liquidate, dispose or sell the DIP Revolver Priority Collateral or to otherwise exercise all remedies against or realize upon the DIP

Revolver Priority Collateral (the "Access Rights"); provided that:

- (a) Access Rights shall not exceed 90 days from the date the applicable Remedies Notice Period shall have elapsed;
- (b) the DIP Revolver Agent and the DIP Revolver Lenders shall reimburse the DIP Term Loan Agent for all damages, costs and expenses actually incurred to the extent resulting from the exercise of such Access Rights; and
- (c) the use or occupancy of any leased premises shall be in accordance with applicable state or federal law, the Bankruptcy Code, the terms of the leases, consent of the applicable landlord, or further order of this Court.

In addition, the Debtors are permitted to sell, transfer, convey, assign or otherwise dispose of any DIP Collateral constituting: (i) the sale of inventory in the ordinary course of business; (ii) the sale or other disposition by a Debtor of Term Loan Priority Collateral that is obsolete or no longer used or useful in such Debtor's business and the Net Cash Proceeds (or, with respect to insurance or condemnation proceeds, the proceeds thereof) of which are paid to the DIP Term Loan Agent in accordance with paragraph 19(c) and (d); (iii) sales, transfers and other dispositions in connection with Permitted Store Closings (as defined in the DIP Revolving Agreement) (including the disposition of leaseholds of closed stores made in consultation with and with the consent of the Term Loan Agent), and so long as the Net Cash Proceeds thereof are paid in accordance with paragraph 19(d); (iv) sales, transfers and other dispositions of assets among Debtors; (v) sales of consigned inventory in the ordinary course of business; and (vi) any transfer constituting a Permitted Encumbrance (as such term is defined in the DIP Revolver Agreement).

23. Waiver of Secured Creditor Rights. Until payment in full in cash of all DIP

liens, security interests and other protections granted to the DIP Agents, DIP Lenders, Prepetition Agents and Prepetition Lenders pursuant to this Final Order and/or the DIP Documents, notwithstanding the entry of any such order, shall continue in the Cases, in any Successor Cases, or following dismissal of the Cases or any Successor Cases, and shall maintain their priority as provided by this Final Order until all DIP Obligations have been paid in full and all letters of credit under the DIP Facilities shall have been cancelled or cash collateralized in accordance with the terms thereof and all commitments to extend credit under the DIP Facilities are terminated. The terms and provisions concerning the indemnification of the DIP Agents and/or DIP Lenders shall continue in the Cases, in any Successor Cases, following dismissal of the Cases or any Successor Cases, following termination of the DIP Documents and/or the repayment of the DIP Obligations.

48. Effect of this Final Order. This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect immediately, notwithstanding anything to the contrary proscribed by applicable law.

49. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Final Order according to its terms.

SO ORDERED by the Court this 16th day of July, 2008.


UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Sportsman's Warehouse, Inc., et al.¹,

Debtors.

Chapter 11

Case No. 09-10990 (CSS)

(Jointly Administered)

[Re Docket No. 15]

**FINAL FINANCING ORDER (I) AUTHORIZING THE
DEBTORS TO INCUR POST-PETITION INDEBTEDNESS WITH
ADMINISTRATIVE SUPERPRIORITY AND SECURED BY
SENIOR LIENS ON SUBSTANTIALLY ALL ASSETS PURSUANT
TO SECTION 364(c) AND (d) OF THE BANKRUPTCY CODE,
(II) GRANTING USE OF CASH COLLATERAL,
(III) GRANTING ADEQUATE PROTECTION,
AND (IV) GRANTING OTHER RELATED RELIEF**

THIS MATTER came before the Court on March 23, 2009 (the "Interim Hearing") and April 15, 2009 (the "Final Hearing") on the motion (the "Motion") of Sportsman's Warehouse, Inc., and affiliated debtors and debtors in possession (collectively, the "Debtors") for entry of an interim and final order authorizing the Debtors to (i) incur post-petition indebtedness with administrative superpriority and secured by senior liens on substantially all assets pursuant to Title 11 of the United States Code, 11 U.S.C. §§101 et seq. (as amended, the "Bankruptcy Code"), including pursuant to sections 105(a), 361, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(d) thereof, and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (ii) grant use of cash collateral pursuant to sections 361 and 363(b) of the Bankruptcy Code, and Bankruptcy Rule 4001(b) subject to the terms of the Budget (as defined below) and this Final Order ("Cash Collateral"), (iii) grant adequate protection in

¹The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sportsman's Warehouse, Inc. (2614), Pacific Flyway Wholesale, Inc. (5734), Minnesota Merchandising Corp. (2908), Sportsman's Aviation, LLC (4736), Sportsman's Warehouse Holdings, Inc. (5614), and Sportsman's Warehouse Southwest, Inc (8590).



creditor's rights with respect to such asset is or may be subject, result in the waiver of the deficiency claim (if any) of any Pre-Petition Lender regardless of whether such Pre-Petition Lender supports or opposes such disposition and regardless of whether such Pre-Petition Lender credit bids its interest in respect of such sale or disposition. During the five (5) business day notice period, the Debtors and any other party in interest may seek an order of the Court staying the exercise of such remedies by the Pre-Petition Agents against the Pre-Petition Collateral and authorizing the use of the Pre-Petition Term Loan Collateral, including Cash Collateral. The parties reserve all rights to argue whether or not the Debtors should be authorized to use the Pre-Petition Term Loan Lenders' Cash Collateral on a non-consensual basis under Section 363(c)(2) of the Bankruptcy Code. However, if no such order is obtained during such period, then each of the Pre-Petition Agents may exercise any and all such rights and remedies without further order of the Court or notice to any party.

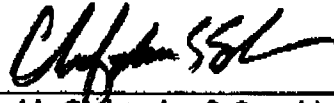
26. Access to DIP Collateral -- No Landlord's Liens. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of the DIP Agent, exercisable on behalf of the DIP Lenders, or the Pre-Petition Agents, exercisable on behalf of the Pre-Petition Lenders, in each case, contained in this Final Order or the DIP Loan Documents (or the Pre-Petition Loan Documents, as applicable), or otherwise available at law or in equity, and subject to the terms of the DIP Loan Documents and the Pre-Petition Loan Documents, as applicable, upon written notice to the landlord of any leased premises that an Event of Default or a Termination Event has occurred and is continuing under the DIP Loan Documents or this Final order, the DIP Agent (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents) may, subject to the applicable notice provisions, if any, in this Final Order and any separate agreement by and between such landlord

and the DIP Agent (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents), enter upon any leased premises of the Debtors or any other party for the purpose of exercising any remedy with respect to DIP Collateral (and, following the indefeasible payment in full in cash of the DIP Obligations, the Collateral) located thereon and shall be entitled to all of the Debtors' rights and privileges as lessee under such lease without interference from the landlords thereunder, provided that the DIP Agent (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents) shall only be obligated to pay rent of the Debtors that first accrues after the DIP Agent's written notice (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents' notice) referenced above and that is payable during the period of such occupancy by the DIP Agent (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents), calculated on a per diem basis, and further provided that, with respect to the Debtors' non-residential real property leases with each of the Landlords, the DIP Agent and Pre-Petition Agents, as applicable, shall not enter upon any of the premises of the Debtors leased from such Landlords for the purpose of exercising any remedy unless the DIP Agent or Pre-Petition Agents, as applicable, (i) have the right to do so under applicable non-bankruptcy law, (ii) obtain the consent of the particular Landlord of such premises, or (iii) the Court, after adequate notice to each of the Landlords, enters a separate order permitting entry on to such premises. Nothing herein shall require the DIP Agent (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents) to assume any lease as a condition to the rights afforded to the DIP Agent (and, following the indefeasible payment in full in cash of the DIP Obligations, the Pre-Petition Agents) in this paragraph. Furthermore, any landlord's lien, right of distraint or levy, security interest or other interest that any landlord, warehousemen

40. BankFirst Corp. Notwithstanding any provisions of this Final Order, any modification thereof or any other orders pertaining to post-petition financing, use of cash collateral, or the sale of the Debtors' assets, or any agreements validated by any such orders, any perfected, valid and enforceable liens not otherwise subject to avoidance of BankFirst Corp. existing as of the Petition Date shall be Permitted Liens and shall not be primed by any liens granted herein to the DIP Agent, DIP Lenders, Pre-Petition Agents and Pre-Petition Lenders.

41. Immediate Docketing and Effect of Order. The Clerk of the Court is hereby directed to forthwith enter this Final Order on the docket of this Court maintained in regard to the chapter 11 case. This Final Order shall be effective immediately upon its entry and not subject to any stay (notwithstanding anything to the contrary contained in the Bankruptcy rules including Bankruptcy Rule 4001(a)(3)).

Dated: Wilmington, Delaware
April 16, 2009



Honorable Christopher S. Sontchi
UNITED STATES BANKRUPTCY JUDGE

Lynn L. Tavenner (VSB No. 30083)
Paula S. Beran (VSB No. 34679)
TAVENNER & BERAN, PLC
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Proposed Attorneys for the
Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

-----X
In re: : Chapter 11
: :
S&K Famous Brands, Inc. : :
: : Case No. 09- 30805 (KRH)
: :
Debtor. : :
-----X

**FINAL ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105, 361, 362, 363,
AND 364 AND BANKRUPTCY RULES 2002, 4001 AND 9014: (1) AUTHORIZING
INCURRENCE BY THE DEBTOR OF POST-PETITION SECURED INDEBTEDNESS
WITH PRIORITY OVER ALL SECURED INDEBTEDNESS AND WITH
ADMINISTRATIVE SUPERPRIORITY, (2) GRANTING LIENS, (3) AUTHORIZING USE
OF CASH COLLATERAL BY THE DEBTOR PURSUANT TO 11 U.S.C. SECTION 363
AND PROVIDING FOR ADEQUATE PROTECTION, AND
(4) MODIFYING THE AUTOMATIC STAY**

THIS MATTER having come before this Court upon the motion (the “**DIP Motion**”) by
S&K Famous Brands, Inc., as a debtor-in-possession (the “**Debtor**”) in the above captioned
chapter 11 case (the “**Case**”) seeking, among other things, entry of a final order (this “**Final
Order**”) authorizing the Debtor to:

..I..



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(iv) any obligation otherwise imposed on the DIP Agent or the DIP Secured Parties to provide any loan or advance to the Debtor pursuant to the DIP Facility shall be suspended. Following the giving of notice by the DIP Agent of the occurrence of a DIP Order Event of Default, the Debtor and/or the Committee shall be entitled to an emergency hearing before this Court solely for the purpose of contesting whether a DIP Order Event of Default has occurred; provided that, if the Debtor or the Committee does not timely contest the occurrence of a DIP Order Event of Default within five (5) Business Days' after the DIP Agent has provided notice of a DIP Order Event of Default, the Debtor and the Committee shall thereafter be forever barred from contesting that such DIP Order Event of Default has occurred. The DIP Secured Parties shall be entitled to an emergency hearing before this Court not later than five (5) business days after their filing of a motion seeking a modification of the automatic stay to exercise their rights and remedies in accordance with the DIP Financing Agreements.

(b) Subject to the provisions of Paragraph 17(a), upon the occurrence of a DIP Order Event of Default and in the further event that this Court enters a final order modifying the automatic stay with respect to same, the DIP Secured Parties shall be authorized to exercise their remedies and proceed under or pursuant to the DIP Financing Agreements to the extent provided in such order; provided that, the DIP Agents and the DIP Secured Parties' rights to occupy any leased premises and dispose of the DIP Collateral therefrom shall be limited to (i) those rights which the DIP Agent and the DIP Secured Parties may have under applicable non-bankruptcy law, (ii) those rights to which the applicable landlord agrees in writing, or (iii) such rights as may be ordered by this Court upon motion and notice to the applicable landlord with opportunity to respond that is reasonable under the circumstances. All proceeds realized from any of the foregoing shall be

turned over to the DIP Agent for application to the Carve-Out, the DIP Obligations, the Pre-Petition Debt and the funding of the Pre-Petition Indemnity Account, under, and in accordance with the provisions of, the DIP Financing Agreements, the Pre-Petition Financing Agreements and this Final Order.

(c) The automatic stay imposed under Bankruptcy Code section 362(a) is hereby modified pursuant to the terms of the DIP Credit Agreement as necessary to (1) permit the Debtor to grant the Pre-Petition Replacement Liens, and the Pre-Petition Indemnity Account and the DIP Liens, and to incur all liabilities and obligations to the Pre-Petition Secured Parties, and the DIP Secured Parties under the DIP Financing Agreements, the DIP Facility and this Final Order, and (2) authorize the DIP Secured Parties and the Pre-Petition Secured Parties to retain and apply payments hereunder.

(d) Nothing included herein shall prejudice, impair, or otherwise affect Pre-Petition Secured Parties' or DIP Secured Parties' rights to seek any other or supplemental relief in respect of the Debtor nor the DIP Agent's or DIP Lenders' rights, as provided in the DIP Credit Agreement, to suspend or terminate the making of loans under the DIP Credit Agreement.

18. **Proofs of Claim**

. The Pre-Petition Secured Parties and the DIP Secured Parties will not be required to file proofs of claim in the Case or in any Successor Case. The Interim Order or this Final Order shall constitute a proof of claim on behalf of the Pre-Petition Secured Parties or the DIP Secured Parties, as applicable, in this Case. The Pre-Petition Secured Parties and the DIP Secured Parties are hereby authorized and entitled, in their sole discretion, but not required, to file (and amend and/or supplement, as they see fit) aggregate proofs of claim in the Case or a Successor Case.

consent of the Agents, and no such consent shall be implied by any other action, inaction or acquiescence of the Agents.

(n) **Waiver of any Applicable Stay.** Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Final Order.

20. **Retention of Jurisdiction.** The Bankruptcy Court has and will retain jurisdiction to enforce this Final Order according to its terms.

SO ORDERED by the Bankruptcy Court this 6th day of March, 2009.

/s/ Kevin R. Huennekens

The Honorable Kevin R. Huennekens

United States Bankruptcy Judge

Entered on Docket: Mar 6 2009

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) **Chapter 11**
)
LINENS HOLDING CO., et al.,¹) **Case No. 08-10832 (CSS)**
)
Debtors.) **Jointly Administered**

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364 AND 507
(1) APPROVING POSTPETITION FINANCING, (2) AUTHORIZING USE OF CASH
COLLATERAL, (3) GRANTING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE STATUS, (4) GRANTING ADEQUATE PROTECTION,
AND (5) MODIFYING AUTOMATIC STAY**

THIS MATTER having come before the Court upon the motion (the "DIP Motion") by Linens 'n Things, Inc. and Linens 'n Things Center, Inc. (together, the "U.S. Borrowers"), and Linens Holding Co., Bloomington, MN., L.T., Inc., Vendor Finance, LLC, LNT, Inc., LNT Services, Inc., LNT Leasing II, LLC, LNT West, Inc., LNT Virginia LLC, LNT Merchandising Company LLC, LNT Leasing III, LLC, and Citadel LNT, LLC, as guarantors (each a "Guarantor," and collectively, the "Guarantors"), each as a debtor and debtor in possession (collectively, the "Debtors") in the above-captioned Chapter 11 cases (collectively with any successor cases, the "Cases"), pursuant to Sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the "Bankruptcy Code"), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Del. Bankr. L.R. 4001-2, seeking entry of a final order (this "Final Order") *inter alia*:

¹ The Debtors in these cases, along with the last four digits of the federal tax identification number for each of the Debtors, are Linens Holding Co. (2917), Linens 'n Things, Inc. (3939), Linens 'n Things Center, Inc. (0308), Bloomington, MN., L.T., Inc. (8498), Vendor Finance, LLC (5543), LNT, Inc. (4668), LNT Services, Inc. (2093), LNT Leasing II, LLC (4182), LNT West, Inc. (1975), LNT Virginia LLC (9453), LNT Merchandising Company LLC (2616), LNT Leasing III, LLC (3599) and Citadel LNT, LLC (2479).



collateralized, backed or cancelled, and (b) all authority to use Cash Collateral shall cease, provided, however, that during the Remedies Notice Period (as defined herein), the Debtors may use Cash Collateral to pay payroll and other expenses critical to keep the business of the Debtors operating in accordance with the Budget and as otherwise agreed by the DIP Agent and the Noteholder Committee, in their sole discretion. For purposes of this Final Order, the “DIP Termination Date” shall mean the Revolving Maturity Date as defined in the DIP Agreement.

26. Events of Default. The occurrence of an “Event of Default” under the DIP Documents (a copy of a list of such Events of Default is attached as Exhibit 1) shall constitute an Event of Default under this Final Order, unless waived in writing by the DIP Agent.

27. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default, (i) the DIP Agent may declare (1) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (2) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains, and (3) termination of the DIP Agreement and any other DIP Document as to any future liability or obligation of the DIP Agent and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations; (ii) the DIP Agent and Prepetition Agent may declare a termination, reduction or restriction on the ability of the Debtors to use any Cash Collateral derived solely from the proceeds of DIP Priority Collateral, except as provided in paragraph 11 herein (any such declaration, shall be referred to herein as a “Termination Declaration”), and (iii) notwithstanding the existence or absence of a Termination Declaration, the Indenture Trustee or Noteholder Committee may request an Order from this Court terminating, reducing or restricting the ability of the Debtors to use any Cash Collateral or continue borrowing under the DIP Facility by filing an emergency motion for such relief on no

less than five (5) business days' prior notice given by facsimile to the Debtors, counsel to the Debtors, counsel for the Statutory Committee, counsel to the DIP Agent, and the United States Trustee, *provided, however* that the Debtor, the DIP Agent, the DIP Lenders and the Statutory Committee shall retain the right to oppose such relief. The Termination Declaration shall be given by facsimile (or other electronic means) to counsel to the Debtors, respective counsel to the Statutory Committee, and the U.S. Trustee (and the earliest date any such Termination Declaration is made shall be referred to herein as the "Termination Declaration Date"). Any automatic stay otherwise applicable to the DIP Agent, the DIP Lenders, the Prepetition Agent, the Prepetition Lenders, the Indenture Trustee and the Noteholders is hereby modified so that five (5) business days after the Termination Declaration Date (the "Remedies Notice Period"), (A) the DIP Agent and the DIP Lenders shall be entitled to exercise their rights and remedies in accordance with the DIP Documents and this Final Order and shall be permitted to satisfy the DIP Superpriority Claim and the DIP Liens, subject to the Carve Out, (B) to the extent any Prepetition Obligations remain outstanding, the Prepetition Agent and the Prepetition Lenders shall be entitled to exercise their rights and remedies to satisfy the Prepetition Obligations, the Revolver Superpriority Claim and the Revolver Adequate Protection Liens, subject to the Carve Out, and (C) to the extent any Indenture Obligations remain outstanding, the Indenture Trustee and the Noteholders shall be entitled to exercise their rights and remedies to satisfy the Indenture Obligations, the Indenture Superpriority Claim and the Indenture Adequate Protection Liens, subject to and consistent with (i) the Carve Out, (ii) this Final Order, and (iii) the Intercreditor Agreement. During the Remedies Notice Period, the Debtors and/or the Statutory Committee shall be entitled to seek an emergency hearing with the Court within the Remedies Notice Period for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing.

Unless the Court determines during the Remedies Notice Period that an Event of Default has not occurred and/or is not continuing, the automatic stay, as to all of the DIP Lenders, the Prepetition Lenders, the Indenture Trustee and the Noteholder Committee shall automatically be terminated at the end of the Remedies Notice Period without further notice or order. Upon such termination, the Debtors shall give notice to all parties filing a notice of appearance and request for service pursuant to Bankruptcy Rule 9010. Upon expiration of the Remedies Notice Period, the DIP Agent, the Prepetition Agent, and the Indenture Trustee shall be permitted to exercise all remedies set forth herein, in the DIP Agreement, the DIP Documents, the Prepetition Credit Agreement, the Prepetition Credit Documents, the Indenture Documents, and as otherwise available at law without further order of or application or motion to the Court, and without restriction or restraint by any stay under Sections 362 or 105 of the Bankruptcy Code, or otherwise, against the enforcement of the liens and security interest or any other rights and remedies granted to any of the DIP Agent, the DIP Lenders, the Prepetition Agent, the Prepetition Lenders, the Indenture Trustee, and the Noteholders pursuant to the DIP Agreement, DIP Documents, the Prepetition Agreement, the Prepetition Credit Documents, or this Final Order. Any remedies (notwithstanding anything contained in this Final Order or the attached Events of Default to the contrary) taken by the DIP Agent, the DIP Lenders, the Prepetition Agent, the Prepetition Lenders, the Indenture Trustee, and the Noteholders affecting Leasehold Priority Collateral ^(or the leases underlying Leasehold Priority Collateral) shall be in accordance with applicable federal and state law, the Bankruptcy Code, the leases governing such Leasehold Priority Collateral, consent of the applicable landlord or as otherwise further ordered by the Court.

28. Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Final Order. The DIP Agent, DIP Lenders, Prepetition Agent, Prepetition Lenders,

indemnification of the DIP Agent and DIP Lenders shall continue in the Cases, in any Successor Cases, following dismissal of the Cases or any Successor Cases, following termination of the DIP Documents and/or the indefeasible repayment of the DIP Obligations. In addition, (y) the terms and provisions of this Final Order shall continue in full force and effect for the benefit of the Prepetition Agent and Prepetition Lenders notwithstanding the repayment in full of or termination of the Indenture Obligations, (z) the terms and provisions of this Final Order shall continue in full force and effect for the benefit of the Indenture Trustee and Noteholders notwithstanding the repayment in full of or termination of the DIP Obligations or the Prepetition Obligations.

51. Nunc Pro Tunc Effect of this Final Order. This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable nunc pro tunc to the Petition Date immediately upon execution thereof.

52. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Final Order according to its terms.

SO ORDERED by the Court this 28 day of Aug, 2008.


UNITED STATES BANKRUPTCY JUDGE