



new or closing existing Bank Accounts, (iii) continue to perform under and honor postpetition intercompany transactions in the ordinary course of business, and (iv) honor obligations with respect to service fees and chargebacks in connection with existing agreements with the Banks; (b) administrative expense priority for postpetition Intercompany Claims; (c) a waiver or an extension of the time to comply with the requirements of section 345(b) of the Bankruptcy Code to the extent they apply to the Bank Accounts; and (d) related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the 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 such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing on June 11, 2019 to consider the relief requested in the Motion on an interim basis (the “**Interim Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (D.I. 46) (the “**Interim Order**”) and scheduling a final hearing on the Motion for July 8, 2019 (the “**Final Hearing**”); and ~~the Final Hearing having been held, if necessary, to consider~~ **THESE BEING** ~~the relief requested in the Motion on a final basis; and~~ **NO OBJECTION AND THE COURT HAVING CONSIDERED** ~~the relief requested in the Motion on a final basis; and~~ upon the Long Declaration, filed contemporaneously with the Motion, and the record of the ~~Interim Hearing and, if applicable, the Final Hearing;~~ **the RECORD OF THE CASE** and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their

estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court 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, pursuant to sections 105(a), 363, and 364 of the Bankruptcy Code to continue using and managing their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect and disburse cash in accordance with the Cash Management System, including through the Intercompany Transactions; and to make ordinary course changes to their Cash Management System.
3. The Debtors are further authorized to (a) designate, maintain, and continue to use any or all of their existing Bank Accounts in the names and with the account numbers existing immediately before the Petition Date in the ordinary course and in a manner consistent with prepetition practices; (b) deposit funds in and withdraw funds from such accounts by all usual means, including through check, wire transfer, and ACH payment, and other debits in the ordinary course and in a manner consistent with prepetition practices; (c) pay any Bank Fees or other charges associated with the Bank Accounts, whether arising before or after the Petition Date, in the ordinary course and consistent with the Debtors' prepetition practice; and (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts.
4. Pursuant to section 503(b)(1) of the Bankruptcy Code, Intercompany Claims arising after the Petition Date shall be accorded administrative expense priority; provided that Intercompany Claims shall not be paid without further order of the Court. Notwithstanding the foregoing, the Debtors are authorized, pursuant to section 364(a) of the Bankruptcy Code, to

continue to engage in the Intercompany Transactions in the ordinary course of business; provided that nothing in this Final Order shall affect, limit, or impair the right of any Debtor or other party in interest to challenge the allocations of Intercompany Transactions among the various Debtors.

5. The Debtors shall (a) maintain accurate records of all transfers within the Cash Management System so that all postpetition transfers and transactions, including intercompany transactions, shall be adequately and promptly documented in, and readily ascertainable from, their books and records, so that all transactions may be readily traced, recorded properly, and distinguished between prepetition and postpetition transactions and (b) provide reasonable access to such records to the official committee of unsecured creditors (the “Committee”) upon request.

6. The Debtors are authorized to use their existing Business Forms and are not required to (a) obtain new stock reflecting their status as debtors in possession or (b) print “Debtor-in-Possession,” the Debtors’ Chapter 11 Case numbers, or any other information on any of their Business Forms or wire transfers; provided that once the Debtors’ existing Business Forms have been used, the Debtors shall, when re-ordering Business Forms during the pendency of these Chapter 11 Cases, include a legend referencing the Debtors as “Debtors-In-Possession” and the lead Debtor’s bankruptcy case number on all Business Forms; provided, further, that to the extent that the Debtors or their agents print or generate checks themselves during the pendency of these Chapter 11 Cases, such checks shall include the “Debtor-In-Possession” legend and the lead Debtor’s bankruptcy case number within ten (10) business days after the date of entry of this Final Order.

7. The Debtors are further authorized, but not directed, to issue postpetition checks, wire transfers, and ACH payments, or to effect postpetition funds transfer requests, in replacement of any funds transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Final Order.

8. The Debtors are authorized, but not directed, to implement changes to the Cash Management System in the ordinary course of business in accordance with the terms of their existing deposit agreements, including, without limitation, the opening of any new bank accounts and the closing of any Bank Accounts as they may deem necessary and appropriate in their sole discretion, and the Banks and other financial institutions are authorized to honor the Debtors' request to open or close, as the case may be, the Bank Accounts or additional bank accounts; provided that in the event the Debtors open or close any Bank Accounts, such opening or closing shall be timely indicated on the Debtors' monthly operating reports and the Debtors shall provide five (5) business days prior written notice thereof to the U.S. Trustee and the Committee; provided, further, that the Debtors shall open any such new Bank Account at banks that have executed a Uniform Depository Agreement (a "UDA") with the U.S. Trustee, or at such banks that are willing to immediately execute such agreement.

9. The relief, rights, and responsibilities provided for in this Final Order shall be deemed to apply to any and all Bank Accounts maintained in the Debtors' names, including, without limitation, any new bank accounts, whether or not such Bank Accounts are identified on Exhibit B to the Motion, and any banks at which new accounts are opened shall be subject to the rights and obligations of this Final Order.

10. Except as otherwise expressly provided in this Final Order, the Banks are authorized to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, in accordance with the terms of the documents governing the Bank Accounts, and to receive, process, honor, and pay, to the extent sufficient funds are available for deposit in the applicable Bank Accounts to cover such payments, any and all checks, drafts, wire transfers, and ACH payments issued by the Debtors and drawn on the Bank Accounts after the Petition Date; provided that any payments drawn, issued or made prior to the Petition Date shall not be honored absent direction of the Debtors consistent with terms of a separate order of the Court authorizing such prepetition payment.

11. Each Bank is authorized to charge, and the Debtors are authorized to pay and honor, both prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees, to which such Bank may be entitled under the terms of and in accordance with their contractual arrangements with the Debtors.

12. Each Bank is authorized to debit the Bank Accounts in the ordinary course of business without need for further order of this Court for: (a) all checks, wire transfers, ACH payments, and other payment orders drawn on the Bank Accounts that are cashed at a Bank counter or exchanged for cashier's checks by the payees thereof prior to a Bank's receipt of notice of the commencement of these Chapter 11 Cases; (b) all checks, wire transfers, ACH payments, and other items deposited or credited to the Bank Accounts prior to Petition Date that have been dishonored, reversed, or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such costs and fees prior to Petition Date; and (c) all undisputed prepetition amounts outstanding as of the date

hereof, if any, owed to a Bank as a Bank Fee for the maintenance of the Cash Management System.

13. Each Bank may rely on the representations of the Debtors with respect to whether any checks, drafts, wire transfers, ACH payments, or other payment order drawn or issued by the Debtors prior to, on, or subsequent to the Petition Date should be honored pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein, and shall not be liable to any party on account of (a) following the Debtors' representations, instructions, or presentations as to any order of the Court (without any duty of further inquiry), (b) honoring any prepetition checks, drafts, wire transfers, or ACH payments in a good faith belief or upon a representation by the Debtors that the Court has authorized such prepetition check, draft, wire transfer, or ACH payment, or (c) an innocent mistake made despite implementation of reasonable handling procedures.

14. Those certain existing deposit agreements between the Debtors and the Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Banks, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect.

15. The Debtors shall have forty-five (45) days (or such additional time as to which the U.S. Trustee may agree) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

16. For all Banks at which the Debtors maintain Bank Accounts that are party to a UDA with the U.S. Trustee, within fifteen (15) days of the date of entry of this Final Order, the Debtors shall (a) contact each such Bank; (b) provide each such Bank with each of the Debtors' employer identification numbers; and (c) identify each of the Bank Accounts held at such Banks as being held by a debtor in possession in a Chapter 11 Case.

17. For all Banks at which the Debtors maintain Bank Accounts that are not party to a UDA with the U.S. Trustee, the Debtors shall use their good faith efforts to cause such Banks to execute a UDA in a form prescribed by the Office of the United States Trustee within forty-five (45) days of the date of entry of this Final Order.

18. Notwithstanding the Debtors' use of a consolidated Cash Management System, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

19. Nothing contained in the Motion, the Interim Order, or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any appropriate party in interest's rights (including the Committee's rights) to dispute the amount of, basis for, or validity of any claim against the Debtors; (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder; or (d) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

20. Under the circumstances of these Chapter 11 Cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).




21. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

22. The Debtors are authorized to take all actions necessary to implement the relief granted in this Final Order.

23. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

July 5, 2019

  
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KEVIN GROSS, U.S.B.J.