

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

	X	
	:	
In re	:	Chapter 11
	:	
SANTA FE GOLD CORPORATION, <i>et al.</i>,	:	Case No. 15-11761 (____)
	:	
Debtors.¹	:	Joint Administration Requested
	:	
	X	

**DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE
PAYMENT OF AMOUNTS ATTRIBUTABLE TO PRE-PETITION (A) WAGES,
SALARIES, AND OTHER COMPENSATION; (B) REIMBURSABLE EMPLOYEE
EXPENSES; AND (C) EMPLOYEE BENEFITS; (II) AUTHORIZING THE
CONTINUATION OF EXISTING EMPLOYEE COMPENSATION AND BENEFITS
PROGRAMS POST-PETITION; AND (III) GRANTING RELATED RELIEF**

The debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”), hereby move (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”): (i) authorizing, but not directing, the Debtors to pay or honor certain pre-petition amounts attributable to (a) wages, salaries, overtime pay, paid time off, holiday pay, and other accrued compensation, as well as all withholdings, taxes, and deductions related thereto, (b) reimbursable employee business expenses, and (c) contributions to and benefits under employee benefit plans and programs; (ii) authorizing the Debtors to continue their existing employee compensation and benefits programs post-petition; (iii) authorizing and directing banks and other financial institutions to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the foregoing; and (iv) granting related relief. In support of the Motion, the Debtors submit the *Declaration of*

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Santa Fe Gold Corporation (4315); Azco Mica, Inc. (8577); The Lordsburg Mining Company (4474); and Santa Fe Gold (Barbados) Corporation (N/A). The Debtors’ mailing address is 1219 Banner Mine Road, Lordsburg, New Mexico 88045.

Jakes Jordaan in Support of Chapter 11 Petitions and First Day Relief (the “First Day Declaration”), filed contemporaneously herewith, and respectfully submit as follows:

Jurisdiction

1. The Court 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. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Debtors consent pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory and legal predicates for the relief requested herein are sections 105(a), 363(b), and 507(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rules 6003(b) and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

3. On the date hereon (the “Petition Date”), the Debtors commenced their bankruptcy cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”). The Debtors are operating their respective businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases and no committees have been appointed or designated.

4. The events leading up to the Petition Date and the facts and circumstances supporting the relief requested herein are set forth in the First Day Declaration.

Background Specific to the Motion

5. As of the Petition Date, the Debtors' workforce consists of four full-time employees and two part-time employees of which (i) four are salaried employees (the "Salaried Employees") and (ii) two are hourly employees (the "Hourly Employees," and together with the Salaried Employees, the "Employees"). The Employees are based out of the Debtors' Lordsburg, New Mexico headquarters and out of the Debtors' satellite offices in Denver, Colorado and Albuquerque, New Mexico. None of the Employees are covered by a collective bargaining agreement. The Employees perform a variety of critical functions including, without limitation, accounting, legal, administration, finance, analytics, human resources, management, geological services, "care-and-maintenance" functions, security, and other tasks. Their skills and specialized knowledge and understanding of the Debtors' infrastructure and operations are essential to the Debtors' efforts to maximize value through a sale process during the pendency of the Chapter 11 Cases.

I. Compensation Obligations

6. The Debtors have incurred obligations to their Employees in the period prior to the Petition Date. Certain of these obligations are currently due and payable as of the Petition Date, while others will become due and payable in the ordinary course of the Debtors' businesses after the Petition Date.

A. Employee Wage Obligations

7. In the ordinary course of the Debtors' businesses, the Debtors are responsible for paying wages, salaries, and compensation owed to the Employees (collectively, "Wage

Obligations”) on one of two payroll cycles—Santa Fe Gold Corporation pays employees bi-monthly and Lordsburg Mining Company pays employees bi-weekly. On average, the Debtors pay approximately \$13,968.96 for the Employees’ weekly payroll.

8. Because of the Debtors’ severe liquidity issues, they have been unable to pay the Employees for some time, and the amount currently owed to the Employees for the period 180 days prior to the Petition Date is estimated to be \$361,295 (the “Pre-Petition Wage Obligations”).² However, by this Motion, the Debtors are only requesting authority to pay to any individual Employee for Pre-Petition Wage Obligations earned or incurred prior to the Petition Date a maximum of \$12,475 in accord with section 507(a)(4) of the Bankruptcy Code.

B. Paid Time Off

9. As part of their overall compensation, the Debtors offer Employees certain paid time off (“PTO”). The PTO includes vacation time (between 40 and 200 hours per year, with a maximum carry-over of 40 hours), which is available for use when other leave benefits are not available, up to 80 hours of sick leave annually (which does not carry over), 10 company holidays, up to 5 days of bereavement leave, and up to 5 days of leave for jury duty. The amount of vacation time and the rate at which it accrues is generally determined by an Employee’s experience in the industry or related job position. When an Employee elects to use his or her vacation or other paid time off leave, such Employee is paid at his or her regular or salaried rate. Upon termination of employment, the Employees receive “cash out” payments of any accrued but unused vacation time for the current year (there is no cash out payment for vacation time that is carried over from a prior year and not used in the following year), which is generally paid with

² The aggregate amount of Pre-Petition Wage Obligations could be higher as certain overtime obligations may have been incurred and not yet reported to the Debtors.

regularly scheduled payroll following the date of termination. The Debtors estimate that, as of the Petition Date, their total liability for accrued, but unpaid, PTO is \$22,456.01.

C. Reimbursable Expenses

10. Prior to the Petition Date and in the ordinary course of their businesses, the Debtors either reimbursed Employees or paid credit card invoices for approved, legitimate expenses incurred on behalf of the Debtors in the scope of their employment (the “Reimbursable Expenses”). The Reimbursable Expenses include, without limitation, expenses for work-related travel, lodging, auto expenses, telephone charges, internet charges, and meals. Employees apply for reimbursements for Reimbursable Expenses by submitting an expense report or credit card statement. Once the Debtors have determined that the charges are for legitimate reimbursable business expenses, the Debtors reimburse the Employees for these expenses. On average, the Debtors pay approximately \$4,000 per month to, or on behalf of, Employees for Reimbursable Expenses. Additionally, three Employees hold corporate credit cards issued by Wells Fargo & Co. (the “Company Credit Cards”) that are used for business expenses such as supplies, gasoline, and repairs for the Debtors operations, travel, meals, corporate and regulatory filings, and the like. The Company Credit Cards bear both the Employee’s and the Debtors’ name. The Debtors pay approximately \$4,000 per month for Reimbursable Expenses incurred on the Company Credit Cards.

11. As of the Petition Date, the Debtors do not directly owe the Employees for reimbursable expenses and estimate that they owe \$8,888.38 on account of Reimbursable Expenses incurred on the the Company Credit Cards. The Reimbursable Expenses are all incurred on the Debtors’ behalf and with the understanding that they will be reimbursed. Accordingly, the Debtors request authority to (a) continue reimbursing the Reimbursable

Expenses in accordance with pre-petition practices, and (b) pay any amounts owing on account of the Company Credit Cards that (i) became payable pre-petition or (ii) accrued pre-petition but only became payable after the Petition Date.

II. Employee Benefits

12. The Employees are offered certain health and welfare benefits (the “Health and Welfare Benefits”), which are funded in whole or in part by the Debtors and the remainder of which are funded by Employee contributions. The Debtors compensate certain third parties who are involved in providing and administering the Health and Welfare Benefits. The Health and Welfare Benefits are an integral part of the Employees’ compensation, and the Debtors intend to honor them in the ordinary course of business during the course of these Chapter 11 Cases.

13. The Health and Welfare Benefits include, among other things: (i) Medical Insurance and (ii) Matching Contributions under the 401(k) Plan, each as defined and described more fully below.

14. The Employees are offered medical insurance through Blue Cross Blue Shield. The Debtors pay 80% of the premiums for the Employees and 50% of the premiums for the Employees’ families (the “Medical Insurance”). The premiums are paid monthly, in advance. As of the Petition Date, the Debtors owe approximately \$5,598.00 on account of the Medical Insurance.

15. Three of the Employees are eligible to participate in a tax-qualified defined contribution retirement plan (the “401(k) Plan”). Currently, one Employee contributes to the 401(k) Plan. Through contributions withheld from regular payroll, eligible Employees may establish an account as of the first payroll following the date of hire at which time they can elect to contribute a percentage of their eligible compensation to the 401(k) Plan on a pre-tax basis.

The Debtors make matching contributions to each Employee participant's account under the 401(k) Plan equal to 100% of the first 5% of compensation deferred (the "Matching Contributions"). The approximate amount of Matching Contributions is \$4,250.00 for each Employee annually.

Relief Requested

16. By this Motion, the Debtors seek the entry of an order immediately authorizing, but not requiring, the Debtors to pay or otherwise honor, in their sole discretion, (i) pre-petition employee compensation-related obligations, including wages, salaries, overtime pay, PTO, any other accrued compensation, and all related taxes, that were earned prior to the Petition Date, but that are scheduled to be paid post-petition, (ii) outstanding claims for unreimbursed business expenses, and (iii) amounts owed for the Health and Welfare Benefits (all of the foregoing pre-petition employee obligations, are collectively referred to hereinafter as the "Employee Obligations"). The Debtors also seek authorization, but not direction, to maintain, honor, and continue to offer their plans, programs, and policies for compensation and the Health and Welfare Benefits to their employees and their respective eligible dependents.

17. In addition, the Debtors seek an order authorizing and directing all banks and other financial institutions to receive, process, honor, and pay any and all checks or wire transfers drawn on the Debtors' accounts with respect to payments described in this Motion. The Debtors additionally request that the Court authorize them to issue new post-petition checks to replace any checks that may be dishonored and to reimburse any expenses that employees may incur as a result of any bank's failure to honor a pre-petition check.

Basis for Relief

I. Sufficient Cause Exists for the Court to Authorize the Debtors to Pay Employee Obligations and Employee Benefits

18. The Employees will be vital to the Debtors' efforts to pursue a sale of their assets for the benefit of all stakeholders. Pursuant to section 507(a)(4)(A) of the Bankruptcy Code, claims of employees against a debtor for "wages, salaries, or commissions, including vacation, severance, and sick leave pay" earned within 180 days before the Petition Date are afforded priority unsecured status to the extent of \$12,475 per individual. 11 U.S.C. § 507(a)(4)(A). *See In re News Publishing*, 488 B.R. 241, 245-46 (Bank. N.D. Ga. 2013) (granting authority in reliance on section 507(a)(4) of the Bankruptcy Code to pay prepetition claims owed for employees provided by a third-party firm who were the "functional equivalent" of the debtor's workforce). Similarly, section 507(a)(5) of the Bankruptcy Code provides that employees' claims for contributions to certain employee benefits plans are also afforded priority unsecured status to the extent of \$12,475 per employee covered by such plan, less any amount paid pursuant to Bankruptcy Code section 507(a)(4). 11 U.S.C. § 507(a)(5).

19. Furthermore, section 363(b)(1) of the Bankruptcy Code provides that, "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Section 105(a) of the Bankruptcy Code further provides:

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

11 U.S.C. § 105(a).

20. The Debtors believe that certain of the Employee Obligations relating to the period prior to the Petition Date constitute priority claims under sections 507(a)(4) and (5) of the Bankruptcy Code. As priority claims, these obligations would need to be paid in full before any of the Debtors' general unsecured obligations may be satisfied and must be paid in full to confirm a chapter 11 plan. Accordingly, the relief requested would affect only the timing of the payment of these priority obligations and should not prejudice the rights of general unsecured creditors or other parties in interest.

21. Furthermore, the "doctrine of necessity" functions in a chapter 11 case as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical pre-petition claims not explicitly authorized by the Bankruptcy Code and further supports the relief requested herein. *See In re Lehigh and New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of pre-petition claims if such payment is essential to continued operation of the debtor); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989) (authorizing the payment of pre-petition employee wages and benefits while acknowledging that there is judicial power to "authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor"); *see also In re Just For Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that Bankruptcy Code section 105(a) "provides a statutory basis for the payment of pre-petition claims" under the doctrine of necessity and noting that the Supreme Court, the United States Circuit Court of Appeals for the Third Circuit, and the District Court of Delaware all accept the authority of the bankruptcy court "to authorize the payment of pre-petition claims when such payment is deemed necessary to the survival of a debtor in a chapter 11 reorganization"); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (explaining that the

doctrine of necessity is the standard in the Third Circuit for enabling a court to authorize the payment of pre-petition claims prior to confirmation of a reorganization plan). The rationale for the “doctrine of necessity” is consistent with the paramount goal of chapter 11—“facilitating the continued operation and rehabilitation of the debtor[.]” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 176. Accordingly, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, this Court is empowered to grant the relief requested herein.

22. The Employees are already owed a significant amount in unpaid wages, and any additional delay or failure to pay Employee Obligations could irreparably damage the Employees’ morale, dedication, confidence, and cooperation and could adversely affect the Debtors’ relationship with the Employees at a time when the Employees’ support is critical. The Debtors employ only four full-time Employees and only two part-time Employees. Accordingly, they cannot afford to lose any of their Employees, each of whom will play a key role for the Debtors, while they pursue a sale. Granting the relief requested hereby will allow the Debtors to pursue an expedited sale of their assets in order to maximize value for all stakeholders. Under these circumstances, approval of the requested relief is appropriate.

23. Absent an order granting the relief requested herein, the Employees will suffer undue hardship, since the Debtors’ financial circumstances have already impacted the ability of the Employees to meet their own personal financial obligations. Imposing such hardship on the Employees would undermine the Debtors’ stability, because otherwise loyal Employees who have remained with the Debtors based upon the promise of additional funding during the Chapter 11 Cases may leave the Debtors during this critical period. In addition, it would be inequitable to require the Employees to personally bear the cost of any business expenses they incurred pre-petition on behalf of the Debtors with the understanding that they would be reimbursed.

24. The Debtors do not seek to alter any of the Health and Welfare Benefits at this time. This Motion is intended only to permit the Debtors, in their discretion, to (i) make payments consistent with existing policies to the extent that, without the benefit of an order approving this Motion, such payments may be inconsistent with the relevant provisions of the Bankruptcy Code and (ii) continue to honor practices, programs, and policies with respect to their Employees, insofar as such practices, programs, and policies were in effect as of the Petition Date. Payment of all Health and Welfare Benefits in accordance with the Debtors' pre-petition business practices is in the best interests of the Debtors' estates, their creditors, and all parties in interest and will enable the Debtors to continue the proper "care-and-maintenance" of the Summit Mine and Lordsburg Mill (as those terms are defined in the First Day Declaration) and will facilitate the sale of their assets. The Debtors' Employees are central to their businesses and are vital to the Chapter 11 Cases, and failure to pay the Health and Welfare Benefits would have a detrimental impact on the Debtors and their efforts to preserve and maximize value for their stakeholders. Further, the total amount sought to be paid herein is modest compared with the magnitude of the importance of the Employees to the Debtors' operations during the Chapter 11 Cases.

25. Accordingly, by this Motion, the Debtors seek authority, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, to continue to provide Health and Welfare Benefits and pay Employee Obligations, at their discretion, as they become due and owing during the pendency of the Chapter 11 Cases and to continue, uninterrupted, all practices, programs, and policies with respect to the Employees, insofar as such practices, programs, and policies were in effect as of the Petition Date.

II. Request for Authority for Banks to Honor and Pay Checks Issued and Electronic Funds Transfers Requested to Pay Employee Obligations

26. As part of their cash management system, the Debtors maintain deposit accounts with various banks (the “Banks”). The Debtors draw upon funds in these accounts to satisfy Employee Obligations and Health and Welfare Benefits. The Debtors request that the Court authorize and direct the Banks to receive, process, honor, and pay any and all checks drawn or electronic funds transfers requested to pay Employee Obligations or Health and Welfare Benefits, whether such checks were presented prior to or after the Petition Date; provided, however, that such checks or electronic funds transfers are identified by the Debtors as relating directly to the authorized payment of the Employee Obligations or Health and Welfare Benefits. The Debtors also seek authority to issue new post-petition checks, or effect new electronic funds transfers, on account of such claims to replace any pre-petition checks or electronic funds transfer requests that may be dishonored or rejected as a result of the commencement of the Chapter 11 Cases. The Debtors submit that they have sufficient liquidity to pay such amounts as they become due in the ordinary course of the Debtors’ businesses.

Reservation of Rights

27. Nothing contained herein is intended or should be construed as an admission of the validity of any claim against the Debtors, a waiver of the Debtors’ rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any invoice with respect to any potential claims under applicable non-bankruptcy law. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court’s order is not intended and should not be construed as an admission of the validity of any claim or a waiver of the Debtors’ rights to dispute such claim subsequently.

The Motion Satisfies Bankruptcy Rule 6003

28. Bankruptcy Rule 6003 provides that to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may grant certain forms of relief during the twenty-one (21) days immediately following the filing date.

29. The Employees will be integral to the Debtors' sale efforts during the Chapter 11 Cases. Failure to satisfy the Debtors' obligations with respect to the Employees in the ordinary course of business during the Chapter 11 Cases will jeopardize the Employees' already waning loyalty and trust, likely causing Employees to leave the Debtors' employment; such a departure of vital personnel would severely disrupt the Debtors' affairs at this critical juncture. Moreover, the Employees have been promised that once these cases were commenced, their compensation would once again be paid, and their benefits and expense reimbursement would continue in the ordinary course, and it would be financially harmful if the Debtors are unable to pay them in the ordinary course of business. Accordingly, the Debtors submit that they have satisfied the requirements of Bankruptcy Rule 6003 to support immediate payment of certain pre-petition obligations related to the Employees.

Waiver of Bankruptcy Rule 6004(h)

30. The Debtors further seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." As set forth above, paying the Employee Obligations and maintaining Health and Welfare Benefits is necessary to prevent irreparable damage to the Debtors' business operations and, therefore, the value of the Debtors' businesses.

Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

Notice

31. Notice of this Motion shall be provided to: (i) the United States Trustee; (ii) counsel to Waterton Global Value, L.P., in its capacity as the senior pre-petition lender; (iii) counsel to Sandstorm Gold (Barbados) Ltd., in its capacity as the second lien pre-petition lender; (iv) counsel to Waterton Global Value, L.P., by its investment manager, Altitude Management Limited, in its capacity as the debtor-in-possession lender; (v) those parties listed on the list of creditors holding the twenty (20) largest unsecured claims against the Debtors (on a consolidated basis), as identified in their chapter 11 petitions; and (vi) the Debtors' banks. As this Motion is seeking "first day" relief, within two business days of the hearing on this Motion, the Debtors will serve copies of this Motion and any order entered in respect to this Motion as required by Local Rule 9013-1(m). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

Conclusion

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Proposed Order granting the relief requested herein and (ii) grant such other and further relief as may be just and proper.

Dated: August 26, 2015
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Kenneth J. Enos

Robert S. Brady (No. 2847)
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Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Order

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

	X	
	:	
In re	:	Chapter 11
	:	
SANTA FE GOLD CORPORATION, <i>et al.</i>,	:	Case No. 15-11761 (____)
	:	
Debtors.¹	:	Jointly Administered
	:	
	:	Ref. Docket No. ____

**ORDER (I) AUTHORIZING THE DEBTORS TO PAY
AMOUNTS ATTRIBUTABLE TO PRE-PETITION (A) WAGES, SALARIES,
AND OTHER COMPENSATION; (B) REIMBURSABLE EMPLOYEE EXPENSES; AND
(C) EMPLOYEE BENEFITS; (II) AUTHORIZING THE DEBTORS TO CONTINUE
THEIR EXISTING EMPLOYEE COMPENSATION AND BENEFITS PROGRAMS
POST-PETITION; AND (III) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the Debtors for entry of an order (this “Order”), pursuant to sections 105(a), 363(b), and 507(a) of title 11 of the Bankruptcy Code and Bankruptcy Rules 6003(b) and 6004(h), (i) authorizing, but not directing, the Debtors to pay all amounts attributable to pre-petition (a) wages, salaries, overtime pay, paid time off, holiday pay, and other accrued compensation, as well as all withholdings, taxes and deductions related thereto, (b) reimbursable employee business expenses, and (c) contributions to and benefits under employee benefit plans and programs; (ii) authorizing the Debtors to continue their existing employee compensation and benefits programs post-petition; (iii) authorizing and directing banks and other financial institutions to receive, process, honor and pay all checks presented for payment and electronic payment requests relating to the foregoing; and (iv)

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

granting related relief; and upon consideration of the First Day Declaration; and the Court having jurisdiction to consider the Motion 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 as of February 29, 2012; and venue of the Chapter 11 Cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that this Court may enter a final order consistent with Article III of the United States Constitution; and proper and adequate notice of the Motion, the hearing thereon, and opportunity for objection having been given; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having heard evidence and statements of counsel regarding the Motion and having determined that the legal and factual bases set forth in the Motion and attested to in the First Day Declaration establish just cause for the relief granted herein; and the Court having determined that immediate relief is necessary to avoid irreparable harm; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED to the extent set forth herein.
2. Subject to paragraph 3 of this Order, the Debtors are authorized, but not required, to pay the Employee Obligations, including authority, but not direction, to pay or otherwise honor: (i) the Pre-Petition Wage Obligations; (ii) the pre-petition PTO; and (iii) the pre-petition Reimbursable Expenses, provided, however, that the aggregate amount of payments on account of the Pre-Petition Wage Obligations shall not exceed \$62,500 unless further ordered by the Court, inclusive of other payments for prepetition claims contemplated by this Order.

3. Notwithstanding anything to the contrary in this Order, absent further order of the Court, (a) the payments made for Pre-Petition Wage Obligations on account of any particular individual shall not exceed \$12,475 and (b) the aggregate amount of payments on account of Pre-Petition Wage Obligations shall not exceed \$62,500 unless further ordered by the Court, inclusive of other payments for prepetition claims contemplated by this Order.

4. The Debtors are authorized, but not required, to honor and continue to offer the Health and Welfare Benefits, make any necessary contributions to such plans or programs and pay any unpaid premium, claim, or amount owed as of the Petition Date, provided, however, that the aggregate amount of such payments on account of such pre-petition Health and Welfare Benefits shall not exceed \$6,900 unless further ordered by the Court.

5. In accordance with this Order and any other order of this Court, the Debtors are authorized, but not required, to pay all processing and administrative fees associated with, and all costs incident to, payment of the Employee Obligations and Employee Benefits.

6. In accordance with this Order and any other order of this Court, the financial institutions at which the Debtors maintain their accounts (the “Banks”) shall be, and hereby are, authorized, when requested by the Debtors (in the Debtors’ sole discretion), to honor and pay all checks or electronic fund transfers drawn on the Debtors’ accounts for the payments authorized pursuant to this Order, whether such payments were presented prior to or following the Petition Date, provided that sufficient funds are on deposit in such accounts to honor and make such payments.

7. The Banks may rely on the representations of the Debtors with respect to whether any check or electronic fund transfers drawn or issued by the Debtors prior to the Petition Date

should be honored pursuant to this Order, and any such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Order.

8. The Debtors are authorized to issue post-petition checks, or to effect post-petition electronic fund transfers, in replacement of any checks or electronic fund transfers in respect of payments authorized by this Order that are dishonored or rejected after the Petition Date.

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

10. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors, an approval or assumption of any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, or a waiver of the right of the Debtors, or shall impair the ability of the Debtors, or any other party in interest, to the extent applicable, to contest the validity and amount of any payment made pursuant to this Order.

11. Notwithstanding anything to the contrary contained herein, any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved order regarding post-petition financing and any budget in connection therewith.

12. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

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

14. This Court shall retain jurisdiction over the Debtors and any party receiving payment from the Debtors pursuant to this Order with respect to any matters, claims, rights, or

disputes arising from or related to the Motion, the implementation of this Order, or the validity of any of claims against the Debtors or payment made pursuant to this Order.

Dated: August ___, 2015
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE