

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

In re:

Chapter 11

CARDINAL HOMES, INC.,

Case No. 19-36275-KRH

Debtor.¹

**MOTION FOR ENTRY OF AN ORDER AUTHORIZING
(I) PAYMENT OF WAGES, COMPENSATION AND EMPLOYEE BENEFITS,
(II) MAINTENANCE OF CERTAIN EMPLOYEE BENEFIT PROGRAMS
AND (III) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS
AND TRANSFERS RELATED TO SUCH OBLIGATIONS**

The above captioned debtor and debtor in possession (the “Debtor”), hereby moves the Court (the “Motion”) for entry of an order, the proposed form of which is attached hereto as **Exhibit A** (the “Order”), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) authorizing, but not requiring, the Debtor to (i) pay, in its sole discretion, Base Pay Obligations, Payroll Taxes, Expense Reimbursements, and administrative payments related thereto (each as defined below, and collectively, the “Employee

¹ The Debtor in this Chapter 11 Case and the last four digits of its taxpayer identification number are as follows: Cardinal Homes, Inc. (9112). The Debtor’s headquarters are located at 525 Barnesville Highway, Wylliesburg, VA 23976.

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Obligations”), as well as costs of the foregoing; (ii) maintain and continue to honor and pay its employee practices, programs, and policies as well as costs of the foregoing; (iii) authorizing and directing banks and other financial institutions (collectively, the “Banks”) to honor and process checks and electronic transfer requests related to the foregoing; and (iv) granting related relief. In support of the Motion, the Debtor relies on the *Declaration of Bret A. Berneche, President and Chief Executive Officer of Cardinal Homes, Inc., In Support of Chapter 11 Petition and First Day Motions* (the “First Day Declaration”)² filed concurrently herewith. In further support of this Motion, the Debtor respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper before 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 and 363(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004.

BACKGROUND

3. On November 20, 2019, Alouette Holdings, Inc., the Debtor’s parent company, filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division, commencing Case No. 19-36126-KRH.

4. On December 2, 2019 (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

² Capitalized terms used but not defined herein shall have the meanings ascribed in the First Day Declaration.

5. The Debtor has continued in possession of its property and has continued to operate and manage its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. No request has been made for the appointment of a trustee or an examiner in this case, and no official committee has yet been appointed by the Office of the United States Trustee.

I. The Debtor's Employee Obligations

A. Base Pay Obligations

7. In the ordinary course of business, the Debtor incurs base pay obligations (salaries and wages), sales commissions and employee benefits obligations to its employees for the performance of services (the "Base Pay Obligations"). As of the Petition Date, the Debtor employs approximately 15 full-time salaried employees, 14 full-time hourly employees (including two sales persons), and a direct labor force of between 20-60 hourly employees³ (collectively, the "Employees"), none of whom are members of a union.

8. The Debtor processes and funds payroll during the week following the end of each weekly pay period. For example, prior to the bankruptcy filing, the Debtor funded the tax portion of payroll via an ACH withdrawal to Payday Payroll Services on Thursday, November 28, and delivered paper checks dated November 29, 2019 for the Base Pay Obligations from November 17 through and including November 23, 2019. In the week preceding the Petition Date, the Debtor incurred, in the aggregate, approximately \$8,750 of Base Pay Obligations for services provided by its salaried and hourly employees which will be due and payable on Friday, December 6, 2019.

³ When the plant is operating.

9. Historically, sales commission were paid when earned in addition to the Base Pay Obligations. No commissions were earned in the week prior to the Petition Date.⁴

10. Since the Debtor processes its own payroll, Employees receive their base pay each Friday, one day after it is funded by the Debtor. The Debtor will need to fund its next payroll on or about December 5, 2019 for the Base Pay Obligations earned from November, 24, 2019 through November 30, 2019. Employees will receive payment for the Base Pay Obligations on December 6, 2019.

B. Payroll Taxes

11. The Debtor is required by law to withhold from Employees' wages amounts due for federal, state, and local income taxes, as well as social security and Medicare taxes (collectively, the "Withholding Taxes"). The Debtor withholds such amounts from the Employees' wages and then remits the same (through Payday Payroll Services) to the appropriate taxing authorities (collectively, the "Taxing Authorities"). The Debtor is current on all pre-petition obligations to remit Withholdings Taxes, other than the payroll taxes that will be withheld from the Base Pay Obligations earned in the week prior to the Petition Date.

12. In addition, the Debtor is required to make payments on account of social security and Medicare taxes, and to pay, based on a percentage of gross payroll (and subject to state-imposed limits), additional amounts to the Taxing Authorities for, among other things, state and federal unemployment insurance (collectively, the "Employer Payroll Taxes" and, together with the Withholding Taxes, the "Payroll Taxes"). As described above, the Debtor remits the Payroll

⁴ As of the Petition Date, the Debtor owed sales commission totaling \$10,058 to two sales personnel for jobs delivered. Prior to the Petition Date, the Debtor engaged three contract sales personnel and one contract purchasing agent. As of the Petition Date, the Debtor has outstanding sales commission obligations of \$28,568 and the purchasing agent is owed \$10,159 for services rendered.

Taxes to the appropriate Taxing Authorities on behalf of the Debtor and its Employees through Payday Payroll Services.

C. Expense Reimbursements

13. The Debtor's Employees incur various expenses in the discharge of their ordinary duties, such as travel and meal expenses. Because these expenses are incurred as part of their official duties and in furtherance of the Debtor's business, the Employees are reimbursed in full (the "Expense Reimbursements") after submission of appropriate expense reimbursement reports to the Employee's manager and the accounting department. Expense reports must be submitted by the Employee according to the expense report schedule, and must include, *inter alia*: (i) the amount of the expense; (ii) the time and place of travel; (iii) the business purpose for the expense; and (iv) the identity and business relationship of others who participated in the event. In the six-month period prior to the Petition Date, Expense Reimbursements averaged approximately \$1,559 per month. The Debtor estimates that there are Expense Reimbursements currently outstanding in the approximate amount of \$1,500; however, Employees may have incurred expenses before the Petition Date that Employees have not yet submitted reimbursement requests for, which may increase this amount.

II. The Debtors' Employee Benefits

14. In the ordinary course of business, the Debtor established employee benefits for health insurance through Anthem Healthkeepers ("Anthem") and life insurance through Allstate (collectively, the "Employee Benefits"). Health insurance premiums owing to Anthem are paid approximately 50% by Employees for individual coverage and 100% by Employees for family coverage. All life insurance premiums are paid by the Employee through payroll deductions.

15. As of the Petition Date, the Debtor has approximately a \$25,000 pre-petition obligation to Anthem for health insurance coverage provided in October and November of 2019. The premiums were due on October 1, 2019 and November 1, 2019, respectively. The cost of the Debtor's health coverage is approximately \$12,500 per month which includes the Employee-paid portion of health insurance. Not all eligible Employees elected to participate in the Debtor's health insurance program.

16. The Debtor will also withhold approximately \$1,700 from the paychecks of participating Employees earned in the week prior to the Petition Date that the Debtor is required to remit to Anthem to maintain health coverage. In addition, the Debtor is also obligated to Allstate for the life insurance premiums for September, October, and November 2019 in the amount of \$3,600.

III. Additional Employee Deductions

17. The Debtor deducts other involuntary amounts from Employee pay. For example, if the Debtor is served with a garnishment or judgment for an Employee, it deducts the applicable amounts and remits to appropriate government authority or individual. As of the Petition Date, the Debtor is current with respect its remittance of amounts withheld from Employees. The Debtor seeks permission to continue its practice of remitting withheld amounts to the appropriate parties.

RELIEF REQUESTED

18. By this Motion, the Debtor requests, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, entry of an of Order authorizing, but not requiring, the Debtor (i) to pay Base Pay Obligations in the amount of approximately \$8,750, Payroll Taxes in the amount of approximately \$2,705, Expense Reimbursements in the amount of approximately \$1,500,

Employee Benefits in the amount of approximately \$28,600; and (ii) maintain and continue the Employee Benefits on a post-petition basis as well as the costs associated with the foregoing.

19. Additionally, the Debtor requests the Court to authorize and direct the Banks to receive, process, honor, and pay all prepetition and post-petition checks issued or to be issued, and electronic fund transfers requested or to be requested, by the Debtor in connection with the Employee Obligations and Employee Benefits.

BASIS FOR RELIEF

I. Cause Exists to Authorize Payment to the Debtor's Employees.

A. The Debtor's Employee Obligations And Employee Benefits Constitute Priority Claims Under The Bankruptcy Code.

20. The Debtor's Employee Obligations and Employee Benefits relating to the period before the Petition Date constitute priority claims under the Bankruptcy Code. Pursuant to section 507(a)(4)(A) of the Bankruptcy Code, claims against the 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 \$13,650 per individual. 11 U.S.C. § 507(a)(4)(A). Similarly, section 507(a)(5) of the Bankruptcy Code provides that Employees' claims for contributions to certain employee benefit plans are also afforded priority unsecured status to the extent of \$13,650 per Employee covered by such plan, less any amount paid pursuant to section 507(a)(4) of the Bankruptcy Code. *See* 11 U.S.C. § 507(a)(5).

21. The Debtor's Employee Obligations and Employee Benefits described above clearly constitute priority claims under sections 507(a)(4) and (5) of the Bankruptcy Code. As priority claims, these obligations must be paid in full before any general unsecured obligations of the Debtor may be satisfied. Accordingly, the relief requested may affect only the timing of the payment of these priority obligations, and will not prejudice the rights of general unsecured

creditors. Furthermore, payments to contract employees is essential to retain their services in the post-petition period. Each of the contractor creditors for which the Debtor seeks authority to pay provide a valuable service that the Debtor would be unable to replace in the near future. As such, retention of these individuals is important to the Debtor's operation as a going concern and its enterprise value.

B. Satisfaction Of The Debtor's Prepetition Employee Obligations And Employee Benefits Are Appropriate Under The Necessity Of Payment Doctrine.

22. Notwithstanding the foregoing, the Debtor submits that satisfaction and payment of the Employee Obligations and Employee Benefits is necessary and appropriate and may be authorized under sections 105(a) and 363(b) of the Bankruptcy Code pursuant to the "necessity of payment" doctrine. The Debtor, however, does not seek authority to pay any such amount in excess of the statutory cap.

23. The "necessity of payment" doctrine "recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the 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 prepetition employee wages and benefits); *see also Mich. Bureau of Workers' Disability Compensation v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285-86 (S.D.N.Y. 1987), *appeal dismissed* 838 F.2d 59 (2d Cir. 1988) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits). This doctrine is consistent with the principal goal of chapter 11 of "facilitating the continued operation and rehabilitation of the debtor." *Ionosphere Clubs*, 98 B.R. at 176.

24. Section 105(a) of the Bankruptcy Code empowers the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11

U.S.C. § 105(a). A bankruptcy court's use of its equitable powers to "authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept." *Ionosphere Clubs*, 98 B.R. at 175. "Under Section 105, the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor." *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *Ionosphere Clubs*, 98 B.R. at 177).

25. Furthermore, section 363(b)(1) of the Bankruptcy Code provides, "[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).

26. Any delay or failure to pay wages, salaries, benefits, and other similar items would irreparably impair the Employees' morale, dedication, confidence, and cooperation, and would adversely impact the Debtor's relationships with its Employees at a time when the Employees' support is critical to the success of the Case. At this early stage, the Debtor simply cannot risk the substantial damage to its business that would inevitably attend any decline in confidence and morale.

27. Absent an order granting the relief requested herein, the Employees will suffer undue hardship and, in many instances, serious financial difficulties, as the amounts in question are needed to enable certain of the Employees to meet their own personal financial obligations. Without the requested relief, the stability of the Debtor will be undermined, perhaps irreparably, by the distinct possibility that otherwise loyal Employees will seek other employment alternatives. In addition, it would be inequitable to require the Debtor's Employees to bear personally the cost of any business expenses they incurred prepetition for the benefit of the Debtor, with the understanding that they would be reimbursed.

28. The Debtor does not seek to alter any of its Employee Benefits at this time. This Motion is intended only to permit the Debtor, in its discretion, to make payments consistent with the Debtor's 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 to permit the Debtor, in its discretion, to continue to honor its practices, programs, and policies with respect to its Employees, as such practices, programs, and policies were in effect as of the Petition Date. Payment of all Employee Obligations in accordance with the Debtor's prepetition business practices is in the best interests of the Debtor's estate, its creditors, and all parties in interest, and will enable the Debtor to continue to operate its business in an economic and efficient manner without disruption. As explained more fully above, the Debtor's Employees are central to its operations and are vital to this Case. A significant deterioration in Employee morale at this critical time would have a devastating impact on the Debtor, its vendors, the value of the Debtor's assets and business, and the Debtor's ability to continue operations. Moreover, the total amount sought to be paid herein is relatively modest compared with the size of the Debtor's overall business and the importance of the Employees to the Case.

29. Numerous courts have recognized the validity of the foregoing justifications for allowing debtors to pay Unpaid Wages and Withholding Obligations, and as a result, have routinely granted relief similar to that requested herein. See generally In re The Gymboree Corporation, Case No. 17-32986 (KLP) (Bankr. E.D. Va. June 12, 2017); In re Penn Virginia Corporation, Case No. 16-32395 (KLP) (Bankr. E.D. Va. June 9, 2016); In re Alpha Natural Res., Inc., Case No. 15-33896 (KRH) (Bankr. E.D. Va. Aug. 5, 2015); In re Patriot Coal Corp., Case No. 15-32450 (KLP) (Bankr. E.D. Va. June 4, 2015); In re James River Coal Co., Case No. 14-31848 (KRH) (Bankr. E.D. Va. May 8, 2014); In re AMF Bowling Worldwide, Inc., Case No. 12-

36495 (KRH) (Bankr. E.D. Va. Dec. 17, 2012); In re Bear Island Paper Co., L.L.C., Case No. 10-31202 (DOT) (Bankr. E.D. Va. Mar. 25, 2010); In re Circuit City Stores, Inc., Case No. 08-35653 (KRH) (Bankr. E.D. Va. November 10, 2008).

30. Accordingly, by this Motion, the Debtor seeks authority pursuant to sections 105(a) and 363(b) of the Bankruptcy Code to pay Employee Obligations as they become due and owing during the pendency of this chapter 11 case and to continue, uninterrupted, its practices, programs, policies, and payments with respect to its Employee Benefits, as such practices, programs, and policies were in effect as of the Petition Date.

II. Applicable Banks Should Be Authorized to Honor and Pay Checks Issued and Make Other Transfers to Pay Employee Obligations.

31. Under the Debtor's existing cash management system,⁵ the Debtor can readily identify checks as relating to an authorized payment of the Employee Obligations and Employee Benefits. The Debtor, therefore, further requests that this Court authorize and direct applicable Banks to receive, process, honor, and pay all prepetition and post-petition checks issued or to be issued, and electronic fund transfers requested or to be requested, by the Debtor in connection with the Employee Obligations and Employee Benefits. The Debtor also seeks authority to issue new post-petition checks, or effect new electronic fund transfers, on account of the Employee Obligations and Employee Benefits to replace any prepetition checks or electronic fund transfer requests that may have already been dishonored or rejected.

32. Authorization to pay all amounts on account of Employee Obligations and Employee Benefits shall not be deemed to constitute post-petition assumption or adoption of any

⁵ For further information regarding the Debtor's cash management system, see the *Motion for entry of Order (I) Authorizing Continued Use of Cash Management System, (II) Authorizing Continued Use of Existing Business Forms, (III) Authorizing the Use of Prepetition Bank Accounts, and (IV) Waiving the Requirements of Section 345(b) of the Bankruptcy Code* filed contemporaneously with this Motion, and the First Day Declaration.

contract, program, or policy pursuant to section 365 of the Bankruptcy Code. The Debtor is in the process of reviewing these matters and reserve all of its rights under the Bankruptcy Code with respect thereto. Moreover, authorization to pay all amounts on account of Employee Obligations and Employee Benefits shall not affect the Debtor's right to contest the amount or validity of any such claims, including without limitation, the Payroll Taxes that may be due and owing.

IMMEDIATE RELIEF IS NECESSARY

33. Bankruptcy Rule 6003 provides that the relief requested in this Motion may be granted if the "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003. As set forth throughout this Motion, any disruption of the Employee Obligations would substantially diminish or impair the Debtor's efforts in this Case to preserve and maximize the value of its estate.

34. For this reason and those set forth above, the Debtor respectfully submits that Bankruptcy Rule 6003(b) has been satisfied and the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtor and its estate.

WAIVER OF ANY APPLICABLE STAY

35. The Debtor also requests that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[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." Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtor seeks in this Motion is necessary for the Debtor to operate its businesses without interruption and to preserve value for its estate. Accordingly, the Debtor respectfully requests that the Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

NOTICE

36. Notice of this Motion will be given to: (i) the Office of the United States Trustee; (ii) the Office of the United States Attorney for the Eastern District of Virginia, (iii) Internal Revenue Service, (iv) counsel for the DIP Lender; (v) Anthem HealthKeepers, (v) Allstate, (vi) the Debtor's twenty (20) largest unsecured creditors; (vii) the Debtor's pre-petition secured lenders and its counsel, if known; (viii) all parties that have filed a financing statement asserting a lien in any of the Debtor's assets; and (ix) any party that has filed a request for notice with the Court. The Debtor submits that, under the circumstances, no other or further notice of the Motion is required.

NO PRIOR REQUEST

37. No previous motion for the relief sought herein has been made to this or any other court.

WHEREFORE, for the reasons set forth herein and in the First Day Declaration, the Debtor respectfully requests that this Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested in the Motion and such other and further relief as is just and proper.

Dated: December 2, 2019

CARDINAL HOMES, INC.

/s/ Michael E. Hastings

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

In re: Chapter 11
CARDINAL HOMES, INC., Case No. 19-36275-KRH
Debtor.¹

**ORDER AUTHORIZING (I) PAYMENT OF WAGES, COMPENSATION AND EMPLOYEE
BENEFITS, (II) MAINTENANCE OF CERTAIN EMPLOYEE BENEFIT PROGRAMS
AND (III) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS AND
TRANSFERS RELATED TO SUCH OBLIGATION**

Upon the Motion (the “Motion”)² of the above-captioned debtor and debtor-in-possession (the “Debtor”) for, among other things, entry of an order pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) authorizing, but not requiring, the Debtor to (i) pay, in its sole discretion, Base Pay Obligations, Payroll Taxes, Expense Reimbursements, and administrative payments related thereto (each as defined below, and collectively, the “Employee Obligations”), as well as costs of the foregoing;

¹ The Debtor in this Chapter 11 Case and the last four digits of its taxpayer identification number are as follows: Cardinal Homes, Inc. (9112). The Debtor’s headquarters are located at 525 Barnesville Highway, Wylliesburg, VA 23976.

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

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(ii) maintain and continue to honor and pay their employee practices, programs, and policies (defined as the “Employee Benefits”) as well as costs of the foregoing; (iii) authorizing banks and other financial institutions (collectively, the “Banks”) to honor and process checks and electronic transfer requests related to the foregoing; and (iv) granting related relief; and notice of the Motion having been given to: (i) the Office of the United States Trustee; (ii) the Office of the United States Attorney for the Eastern District of Virginia, (iii) Internal Revenue Service, (iv) counsel for the DIP Lender; (v) Anthem Healthkeepers, (vi) Allstate, (vii) the Debtor’s twenty (20) largest unsecured creditors; (viii) the Debtor’s pre-petition secured lenders and its counsel, if known; (ix) all parties that have filed a financing statement asserting a lien in any of the Debtor’s assets; and (x) any party that has filed a request for notice with the Court; and the Court having conducted a hearing on December 3, 2019, to consider the relief requested in the Motion (the “First Day Hearing”); and it appearing that granting the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor, and is otherwise fair and reasonable and in the best interest of the Debtor, its estate and its creditors, and is essential for the preservation of the value of the Debtor’s assets; and all objections, if any, to the entry of this Order having been withdrawn, resolved or overruled by the Court; and upon the entire record of this case, including any evidence presented or statements of counsel at the First Day Hearing; and after due deliberation thereon; and good and sufficient cause appearing therefor;

It is accordingly hereby **ORDERED, ADJUDGED, AND DECREED** that:

1. The Motion is **GRANTED**, stated herein, on an interim basis pending a final hearing thereon, which is hereby scheduled for December __, 2019 at _:00 p.m. in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division, 701 E. Broad Street, Courtroom 5000, Richmond, Virginia 23219 (the “Final Hearing”), with any objections to be filed and served so as to be received on or before December __, 2019. If no objections are

filed and served in accordance with this Order, no Final Hearing will be held and the Motion is approved by this Order becoming final, and no further order approving the Motion will be required.

2. Pursuant to sections 507(a), 363(b) and 105(a) of the Bankruptcy Code, the Debtor is authorized, but not directed, to pay and/or honor (i) Base Pay Obligations in an approximate amount of \$8,750, (ii) Payroll Taxes in an approximate amount of \$2,705, (iii) Expense Reimbursements in an approximate amount of \$1,500, (iv) Employee Benefits in an approximate amount of \$28,600, all costs and/or expenses related thereto as set forth in the Motion, in accordance with the Debtor's policies in the ordinary course of business and as provided in the Motion.

3. No payments to any Employee on account of Employee Obligations and Employee Benefits shall exceed the \$13,650 cap per Employee provided under section 507 of the Bankruptcy Code.

4. All payments to any Employee on account of pre-petition Employee Obligations and Employee Benefits shall be applied toward the \$13,650 cap per Employee provided under section 507 of the Bankruptcy Code.

5. The Debtor and any other third parties administering withholding obligations on behalf of the Debtor, are authorized, but not directed, to make payments to applicable third parties with respect to the Withholding Taxes, and the Payroll Taxes, as set forth in the Motion, and the costs associated therewith, in accordance with the Debtor's ordinary course of business and stated policies, as set forth in the Motion.

6. In accordance with this Order and any other order of this Court, the bank and financial institution at which the Debtor maintain its accounts are authorized to honor all checks

and fund transfer requests made by the Debtor related hereto, to the extent that sufficient funds are on deposit in its accounts.

7. The Debtor is authorized to pay all processing and administrative fees associated with the Employee Obligations, Employee Benefits, and other benefits as set forth in the Motion.

8. Nothing in the Motion or this Order shall be construed as impairing the Debtor's right to contest the validity or amount of any Employee Obligations and/or Employee Benefits.

9. Nothing in the Motion shall be deemed a request by the Debtor for authority to assume, and nothing in this Order shall be deemed authorization to assume, any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code or create an administrative obligation for any pre-petition wages or benefits.

10. Within two (2) business days following entry of this Order, the Debtor shall serve, by United States mail, first-class postage prepaid, a copy of this Order on: (i) the Office of the United States Trustee; (ii) the Office of the United States Attorney for the Eastern District of Virginia, (iii) Internal Revenue Service, (iv) counsel for the DIP Lender; (v) Anthem HealthKeepers, (v) Allstate, (vi) the Debtor's twenty (20) largest unsecured creditors; (vii) the Debtor's pre-petition secured lenders and its counsel, if known; (viii) all parties that have filed a financing statement asserting a lien in any of the Debtor's assets; and (ix) any party that has filed a request for notice with the Court.

11. The requirement under Local Rule 9013-1(G) to file a memorandum of law in connection with the Motion is waived.

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

14. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

15. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____

UNITED STATES BANKRUPTCY JUDGE

Entered on Docket _____

WE ASK FOR THIS:

/s/ Michael E. Hastings
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Proposed Counsel for the Debtor and Debtor in Possession

Local Rule 9022-1(C) Certification

The foregoing Order was endorsed by and/or served upon all necessary parties pursuant to Local Rule 9022-1(C).

/s/ Michael E. Hastings
Michael E. Hastings