

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
ALLIED SYSTEMS HOLDINGS, INC., et al.,<sup>1</sup> ) Case No. 12-11564 (CSS)  
 )  
Debtors. ) (Jointly Administered)  
 )

**ORDER APPROVING STIPULATION AMONG YUCAIPA, THE DIP AGENT, THE  
DIP LENDERS AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
REGARDING POSTPETITION SECURED DIP FINANCING**

This Court having considered the *Revised Stipulation Among Yucaipa, The DIP Agent, the DIP Lenders And The Official Committee Of Unsecured Creditors Regarding Postpetition Secured DIP Financing and the Adversary Proceeding* (the "Stipulation")<sup>2</sup> attached hereto as **Exhibit 1**; the court having determined that good and adequate cause exists for approval of the Stipulation; and the Court having determined that no further notice of the Stipulation must be given; it is hereby

ORDERED that the Stipulation is approved.

Dated: 2/1, 2013  
Wilmington, Delaware

  
UNITED STATES BANKRUPTCY JUDGE

<sup>1</sup> The debtors in the above-captioned cases (collectively, the "Debtors"), along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (87568828); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Stipulation.

**Exhibit 1**

**Stipulation**

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

In re: ) Chapter 11  
ALLIED SYSTEMS HOLDINGS, INC., *et al.*,<sup>1</sup> ) Case No. 12-11564 (CSS)  
 )  
Debtors. ) (Jointly Administered)  
 )  
 ) Re: Docket No. 822  
 )

**STIPULATION AMONG YUCAIPA, THE DIP AGENT, THE DIP LENDERS AND THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS REGARDING  
POSTPETITION SECURED DIP FINANCING**

WHEREAS, on May 17, 2012, involuntary petitions pursuant to chapter 11 of the Bankruptcy Code were filed against Allied Systems Holdings, Inc. and Allied Systems, Ltd. (L.P.) (the "Petitioning Creditors"), Allied Systems Holdings, Inc. and Allied Systems, Ltd. (L.P.) consented to the entry of an order for relief on June 10, 2012 (the "Consent Date"), and all of the other Debtors filed voluntary petitions for relief on the same date;

WHEREAS, on July 12, 2012, the Court entered the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(e), 503(b) and 507(a), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing And (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; And (IV) Modifying Automatic*

<sup>1</sup> The debtors in the above-captioned cases (collectively, the "Debtors"), along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (87568828); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

*Stay* (D.I. 230) (the “DIP Order”), and approved the Senior Secured Super-Priority Debtor in Possession Credit and Guaranty Agreement dated as of June 11, 2012 (as amended, restated or otherwise modified from time to time, the “DIP Financing Agreement”) by and between the Debtors, Yucaipa American Alliance Fund II, LLC as agent (in such capacity, the “DIP Agent”) and Yucaipa Leveraged Finance, LLC and CB Investments, LLC as DIP Lenders (in such capacity, the “DIP Lenders”) to enter into;<sup>2</sup>

WHEREAS, on October 18, 2012, the Debtors commenced the adversary proceeding captioned *Allied Systems Holdings, Inc. v. American Money Management Corp., et al.*, Adversary Proceeding No. 12-50947 (CSS) (the “Adversary Proceeding”) by filing their *Verified Complaint for Declaratory Judgment and Injunctive Relief* (Adv. Pro. D.I. 1);

WHEREAS, on December 5, 2012, Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P., and Yucaipa American Alliance (Parallel) Fund II, L.P. (collectively, the “Yucaipa Litigants,” together with the DIP Agent and Yucaipa Leveraged Finance, LLC and other affiliated entities, “Yucaipa”) filed *Yucaipa’s (I) Counterclaim and Cross-Claim for Declaratory Judgment and Injunctive and Other Relief and (II) Answer to Debtors’ Verified Complaint* (Adv. Pro. D.I. 55), as amended by *Yucaipa’s (I) Amended Counterclaim and Cross-Claim for Declaratory Judgment and Injunctive and Other Relief and (II) Amended Answer to Debtors’ Verified Complaint* (Adv. Pro. D.I. 65) (“Yucaipa’s Cross-Claim”);

WHEREAS, on December 20, 2012, the Court held a status conference in the Adversary Proceeding and established that the deadline to answer, move in connection with or otherwise

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the DIP Order, or if such terms are not defined in the DIP Order, they shall have the meanings ascribed to them in the DIP Financing Agreement.

respond to the complaint, counterclaim and cross-claim filed in the Adversary Proceeding would be January 25, 2013 (Adv. Pro. D.I. 68);

WHEREAS, on January 11, 2013, the Debtors filed the *Debtors' Motion to Authorize and Approve Amendment No. 2 to Senior Secured Super-Priority Debtor in Possession Credit and Guaranty Agreement and for Related Relief* (D.I. 772) (the "DIP Amendment Motion"), and a hearing was held in connection therewith on January 30, 2013 at 10:00 a.m. (EST) (the "Hearing");

WHEREAS, pursuant to paragraph 12(b) of the DIP Order, the Official Committee of Unsecured Creditors (the "Committee") appointed in these chapter 11 cases of the Debtors, and all other non-debtor parties in interest have the right to file a complaint pursuant to Bankruptcy Rule 7001, or assert a setoff, claim, offset or defense that seeks to invalidate, subordinate, recharacterize any of the Prepetition Lender Liens, Prepetition Secured Claims or the actions taken by any Prepetition Secured Party in its capacity as such (a "Challenge Action");

WHEREAS, the Court has entered several stipulations between, among other parties, the Committee and the DIP Agent, effectively extending the Challenge Period Termination Date to January 30, 2013 with respect to all applicable Challenge Actions brought by the Committee (D.I. 369, 465, 648, 749);

WHEREAS, the Committee, Yucaipa, the DIP Lenders and the DIP Agent desire to attempt to resolve certain matters among them relating to the DIP Financing Agreement, the DIP Order, the Adversary Proceeding, and a potential Challenge Action that the Committee anticipates commencing, as well as to provide a reasonable amount of time for the Committee to evaluate, among other options, Yucaipa's new proposed bid for the assets of the Debtors;

WHEREAS, on January 25, 2013, the Committee filed the *Certification of Counsel Regarding Stipulation Among Yucaipa, the DIP Agent, the DIP Lender and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing and the Adversary Proceeding* (D.I. 822) (the "Original Stipulation");

WHEREAS, on January 30, 2013, as a result of the matters discussed at the Hearing, the Committee, Yucaipa, the DIP Agent and the DIP Lenders agreed to revise the Original Stipulation to, among other things, permit the Committee to file its Challenge Action and Affirmative Claims (as defined below) on or before February 4, 2013;

NOW, THEREFORE, in consideration of the foregoing and the promises and agreements set forth hereinafter, it is hereby stipulated and agreed by and between the Committee, Yucaipa, on its own behalf, as DIP Agent and as the purported successor Prepetition First Lien Agent, and the DIP Lenders (each, a "Party," and collectively, the "Parties"), as indicated by the signatures of their respective authorized representative below, that:

1. The Challenge Period Termination Date is extended with respect to all applicable Challenge Actions brought by the Committee to February 4, 2013. Paragraph 12(b) is hereby amended by adding the following sentence at the end therefor: "Notwithstanding anything in this paragraph, any other provision in the Final Order, or any other order of the Court (except prior stipulations and orders previously amending Paragraph 12(b)), the Challenge Period Termination Date with respect to any Challenge Action that may be brought under paragraph 12(b)(ii) by the Committee must be brought on or before February 4, 2013."

2. Yucaipa, the DIP Agent and the DIP Lenders agree that a filing of any Challenge Action or any other claim, cross-claim or counterclaim for affirmative relief against Yucaipa or any of its representatives, partners or agents or any other party (an "Affirmative Claim") in the

Adversary Proceeding or in any other related proceeding that seeks to invalidate, subordinate, or recharacterize any of the Prepetition Lender Liens, Prepetition Secured Claims or the actions taken by any Prepetition Secured Party in its capacity as such, or that seeks to recover monetary damages on behalf of the Debtors' estates by the Committee or the Petitioning Creditors (each, a "Filing") shall not constitute an Event of Default under the DIP Financing Agreement, and that a Filing shall not otherwise constitute a breach of the DIP Financing Agreement or the DIP Order.

3. Yucaipa, the DIP Agent and the DIP Lenders consent to the standing of the Committee to bring a Challenge Action or Affirmative Claim on behalf of the Debtors' estates.

4. Yucaipa, the DIP Agent and the DIP Lenders agree that they will increase the amount of postpetition delayed draw term loans available to the Debtors under the DIP Financing Agreement and the DIP Order from \$20,000,000 to \$22,000,000 (the "DIP Facility Increase"), on terms that are reasonably and mutually acceptable among the DIP Agent, the Debtors and the Committee.

5. In order to ensure that the Debtors have sufficient liquidity to continue as a going concern and to ensure that the filing of Challenge Actions or Affirmative Claims will not put the Debtors' DIP Loan in jeopardy, Yucaipa, the DIP Agent and the DIP Lenders agree to and will use reasonable efforts to have the Debtors promptly and timely file with the Court, under a certification of counsel, a revised order (the "DIP Amendment Order") authorizing and approving amendment no. 2 to the DIP Financing Amendment that incorporates the terms of the Stipulation, including, but not limited to, replacing paragraph 2(ii) of the DIP Order with the following: "obtain postpetition delayed draw term loans (the "DIP Loan") under the DIP Financing Agreement in an aggregate principal amount not to exceed \$22,000,000."

6. There shall be not be any fees charged to the Debtors or fees payable to Yucaipa in connection with the DIP Facility Increase, provided, however, the terms of this paragraph do not impact any forbearance fee of up to \$45,000 set forth in the DIP Amendment Motion that is approved by the Court in and through the revised DIP Amendment Order.

7. Paragraph 12(d) of the DIP Order shall be modified to provide that the Committee shall be permitted to be reimbursed for up to (but not more than) \$250,000 in the aggregate of proceeds of the DIP Loan and Cash Collateral for all Committee Challenge Fees incurred by the Committee on or before the date hereof. For the avoidance of doubt, the foregoing cap on Committee Challenge Fees shall not apply to any fees or expenses incurred by the Committee (i) in evaluating, taking discovery with respect to, and/or objecting to any bid for the Debtors brought by Yucaipa or Yucaipa's Related Parties (as defined in the DIP Order), or (ii) in connection with matters in the Adversary Proceeding, in each case not directly related to any Challenge Action or Affirmative Claim against Yucaipa or Yucaipa's Related Parties.

8. Nothing in this Stipulation shall be construed to mean that the Committee or Yucaipa (or any other party) has reached an agreement with any Party hereto or any other party or entity concerning anything not expressly set forth herein.

9. Neither the Stipulation nor any negotiations and writings in connection with this Stipulation shall in any way be construed as or deemed to be an admission by any Party, or a waiver of any claims or defenses that may be available to such Party.

10. Nothing contained herein shall act to waive or prejudice either: (a) the Committee's right to seek such other and further extensions of the Challenge Period as it deems necessary and appropriate; (b) the Committee's right to seek to use Cash Collateral in excess of the cap on the Committee's Challenge Action Fees as set forth in paragraph 12(d) of the DIP



Order to investigate and prosecute any Challenge Action, for any such fees incurred by the Committee, whether or not they were incurred before, after, or on the date hereof; (c) the right of any other Party to object to the Committee's request(s) for such an extension, or use of Cash Collateral, as applicable; or (d) the Committee's right to negotiate with any other party relating to any matter in these chapter 11 cases or the Adversary Proceeding.

11. Except as expressly set forth herein or in any other applicable order of this Court, the Parties agree that this Stipulation does not otherwise affect any term or provision of the DIP Order, and that the DIP Order otherwise remains in full force and effect.

12. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. Signatures transmitted by facsimile or other electronic transmission shall be sufficient to constitute execution by the parties hereto.

13. This Stipulation contains the entire agreement between the Parties as to the subject matter hereof, and all understandings, agreements and communications prior to the date hereof, whether express or implied, oral or written, relating to the subject matter hereof are fully and completely extinguished and superseded by this Stipulation. This Stipulation shall not be altered, amended, modified or otherwise changed, and the rights hereunder may not be waived, except by a writing dated subsequent to the date hereof and duly signed by each of the Parties.

14. This Stipulation is effective upon filing without further order of Court and shall not be modified, altered, amended or vacated without written consent of all parties hereto, subject to Court approval.

15. This Court shall retain jurisdiction over all matters arising from or related to the interpretation or implementation of this Stipulation.

AGREED TO AND ACCEPTED BY:

Date: January 31, 2013

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Date: January 31, 2013

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**Miscellaneous:**

12-11564-CSS Allied Systems Holdings, Inc.

Type: bk Chapter: 11 v Office: 1 (Delaware)

Assets: y Judge: CSS

Case Flag: CLMSAGNT, LEAD, DsclsDue, MEGA, PlnDue, SealedDoc(s)

**U.S. Bankruptcy Court**

**District of Delaware**

**Notice of Electronic Filing**

The following transaction was received from William A. Hazeltine entered on 1/31/2013 at 7:07 PM EST and filed on 1/31/2013

**Case Name:** Allied Systems Holdings, Inc.

**Case Number:** 12-11564-CSS

**Document Number:** 849

**Docket Text:**

Certification of Counsel Regarding Stipulation Among Yucaipa, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing (related document(s)[822]) Filed by OFFICIAL COMMITTEE OF UNSECURED CREDITORS. (Attachments: # (1) Exhibit A# (2) Exhibit B# (3) Proposed Form of Order) (Hazeltine, William)

The following document(s) are associated with this transaction:

**Document description:Main Document**

**Original filename:**COC Jan.31.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=1/31/2013] [FileNumber=11409220-0] [87be208ac2d0e621176d90acfe1fa9020de68256db7d5a9f4ac1e1366409557a29e19620c31c7c46b32c33ee6964de1530f034c8c6c9d99fbcfbf8467e94332b4]]

**Document description:Exhibit A**

**Original filename:**COC Jan. 31 Ex. A.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=1/31/2013] [FileNumber=11409220-1] [6c21195fd5db15d7554cf9df5bc9e5121d3a3954687700392be68a3d04b8daafec22b910e01d3bc0ce6a2d388c37562a7fcd7f84afff3cd0ea1ca0ea9600aef9]]

**Document description:Exhibit B**

**Original filename:**COC Jan. 31 Ex. B.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=1/31/2013] [FileNumber=11409220-2] [6b5197c1c4dca2db06ed722a20bbac91aa9f86705f16fdd413c56342b02c35235328020436bb0e0a6aa55e74f94b3c86abd4dfe0ed5a02b04b1dc09223edaa0ff]]

**Document description:Proposed Form of Order**

**Original filename:**COC Jan. 31 Ex. C.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=1/31/2013] [FileNumber=11409220-3] [6f7441e02752c53544b234b41118ff1c3bca18260fd772c2b2ea099880319d1d692e06a91443c52abb74ea3db0f53e9fd0a61cae492591f1d7c5bbf1fe6f5868]]

**12-11564-CSS Notice will be electronically mailed to:**

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