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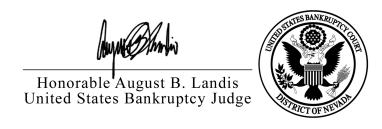
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In re

FOX ROTHSCHILD LLP 980 Festival Plaza Drive, Suite 7 Las Vegas, Nevada 89135 (702) 262-4899 (702) 597-5503 (fax)



Entered on Docket December 13, 2016

BRETT A. AXELROD, ESQ.

Nevada Bar No. 5859

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[Proposed] Counsel for Avery Land Group, LLC

## UNITED STATES BANKRUPTCY COURT

## DISTRICT OF NEVADA

AVERY LAND GROUP, LLC, a Nevada limited liability company,

Debtor.

Case Nos. BK-S-16-14995-abl

Chapter 11

ORDER PURSUANT TO 11 U.S.C. §§ 105, 364, FED R. BANKR. P. RULE 4001(C) AND L.R. 4001(B) AND (C): (I) AUTHORIZING DEBTOR TO OBTAIN POST-PETITION FINANCING; (II) GRANTING RELATED RELIEF

Hearing Date: December 7, 2016

Hearing Time: 1:30 p.m.

The motion of the debtor and debtor-in-possession (the "<u>Debtor</u>" or "<u>Borrower</u>") in the above-captioned chapter 11 case (the "<u>Chapter 11 Case</u>"), dated October 31, 2016 [Docket No. 90] (the "<u>Motion</u>"), requesting the entry of a final order pursuant to sections 105, 361, 362, 363(c), 364(c)(2),

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364(c)(3), and 364(e) of title 11 of the United States Code, 11 U.S.C. § 101, et seq. (the "Bankruptcy Code"), and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), seeks, among other things1:

- (a) authorization for the Debtor to obtain secured post-petition financing in an aggregate principal amount of up to \$500,000 (the "Post-Petition Financing"), pursuant to section 364 of the Bankruptcy Code, from BDH Gypsum ("Lender"), pursuant to the terms of this Final DIP Order and that certain Debtor in Possession Revolving Credit Agreement by and among the Borrower, and the Lender, in substantially the form attached to the Supplemental Declaration of James Rhodes as Exhibit A [Docket No. 124] (as the same may be amended, restated, supplemented or otherwise modified from time to time, collectively, the "Credit Agreement"), and any related documents required to be delivered by or in connection with the Credit Agreement (together with the Credit Agreement, collectively, the "Loan Documents");
- (b) authorization for the Borrower to execute and enter into the Loan Documents and to perform such other and further acts as may be required in connection with the Loan Documents;
- (c) the grant of security interests and liens pursuant to section 364(c)(2) and (3) of the Bankruptcy Code to the Lender to secure all obligations of the Borrower under and with respect to the Post-Petition Financing as well as section 364(e) status;
- (d) the modification of the automatic stay imposed under section 362 of the Bankruptcy Code to the extent necessary to permit the Borrower and the Lender to implement the terms of this Final DIP Order.

A final hearing on the Motion was held by this Court on December 7, 2016 ("Final Hearing"). The Court read and considered the Motion, the Objection [Docket No. 117] filed by the United States Trustee and all pleadings related thereto, as well as the record made by the Debtor and other parties at the Final Hearing, and after due deliberation and consideration, and good and sufficient cause appearing therefor:

<sup>&</sup>lt;sup>1</sup> Capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in the Credit Agreement and capitalized terms used but not immediately defined in Order shall have the meanings ascribed to them later in this Order.

- 2. IT IS FURTHER ORDERED that Debtor shall obtain secured post-petition financing in an aggregate principal amount of up to \$500,000 (the "Post-Petition Financing"), pursuant to section 364 of the Bankruptcy Code, from BDH Gypsum ("Lender"), pursuant to the terms of this Final DIP Order and that certain Debtor in Possession Revolving Credit Agreement by and among the Borrower, and the Lender, in substantially the form attached to the Rhodes Declaratrion (as the same may be amended, restated, supplemented or otherwise modified from time to time, collectively, the "Credit Agreement"), and any related documents required to be delivered by or in connection with the Credit Agreement (together with the Credit Agreement, collectively, the "Loan Documents"); and
- 3. IT IS FURTHER ORDERED that Debtor shall cause a copy of this Final DIP Order to be served within three (3) Business Days of its entry, by first class mail, on the (a) Office of the United States Trustee for the District of Nevada, counsel for any Committee, and if no such committee was appointed, then to the parties listed on the List of Creditors Holding the 20 Largest Unsecured Claims; (d) all other secured creditors, and (e) all other parties requesting notice pursuant to Bankruptcy Rule 2002.

DATED: December 12, 2016.

Prepared and respectfully submitted by:

## FOX ROTHSCHILD LLP

By /s/Brett A. Axelrod
BRETT A. AXELROD, ESQ.
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Las Vegas, Nevada 89135
Counsel for Avery Land Group, LLC

	)
APP	PROVED/DISAPPROVED:
UNI	TED STATES DEPARTMENT OF JUSTICE
By «	Elward M.W. Danley.
E	Edward M. McDonald Jr., Trial Attorney
F	For the United States Trustee for Region 17,
7	Tracy Hope Davis
(	Office of the United States Trustee
3	300 Las Vegas Blvd. So., Suite 4300
ľ	on Vegas Nevada 20101

## **CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021**

In accordance with Local Rule 9021, counsel submitting this document certifies as follows:

- ☐ The Court has waived the requirement of approval in LR 9021(b)(1).☐ No party appeared at the hearing or filed an objection to the motion

at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below:

Edward M. McDonald Jr., Trial Attorney For the United States Trustee for Region 17, Tracy Hope Davis

Richard F. Holley, Esq. Waived Holley Driggs Walch Fine Wray Puzey & Thompson Counsel for Utica Leaseco, LLC

I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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