

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:) Chapter 11
)
GIORDANO'S ENTERPRISES, INC., *et*) Case No. 11-06098
*al.*¹) (Jointly Administered)
)
Debtors.) Hon. Eugene R. Wedoff

ORDER AUTHORIZING DEBTORS TO: (A) USE CASH COLLATERAL; (B) INCUR POSTPETITION DEBT; AND (C) GRANT ADEQUATE PROTECTION AND PROVIDE SECURITY AND OTHER RELIEF TO FIFTH THIRD BANK

This matter came before this Court on the motion (the "Motion") of Giordano's Enterprises, Inc., *et al.* (the "Debtors") requesting that this Court enter an order authorizing Debtors to: (a) use certain Cash Collateral; (b) incur Postpetition Debt; and (c) grant adequate protection and provide security and other relief to Fifth Third Bank ("Fifth Third"), in its capacity as prepetition lender ("Prepetition Lender") party to the Prepetition Credit Agreements, and Fifth Third in its capacity as postpetition lender ("Postpetition Lender"; together with Prepetition Lender, "Lenders"). Unless otherwise indicated, all capitalized terms used as defined terms herein have the meanings ascribed thereto in Exhibit A attached hereto and by this reference are made a part hereof.

This Order shall constitute findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052 and shall take effect and be fully enforceable as of the Filing Date.

Having examined the Motion, being fully advised of the relevant facts and circumstances surrounding the Motion, and having completed a hearing pursuant to Code §§ 363

¹ The Debtors in these cases are: Giordano's Enterprises, Inc., Illinois Management Company, Inc., JBA Equipment Finance, Inc., Altamonte Partners, LLC, Giordano's Franchise, Inc., Giordano's of Florida, Inc., Giordano's Restaurants, Inc., Giordano's Famous Stuffed Pizza, Inc., Americana Foods, Inc., Pizza Pizazze, Inc., Giordano's, LLC, Oakbrook Partners, LLC, Randolph Partners, LLC, Randolph Partners, LLC 20-24 Series, Randolph Partners, LLC - 327 Series, Randolph Partners, LLC - Lake Street Series, Randolph Partners, LLC - Formosa Series, Randolph Partners, LLC - Minooka Series, Randolph Partners, LP, Randolph Partners, LLC - 740 Series, Randolph Partners, LLC - 308 Series, Randolph Partners, LLC - Ogden Oswego Series, Randolph Partners, LLC - 1425 Series, Randolph Partners, LLC - Mount Prospect Series, Belmont Pizza, Inc., Rush Pizza, Inc., Greektown Pizza, Inc., Rosemont Pizza, Inc., Willowbrook Pizza, Inc., Randolph Partners, LLC - Sherberth Series, Randolph Partners, LLC - Oakbrook Partners Series, Randolph Partners, LLC - Cotton Lane Series, and Randolph Partners, LLC - Randall Orchard Series.

and 364 and Fed. R. Bankr. P. 4001(b) and (c), and objections, if any, having been withdrawn, resolved or overruled by the Court, **THE MOTION IS GRANTED, AND THE COURT HEREBY FINDS THAT:**

A. On the Filing Date, Debtors filed voluntary petitions for relief under chapter 11 of the Code. Debtors have retained possession of their property and continue to operate their businesses as debtors in possession pursuant to Code §§ 1107 and 1108.

B. The Court has jurisdiction over the Cases and this proceeding pursuant to 28 U.S.C. § 1334. Determination of the Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue over this Motion is proper under 28 U.S.C. § 1409(a).

C. On March 3, 2011, an Official Committee of Unsecured Creditors was appointed in the above-captioned cases (the "Committee").

D. Subject to Paragraph 9 of this Order, Debtors admit, stipulate and agree that:

1. The GEI Prepetition Documents evidence and govern the GEI Prepetition Debt, the GEI Prepetition Liens and the prepetition financing relationship among the GEI Debtors and Prepetition Lender.

2. The GEI Prepetition Debt constitutes the legal, valid and binding obligation of GEI Debtors, enforceable in accordance with the terms of the GEI Prepetition Documents.

3. As of the Filing Date, GEI Debtors are liable for payment of the GEI Prepetition Debt, and the GEI Prepetition Debt shall be an allowed secured claim in an amount not less than \$13,355,790.54, exclusive of accrued and accruing Allowable 506(b) Amounts.

4. The General Debtor Prepetition Documents evidence and govern the General Debtor Prepetition Debt, the General Debtor Prepetition Liens and the prepetition financing relationship among the General Debtors and Prepetition Lender.

5. The General Debtor Prepetition Debt constitutes the legal, valid and binding obligation of General Debtors, enforceable in accordance with the terms of the General Debtor Prepetition Documents.

6. As of the Filing Date, General Debtors are liable for payment of the General Debtor Prepetition Debt, and the General Debtor Prepetition Debt shall be an allowed secured claim in an amount not less than \$32,232,872.53, exclusive of accrued and accruing Allowable 506(b) Amounts.

7. The Prepetition Debt is an allowed secured claim in an amount not less than \$45,700,000, exclusive of accrued and accruing Allowable 506(b) Amounts.

8. No offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to contest, objection, recoupment, defense, counterclaim, offset, avoidance, recharacterization, subordination or other claim, cause of action or challenge of any nature under the Code, under applicable non-bankruptcy law or otherwise.

9. The Prepetition Liens are Priority Liens, subject to Permitted Priority Liens and secure payment of all of the Prepetition Debt.

10. Upon the entry of this Order, Prepetition Lender's interests in the Prepetition Collateral will be adequately protected, and for purposes of Code §§ 506(c) and 507(b) and Fed. R. Bankr. P. 3012, as of the Filing Date, Prepetition Lender asserts, and the Debtors have no basis to contest, that the value of the Prepetition Lender's interest in the Prepetition Collateral was not less than \$50,100,000; provided, however, that nothing herein shall prejudice Prepetition Lender's right to later: (1) assert that its interest in the Prepetition Collateral lacks adequate protection; and (2) seek a higher valuation of the Prepetition Collateral.

11. Debtors do not have, and hereby covenant not to sue or otherwise assert any claim or action against the Prepetition Lender, and its affiliates, subsidiaries, agents, officers, directors, employees, advisors, consultants, predecessors in interest, successors and assigns on account of any claims, counterclaims, causes of action,

defenses or setoff rights relating to the Prepetition Documents, the Prepetition Liens, the Prepetition Debt or otherwise, against.

12. By reason of taking any actions pursuant to this Order, and notwithstanding the occurrence of any Change in Control Event, Lenders are not in control of the operations, management or liquidation of any other Debtors or its assets.

13. The Budget contains all expenses that are reasonable and necessary for the operation of their businesses and the preservation of the Aggregate Collateral through the period of which the Budget runs, and therefore includes all amounts potentially chargeable to Prepetition Lender under Code § 506(c). Accordingly, Debtors hereby waive any claim against Prepetition Lender pursuant to Code § 506(c), the enhancement of collateral provisions of Code § 552 or any other legal or equitable doctrine (including, without limitation, unjust enrichment).

14. Effective as of the Filing Date, by its consent to entry of this Order, each Guarantor stipulates and agrees that (1) each Guaranty and all related security documents shall remain in full force and effect notwithstanding the entry of this Order and any subsequent orders amending this Order or otherwise providing for the use of Cash Collateral consented to by Lenders pursuant to Code § 363 or additional financing by Postpetition Lender pursuant to Code § 364, and (2) each Guarantor is and shall remain liable for the guaranteed obligations under each such Guaranty, including, without limitation, all Postpetition Debt, and any refinancing thereof (except as otherwise agreed in writing by Guarantors and Lenders).

15. As further adequate protection of the interests of the Prepetition Lender in the Prepetition Collateral, each of the Debtors, John Apostolou, Eva Apostalou (individually and as trustees of the John Apostolou Trust Dated June 20, 1986 and Eva Apostolou Trust Dated January 5, 1998, respectively) agree that effective upon the Change in Control Date and written acceptance of appointment by Fred Caruso or his designee ("Replacement Control Party"), without further order of this Court, shareholder resolution, member action or other action, (i) the directors serving on the boards of directors of each of the Apostolou Controlled Debtors organized as a corporation shall be

deemed removed and replaced with Replacement Control Party as sole director of each such Debtor and (ii) the limited liability company agreements of the Apostolou Controlled Debtors organized as limited liability companies shall be replaced with new limited liability company agreements approved by Replacement Control Party. From and after the Change in Control Date, only the Replacement Control Party shall have the right to remove and replace any director or managing member of any Debtor.

Notwithstanding the foregoing stipulations set forth in this Paragraph D, the Debtors reserve the right to assert a Challenge during the Investigation Period regarding the value of the Prepetition Collateral. For the avoidance of doubt, the admissions, stipulations and agreements of the Debtors set forth in this Paragraph D shall not restrict the Committee's right to assert a Challenge during the Investigation as set forth in Paragraph 9 of this Order.

E. Prepetition Lender has consented to the terms of this Order and is entitled to the adequate protection as set forth herein pursuant to Code §§ 361, 362, 363 and 364 for any decrease in the value of its interests in the Prepetition Collateral from and after the Filing Date.

F. Debtors need to use Cash Collateral and incur Postpetition Debt as provided herein in order to enhance the possibility of maximizing the value of the Debtors' businesses.

G. Debtors are unable to obtain unsecured credit allowable under Code § 503(b)(1) sufficient to finance the operations of their businesses. Except as provided below, Debtors are unable to obtain credit allowable under Code §§ 364(c)(1), (c)(2) or (c)(3) on terms more favorable than those offered by Postpetition Lender.

H. The terms of the Postpetition Debt have been negotiated at arm's length, and the Postpetition Debt is being extended in good faith, as that term is used in Code § 364(e).

I. The terms and conditions of the Postpetition Documents are fair and reasonable, the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration.

J. Under the circumstances of these Cases, this Order is a fair and reasonable response to Debtors' request for Lenders' consent to the use of Cash Collateral and provision of

Postpetition Debt, and the entry of this Order is in the best interest of Debtors' estates and their creditors.

K. The notice provided by Debtors of the Motion, the hearing on the Motion, and the entry of this Order satisfy the requirements of Fed. R. Bankr. P. 2002, 4001(b) and (c) and 9014 and Code §§ 102(1), 363, 364(c) and (d) and were otherwise sufficient and appropriate under the circumstances.

WHEREFORE, IT IS HEREBY ORDERED THAT THE MOTION IS GRANTED AS SET FORTH HEREIN, AND THAT:

1. Authorization to Use Cash Collateral. Debtors are authorized to use Cash Collateral solely to pay Aggregate Debt as set forth in Paragraph 2(d) of this Order and otherwise in accordance with and pursuant to the terms and provisions of this Order. So long as any Prepetition Debt or Postpetition Debt remains outstanding, Debtors may not use or seek to use Cash Collateral other than pursuant to the terms of this Order.

2. Procedure for Use of Cash Collateral.

(a) Delivery of Cash Collateral to Lender. Debtors shall deposit all Cash Collateral now or hereafter in their possession or control into the Blocked Account (or otherwise deliver such Cash Collateral to Postpetition Lender in a manner satisfactory to Postpetition Lender) promptly upon receipt thereof, and such Cash Collateral shall be applied by Postpetition Lender in accordance with Paragraph 2(d) of this Order. Notwithstanding the foregoing, Postpetition Lender, in its sole discretion, may authorize the Debtors to use Cash Collateral, in lieu of incurring additional Postpetition Debt, to fund Budget expenses and Postpetition Charges, in each case subject to the other terms and conditions of this Order.

(b) Cash Collateral in Lender's Possession. Lender is authorized to collect upon, convert to cash and enforce checks, drafts, instruments and other forms of payment now or hereafter coming into its possession or control which constitute Aggregate Collateral or proceeds thereof.

(c) Cash Collateral in Third Party's Possession. Debtors shall cause all depository banks (other than Fifth Third) (the "Other Banks") at which any Debtor maintains a deposit account to remit the available balance in such accounts to the Blocked Account on a daily

basis, subject to any valid and enforceable rights of setoff or other secured claims in favor of the Other Banks as of the Filing Date.

(d) Application of Cash Collateral. Postpetition Lender, at its election, is authorized to apply all Cash Collateral now or hereafter in Postpetition Lender's possession or control as follows: (1) first, to the payment of Postpetition Debt consisting of Postpetition Charges; (2) second, to payment of other Postpetition Debt in accordance with the Postpetition Credit Agreement, (3) third, to the payment of the Prepetition Debt consisting of Allowable 506(b) Amounts; and (4) fourth, to the payment of all other Prepetition Debt in accordance with the Prepetition Documents. All such applications to Postpetition Debt shall be final and not subject to challenge by any person, including any Trustee. All such applications to Prepetition Debt shall be final, subject only to (i) the rights of the Committee or other Challenge Parties to assert a Challenge during the Investigation Period in accordance with Paragraph 9 below, and (ii) the right of parties in interest to seek a determination in accordance with Paragraph 9 below that such applications to Prepetition Debt resulted in the payment of an unsecured prepetition claim of Prepetition Lender. Any amounts disgorged in connection with any such objection or determination shall be first applied to reduce the Postpetition Debt, dollar-for-dollar.

(e) Prohibition Against Use of Cash Collateral. Except as provided for in this Order, Debtors will not use or seek to use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363: (1) Lenders have consented to such order; or (2) at the time such an order is entered, the Aggregate Debt has been indefeasibly paid in full, in cash.

3. Authorization To Incur Postpetition Debt.

(a) Postpetition Documents. Debtors are hereby authorized and have agreed to: (1) execute the Postpetition Documents, including all documents that Postpetition Lender finds reasonably necessary to implement the transactions contemplated by the Postpetition Documents; and (2) perform their obligations under and comply with all of the terms and provisions of the Postpetition Documents and this Order. Upon execution and delivery thereof, the Postpetition Documents shall constitute valid and binding obligations of Debtors enforceable in accordance with their terms. To the extent there exists any conflict among the

terms of the Motion, the Postpetition Documents, the terms of the Interim Order and this Order, this Order shall govern and control.

(b) Permitted Uses of Postpetition Debt. Debtors are authorized and have agreed to incur Postpetition Debt solely: (1) in accordance with the terms and provisions of this Order, (2) subject to the rights of the Committee and other parties in interest set forth in Paragraph 9 of this Order, to provisionally repay the Prepetition Debt in the principal amount not to exceed the DIP Commitment minus the \$2,500,000 DIP Revolver Commitment (as defined in the Postpetition Credit Agreement), (3) to the extent required to pay those expenses enumerated in the Budget, including the Carveout, as and when such expenses become due and payable, subject to the Permitted Variance, (4) to pay the Postpetition Charges, and (5) subject to the rights of parties in interest set forth in Paragraph 9 of this Order, to provisionally pay Allowable 506(b) Amounts. Debtors shall not use any Cash Collateral or the proceeds of any Postpetition Debt to pay any litigation fees, costs or expenses, whether for reimbursement, contribution, advancement, indemnification or otherwise, for any third party, including, without limitation, any officer, director or agent of any Debtor. If Postpetition Lender advances monies to Debtors and Debtors use such monies other than in accordance with the terms or provisions of this Order, such advances shall be considered Postpetition Debt for purposes of this Order.

(c) Additional Terms of Postpetition Debt.

(i) Maximum Amount. The maximum principal amount of Postpetition Debt outstanding shall not at any time exceed the DIP Commitment.

(ii) Interest. The Postpetition Debt shall bear interest at a per annum rate equal to the "Default Rate" (as defined in the Prepetition Credit Agreements).

(iii) Closing Fee. Debtors shall pay to Postpetition Lender a closing fee (the "Closing Fee") in an amount equal to \$50,000, 50% of which shall be fully earned, due and payable immediately upon the closing of the Postpetition Credit Agreement, and 50% of which shall be fully earned, due and payable upon entry of this Order.

(iv) Maturity. The Postpetition Debt shall mature and be due and payable in full by Debtors on the Termination Date.

(v) Joint and Several Liability of Debtors. The obligations of each Debtor under this Order shall be joint and several.

(vi) Control Agreements. All deposit account control agreements or similar control agreements in effect as of the Filing Date shall remain in full force and effect notwithstanding the entry of this Order and any subsequent orders amending this Order.

(d) Superpriority Administrative Expense Status; Postpetition Liens.

(i) The Postpetition Debt is hereby granted superpriority administrative expense status under Code § 364(c)(1), with priority over all costs and expenses of administration of the Cases that are incurred under any provision of the Code (subject to the Carveout), and the Postpetition Debt is entitled to the protections of Code § 364(e).

(ii) In addition, Postpetition Lender is hereby granted the Postpetition Liens to secure the Postpetition Debt. The Postpetition Liens: (1) are in addition to the Prepetition Liens; (2) pursuant to Code §§ 364(c)(2), (c)(3) and 364(d), are Priority Liens subject only to Permitted Priority Liens, without any further action by Debtors or Postpetition Lender and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases; and (4) shall not be subject to any landlord's lien, bailee's rights, right of distraint or levy, security interest or other interest that any landlord, bailee, warehousemen or landlord's mortgagee may have in the Aggregate Collateral located on such leased premises.

(iii) Notwithstanding the foregoing, Debtors shall execute and deliver to Postpetition Lender such financing statements, mortgages, instruments and other documents as Postpetition Lender may request from time to time, and any such documents filed by Postpetition Lender shall be deemed filed as of the Filing Date. Further, Prepetition Lender shall serve as agent for Postpetition Lender for purposes of perfecting Postpetition Lender's security interest in any Postpetition Collateral that requires perfection by possession or control, and all Prepetition Third Party Documents shall be deemed to be for the benefit of Postpetition Lender without further action by any party.

(e) Prohibition Against Additional Debt. Debtors will not incur or seek to incur debt secured by a lien which is equal to or superior to the Prepetition Liens or the Postpetition Liens, or which is given superpriority administrative expense status under Code § 364(c)(1), unless, in addition to the satisfaction of all requirements of Code § 364: (1) Lenders

have consented to such order; (2) at the time such an order is entered, there is no Aggregate Debt outstanding, and no obligation of Postpetition Lender to extend Postpetition Debt; or (3) such credit or debt is first used to pay the Aggregate Debt in full in cash.

4. Adequate Protection of Interests of Prepetition Lender in the Prepetition Collateral and the Prepetition Liens. In consideration for Prepetition Lender's consent to the priming of the Prepetition Liens by the Postpetition Liens, and as adequate protection for Prepetition Lender's interest in the Prepetition Collateral to the extent required under Code §§ 361, 362, 363 or 364 (including for any decrease in the value of such interests in the Prepetition Collateral from and after the Filing Date):

(a) Priority of Prepetition Liens/Allowance of Prepetition Lenders' Claim. Subject to the reservation of rights of all parties in interest pursuant to the terms of Paragraph 9 of this Order, and the reservation of rights of the Debtors set forth in Paragraph D of this Order: (1) the Prepetition Liens shall constitute Priority Liens, subject only to the Postpetition Liens and the Permitted Priority Liens; (2) the Prepetition Debt constitutes the legal, valid and binding obligation of Debtors, enforceable in accordance with the terms of the applicable Prepetition Documents; (3) no offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to avoidance, recharacterization or subordination pursuant to the Code or applicable nonbankruptcy law; and (4) Prepetition Lender's claim with respect to the Prepetition Debt shall for all purposes constitute an allowed secured claim within the meaning of Code §506 in an amount not less than \$45,700,000, exclusive of accrued and accruing Allowable 506(b) Amounts.

(b) Replacement Liens. Prepetition Lender is hereby granted the Replacement Liens as security for payment of the Prepetition Debt. The Replacement Liens: (1) are and shall be in addition to the Prepetition Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtors or Prepetition Lender and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; and (3) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases. Notwithstanding the foregoing, Debtors are authorized to and shall execute and deliver to Prepetition Lender such financing statements,

mortgages, instruments and other documents as Prepetition Lender may request from time to time in respect of the Replacement Liens.

(c) Allowed Code § 507(b) Claim. If and to the extent the adequate protection of the interests of Prepetition Lender in the Prepetition Collateral granted pursuant to this Order proves insufficient, Prepetition Lender shall have an allowed claim under Code § 507(b), subject to the Carveout, in the amount of any such insufficiency, with priority over: (1) all costs and expenses of administration of the Cases (other than Postpetition Lender's claims under Code § 364) that are incurred under any provision of the Code; and (2) the claims of any other party in interest under Code § 507(b).

5. Termination Date; Rights and Remedies.

(a) Effect of Termination Date. Unless extended by the Court upon the written agreement of Postpetition Lender, upon the Termination Date without further notice or order of Court: (1) Debtors' authorization to use Cash Collateral and incur Postpetition Debt hereunder will automatically terminate; and (2) at Postpetition Lender's election: (i) the Postpetition Debt shall be immediately due and payable, (ii) Debtors shall be prohibited from using Cash Collateral for any purpose other than application to the Aggregate Debt in accordance with Paragraph 2(d) of this Order and (iii) Postpetition Lender shall be entitled to setoff any cash in Lenders' possession or control and apply such cash to the Aggregate Debt in accordance with Paragraph 2(d) of this Order.

(b) Rights and Remedies. After the Termination Date, at Postpetition Lender's election: (1) Lenders may seek relief from the automatic stay with respect to the Aggregate Collateral (without regard to the passage of time provided for in Fed. R. Bankr. P. 4001(a)(3)), and, subject to any necessary relief from the automatic stay, shall be entitled to exercise all rights and remedies available to them under the Prepetition Documents, the Postpetition Documents and applicable nonbankruptcy law; and (2) Debtors shall cooperate with Lenders in the exercise of their rights and remedies under the Prepetition Documents, the Postpetition Documents and applicable nonbankruptcy law, including, without limitation, by filing a motion to retain one or more agents to sell, lease or otherwise dispose of the Aggregate Collateral upon the request and subject to terms and conditions acceptable to Lenders.

Notwithstanding the foregoing, any party in interest may seek an order of this Court determining that an Event of Default alleged to have given rise to the Termination Date did not occur; provided, however, from and after the Termination Date, Postpetition Lender shall have no obligation to advance Postpetition Debt to Debtors.

(c) Access to Collateral. Subject to Paragraph 5(b), upon written notice to the landlord of any of Debtors' leased premises that an Event of Default has occurred and is continuing, Postpetition Lender may enter upon such leased premises for the purpose of exercising any right or remedy with respect to the Aggregate Collateral located thereon and shall be entitled to the Debtors' rights and privileges under such lease(s) without interference from such landlord; provided that Postpetition Lender shall pay to such landlord rent first accruing after the above referenced written notice and during the period of occupancy by Postpetition Lender, calculated on a per diem basis; provided further that the foregoing shall not apply to the premises leased pursuant to that certain Lease Agreement dated as of January 4, 2001, by and between Inland Western Gurnee, L.L.C. and Giordano's Enterprises, Inc. (the "Gurnee Lease Agreement") and that access to such premises will be subject to the existing terms of the Gurnee Lease Agreement, applicable state law and any future order of this Court after notice to Inland Western Gurnee, L.L.C. and a hearing.

6. Carveout.

(a) Carveout Terms. The Carveout with respect to each Carveout Professional: (1) shall equal an aggregate amount not to exceed the lesser of (i) the aggregate amount provided in the Budget for such Carveout Professional for the period commencing on the Filing Date and ending on the Termination Date and (ii) the aggregate amount of allowed fees and expenses that accrue during the period commencing on the Filing Date and ending on the Termination Date; (2) shall be reduced dollar-for-dollar by any payments of fees and expenses to such Carveout Professional; and (3) shall be paid out of any prepetition retainer or property of the estate (other than property subject to an unavoidable lien in favor of the Prepetition Lender or the Postpetition Lender) before such payments are made from proceeds of the Postpetition Debt or the Aggregate Collateral. Further, Postpetition Lender shall have the right to reserve against the DIP Commitment an amount equal to the sum of the aggregate amount of unpaid fees and

expenses set forth in the Budget for the Carveout Professionals. Upon the Termination Date, and notwithstanding anything herein to the contrary, Postpetition Lender shall provide Postpetition Debt to the Debtors in an amount equal to the Carveout amount for each Carveout Professional determined in clause (1) above. Except as set forth in the preceding sentence, Postpetition Lender shall have no obligation to fund any fees or expenses of Carveout Professionals accrued on, prior to, or after the Termination Date.

(b) Carveout Usage. No portion of the Carveout and no Postpetition Debt or Aggregate Collateral may be used to pay any fees or expenses incurred by any entity, including the Debtors, the Committee or the Carveout Professionals, in connection with claims or causes of action adverse to Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Aggregate Debt or any mortgages, liens or security interests with respect thereto or any other rights or interests of Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Code, against Lenders; provided, however, that the foregoing shall not apply to costs and expenses, in an amount not to exceed \$35,000, incurred by the Committee's professionals in connection with the investigation of a potential Challenge in accordance with Paragraph 9 of this Order; provided, further, however, that the Carveout may be used to pay fees and expenses incurred by the Carveout Professionals in connection with the negotiation, preparation and entry of this Order or any amendment hereto consented to by Lenders.

(c) Carveout Procedure. The Debtors shall periodically, upon the request of the Postpetition Lender, provide to the Postpetition Lender a written report (the "Carveout Report"), in which the Debtors disclose their then current estimate of (1) the aggregate amount of unpaid professional fees, costs and expenses accrued or incurred by the Carveout Professionals, through the date of the Carveout Report, and (2) projected fees, costs and expenses of the Carveout Professionals for the 30 day period following the date of such Carveout Report.

Nothing herein shall be construed as consent by Lenders to the allowance of any fees or expenses of the Carveout Professionals or shall affect the right of Lenders to object to the allowance and payment of such fees, costs or expenses, or the right of Lenders to the return of any portion of the Carveout that is funded with respect to fees and expenses for a Carveout Professional that are approved on an interim basis that are later denied on a final basis. For the avoidance of doubt, no Carveout Professional shall be entitled to any portion of the Carveout allocated for any other Carveout Professional in the Budget, unless consented to in writing by the Carveout Professionals and the Postpetition Lender.

7. Carveout Professional Surcharge Waiver. In consideration for the Carveout, effective as of the Filing Date, no claim of Carveout Professionals Arnstein & Lehr LLP, Development Specialists, Inc. or any professional retained by the Committee may be asserted against the Prepetition Collateral or Prepetition Lender under Code § 506(c), the enhancement of collateral provisions of Code § 552, or any other legal or equitable doctrine (including, without limitation, unjust enrichment).

8. Waiver. Lenders and the Aggregate Collateral shall not be subject to, and the Debtors (and any Trustee) shall be deemed to have waived any rights, benefits or causes of action under, Code § 506(c), the enhancement of collateral provisions of Code § 552, and any other similar legal or equitable doctrine (including, without limitation, unjust enrichment).

9. Reservation of Rights; Bar of Challenges and Claims. The stipulations and representations contained in this Order, including, without limitation, in Paragraph D, shall be binding on all Challenge Parties, unless and solely to the extent that (i) the Debtors receive notice of a potential Challenge during the Investigation Period from any Challenge Party and (ii) the Court rules in favor of the plaintiff in any such timely and properly filed Challenge.

(a) Challenge Procedure. During the Investigation Period, a Challenge Party shall be entitled to determine whether a basis to assert a Challenge exists. If a Challenge Party identifies a basis to assert a Challenge, it must notify the Debtors during the Investigation Period of its demand that the Debtors initiate an action or adversary proceeding relating thereto and from the date that the Debtors are so notified, the Debtors shall have five (5) days to notify the Challenge Party of whether the Debtors intend to initiate such action and ten (10) days to

initiate such action. If the Debtors notify such Challenge Party that the Debtors do not intend to initiate an action or adversary proceeding, the Challenge Party shall have ten (10) days from the receipt of such notice to initiate an action or adversary proceeding. Nothing herein shall be deemed to grant standing in favor of any Challenge Party absent further order of this Court. The Debtors, if timely notified of a potential Challenge, shall retain authority to prosecute, settle or compromise such Challenge in the exercise of their business judgment and subject to any applicable further order of court.

(b) Bar of Challenges and Claims. If the Debtors do not receive notice of a potential Challenge during the Investigation Period (or such later date as agreed in writing by Prepetition Lender, solely with respect to a potential Challenge against such party, or for cause shown by an order of this Court), without further order of the Court, (1) the claims, liens and security interests of the Prepetition Lender shall be deemed to be allowed for all purposes in these Cases and shall not be subject to challenge by any party in interest as to extent, validity, priority or otherwise, and (2) the Debtors and their estates shall be deemed to have waived, released and discharged Prepetition Lender and its officers, directors, principals, attorneys, consultants, predecessors in interest, and successors and assigns of and from any and all claims and causes of action, indebtedness, and obligations, of every type, which occurred on or prior to the date of entry of this Order with respect to or in connection with the Prepetition Debt, the Prepetition Liens, the Prepetition Documents or otherwise.

10. Sale Milestones. To effectuate a sale process for all or substantially all of the Debtors' assets (the "Sale"), Debtors shall comply with the following sale milestones (the "Sale Milestones"):

(a) Investment Banker. Debtors shall obtain, in consultation with the Committee, on or before March 31, 2011, one or more Court orders approving the retention of a nationally recognized investment banker ("Investment Banker") acceptable to Lenders, pursuant to an engagement letter and a retention order the terms and conditions of which are acceptable to Lenders, for the purpose of selling the Debtors' businesses on or before August 24, 2011.

(b) Teaser Memo. On or before April 22, 2011, Investment Banker shall distribute a memorandum, in form and substance satisfactory to Lenders, to notify and generate interest among potential purchasers with respect to the Sale.

(c) Data Room. On or before April 29, 2011, Investment Banker shall establish a substantially complete data room.

(d) Offering Memorandum. On or before May 6, 2011, Investment Banker shall distribute an offering memorandum regarding Debtors' assets and businesses, in form and substance acceptable to Lenders, to potential purchasers.

(e) Letters of Intent. On or before June 15, 2011, Debtors shall have delivered to Lenders one or more letters of intent or other written indications of interest from prospective purchasers regarding the Sale, in form and substance acceptable to Lenders.

(f) Form Asset Purchase Agreement. On or before June 24, 2011, Debtors shall have delivered to Lenders a form of asset purchase agreement, in form and substance acceptable to Lenders, to be proposed by Debtors to potential purchasers to govern the Sale. The Committee shall be entitled to review and comment upon the form asset purchase agreement prior to such deadline.

(g) Sale Motion. On or before July 1, 2011, Debtors, in consultation with the Committee, shall file one or more motions or a joint plan of reorganization with the Court seeking approval of the Sale in accordance with a form asset purchase agreement acceptable to Lenders, and seeking approval of bidding procedures acceptable to Lenders.

(h) Sale Procedures. On or before July 15, 2011, Debtors, in consultation with the Committee, shall obtain one or more Court orders approving the procedures for the sale of all or substantially all of the Debtors' assets, which procedures shall be in form and substance satisfactory to Lenders.

(i) Auction. On or before August 5, 2011, Debtors, in consultation with the Committee, shall conduct one or more auctions for the sale of all or substantially all of the Debtors' assets.

(j) Sale Order. On or before August 10, 2011, Debtors, in consultation with the Committee, shall obtain one or more orders of the Court approving the sale of all or substantially all of the Debtors' assets, which order shall be in form and substance satisfactory to Lenders.

(k) Sale Closing. On or before August 24, 2011, Debtors, in consultation with the Committee, shall consummate one or more sales of all or substantially all of the Debtors' assets, on terms and conditions satisfactory to Lenders.

The Debtors and Lenders may agree to extend the foregoing Sale Milestones, upon providing notice to the Committee, without the need of further notice and hearing or order of this Court (other than a notice of such amendment or modification to be filed with this Court). Further, Lender shall be the only party entitled to claim that an Event of Default has occurred as a result of Debtors' breach of any Sale Milestone.

11. Right to Credit Bid. In connection with the sale or other disposition of all or any portion of the Aggregate Collateral, whether under Code § 363, Code § 1129 or otherwise, pursuant to Code § 363(k), (a) Postpetition Lender shall have the right to use the Postpetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral, and (b) Prepetition Lender shall have the right to use the Prepetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral.

12. Plan. Unless Lenders consent thereto, Debtors shall not seek entry of an order confirming a plan in these Cases unless the Aggregate Debt and the Replacement Liens shall be paid in full in cash on the earlier of (a) the effective date thereof, and (b) the Termination Date, notwithstanding anything to the contrary in any such order confirming a plan.

13. Application of Sale Proceeds. All proceeds from sales or other dispositions of all or any portion of the Aggregate Collateral other than in the ordinary course shall be remitted to Lenders for application in accordance with Paragraph 2(d) of this Order.

14. Waiver of Right to Return/Consent to Setoff. Debtors hereby waive their rights: (a) to return any of the Aggregate Collateral pursuant to Code § 546(h); (b) to consent to

any order permitting any claims pursuant to Code § 503(b)(9) except to the extent permitted in the Budget as previously disclosed to Lenders and the Court; and (c) to consent to setoff pursuant to Code § 553.

15. Indemnification. Debtors shall indemnify and hold harmless Lenders in accordance with the Postpetition Credit Agreement and the Prepetition Credit Agreement.

16. No Marshaling. Subject to Paragraph 9 of this Order, neither Lender nor any of the Aggregate Collateral shall be subject to the doctrine of marshaling.

17. Postpetition Charges. All Postpetition Charges are hereby approved and shall be promptly paid by Debtors in accordance with this Order and the Postpetition Documents, without need for filing an application with the Court for approval or payment of the Postpetition Charges.

18. Force and Effect of Prepetition Documents and Postpetition Documents. Except as modified herein and subject to the other provisions of this Order and the Code, the Prepetition Documents shall remain in full force and effect with respect to the Prepetition Debt. To the extent there exists any conflict among the terms of the Motion, the Prepetition Documents, the Interim Order and this Order, this Order shall govern and control. To the extent there exists any conflict among the terms of the Motion, the Postpetition Documents and this Order, this Order shall govern and control.

19. Modification of Stay. Subject to Paragraph 5 above, the automatic stay of Code § 362 is hereby modified with respect to Lenders to the extent necessary to effectuate the provisions of this Order.

20. No Waiver. Lenders shall not be deemed to have suspended or waived any of their rights or remedies under this Order, the Prepetition Documents, the Postpetition Documents, the Code, or applicable nonbankruptcy law unless such suspension or waiver is in writing, signed by a duly authorized officer of Lenders, as applicable, and directed to Debtors. No failure of Lenders to require strict performance by Debtors (or by any Trustee) of any provision of this Order shall waive, affect or diminish any right of Lenders thereafter to demand strict compliance and performance therewith, and no delay on the part of Lenders in the exercise

of any right or remedy under this Order, the Prepetition Documents, the Postpetition Documents, the Code, or applicable nonbankruptcy law shall preclude the exercise of any right or remedy. Further, this Order shall not constitute a waiver by Prepetition Lender of any of its rights under the Prepetition Documents, the Code or applicable nonbankruptcy law, including, without limitation their right to later assert: (1) that, its interests in the Aggregate Collateral lack adequate protection within the meaning of Code §§ 362(d) or 363(e) or any other provision thereof; or (2) a claim under Code § 507(b).

21. Release. Upon the date that the Postpetition Debt is paid in full in cash and prior to the release of the Postpetition Liens, Debtors shall execute and deliver to Postpetition Lender a general release of any and all claims and causes of action that could have been asserted or raised under or in connection with the Postpetition Documents.

22. Amendments. Debtors and Postpetition Lender may enter into amendments or modifications of the Postpetition Documents or the Budget without further notice and hearing or order of this Court; provided, that (a) such modifications or amendments do not materially and adversely affect the rights of any creditor or other party-in-interest and (b) notice of any such amendment or modification is filed with this Court.

23. Binding Effect. Except as provided in Paragraph 9 herein, this Order shall be binding on all parties in interest in the Cases and their respective successors and assigns, including any Trustee, except that any Trustee shall have the right to terminate this Order after notice and a hearing. If, in accordance with Code § 364(e), this Order does not become a final nonappealable order, if a Trustee terminates this Order, or if any of the provisions of the Order are hereafter modified, amended, vacated or stayed by subsequent order of this Court or any other court, such termination or subsequent order shall not affect: (a) subject to Paragraph 9 of this Order, the stipulations, representations, and findings contained in this Order and the relief granted by and the releases contained in this Order (including, without limitation, Paragraphs 2(e), 3(e) and 7); and (b) the priority, validity, enforceability or effectiveness of any lien, security interest or other benefit or claim authorized hereby with respect to Cash Collateral used or Postpetition Debt incurred prior to the effective date of such termination or subsequent order. All such liens, security interests, claims and other benefits shall be governed in all respects by the

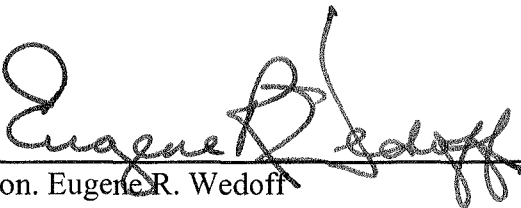
original provisions of this Order, and Postpetition Lender shall be entitled to all the rights, remedies, privileges and benefits granted hereto, including the liens and priorities granted herein, with respect to the Postpetition Debt. Except as otherwise explicitly set forth in this Order, no third party is intended to be, or shall be deemed to be, a third party beneficiary of this Order.

24. Previously Incurred Postpetition Debt. All Postpetition Debt allowed and incurred under the Order Authorizing Debtors to Incur Postpetition Debt on an Emergency Basis to Pay Certain Accrued Prepetition Wages and Granting Other Relief to Fifth Third Bank entered by the Court on February 17, 2011 (Docket No. 28) and the Interim Order shall be deemed to be Postpetition Debt for all purposes under this Order and shall be entitled to the priority and other protections set forth herein.

25. Survival. The provisions of this Order, and any actions taken pursuant to or in reliance upon the terms hereof, shall survive entry of, and govern in the event of any conflict with, any order which may be entered in the Cases: (a) confirming any chapter 11 plan, (b) converting any Case to a case under chapter 7 of the Code, (c) dismissing any Case, (d) withdrawing of the reference of any Case from this Court, or (e) providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of this Order, including, without limitation, the rights granted Postpetition Lender under Code §§ 364(c) and (d), shall continue in full force and effect until all of the Aggregate Debt is indefeasibly paid in full in cash and discharged.

26. State of Illinois Trust Funds. Nothing in this Order shall be construed to preclude the Illinois Department of Revenue (the "Department") from attempting to establish that funds held by any Debtor or any other person are held in trust for the Department or attempting to seek additional relief with respect to such asserted trust funds, subject to the rights of the Debtors and any other party in interest to oppose such actions by the Department. The security interests provided for herein shall not diminish in any way the rights, if any, of the Department as a trust fund claimant to obtain possession of funds subject to its trust claims or to impose any additional liability on the holder of such alleged trust funds to the extent allowed by law and subject to the rights of the Debtors and any other party in interest to oppose such actions by the Department.

Aggregate Collateral shall exclude any trust funds of the Department to the extent so determined by this Court pursuant to a final, non-appealable order.



Hon. Eugene R. Wedoff
United States Bankruptcy Judge

Dated: March 17, 2011

EXHIBIT A

DEFINED TERMS

1. ***Aggregate Collateral.*** Collectively, the Prepetition Collateral and the Postpetition Collateral.
2. ***Aggregate Debt.*** Collectively, the Prepetition Debt and the Postpetition Debt.
3. ***Allowable 506(b) Amounts.*** To the extent allowable under Code § 506(b), taking into account any recovery under Code § 506(c), (a) interest at the default rate of interest as set forth in the GEI Prepetition Credit Agreement, (b) interest at the default rate of interest set forth in the General Debtor Prepetition Credit Agreement, and (c) all fees, costs, expenses, and other charges due or coming due under the Prepetition Documents or in connection with the Prepetition Debt (regardless of whether such fees, costs, interest and other charges are included in the Budget), and all costs and expenses at any time incurred by Prepetition Lender in connection with: (i) the negotiation, preparation and submission of this Order and any other order or document related hereto, and (ii) the representation of Prepetition Lender in the Cases, including in defending any Challenge.
4. ***Apostolou Controlled Debtors.*** Giordano's Enterprises, Inc., JBA Equipment Finance, Inc., an Illinois corporation, Oakbrook Partners, LLC, an Illinois limited liability company, Altamonte Partners, LLC, a Florida limited liability company, Illinois Management Company, Inc., an Illinois corporation, and any of the other Debtors to the extent of direct ownership and control thereof by any of John Apostolou, Eva Apostolou or by any trust controlled by John Apostolou or Eva Apostolou including the John Apostolou Trust Dated June 20, 1986 and the Eva Apostolou Trust Dated January 5, 1998.
5. ***Blocked Account.*** Account No. 7233846174 at Fifth Third.
6. ***Budget.*** The budget attached to this Order as Exhibit B, as amended, modified or supplemented from time to time, as may be agreed to by Postpetition Lender.
7. ***Carveout.*** Collectively, (a) all fees required to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a), and (b) with respect to each Carveout Professional, the allowed fees and disbursements as may be awarded by the Court to such Carveout Professional from time to time pursuant to Code § 330, in the aggregate amount set forth in Paragraph 6 of this Order.
8. ***Carveout Professionals.*** Arnstein & Lehr LLP, Development Specialists, Inc., Freeborn & Peters LLP, and the United States Trustee.
9. ***Cases.*** The chapter 11 cases or any superseding chapter 7 cases of the Debtors.
10. ***Cash Collateral.*** All "cash collateral," as that term is defined in Code § 363(a), in which Lenders have an interest, all deposits subject to setoff rights in favor of

Lenders, and all cash arising from the collection or other conversion to cash of the Aggregate Collateral, including from the sale of inventory and the collection of accounts receivable.

11. **Challenge.** A claim or cause of action (including claims made derivatively in the name of the Debtor) challenging the extent, validity, perfection, priority or enforceability of the Prepetition Debt, the Prepetition Liens or any other claims or causes of action against Prepetition Lender, which Debtors, the Committee, or another party-in-interest may bring, in accordance with Paragraph 9 of this Order.

12. **Challenge Party.** The Committee, any Trustee, or other party-in-interest with the requisite standing.

13. **Change in Control Date.** The date of occurrence of a Change in Control Event and delivery of notice from Lender to the Debtors of its election to declare a Change in Control Event.

14. **Change in Control Event.** Prior to Lender receiving indefeasible payment in full in cash of the Aggregate Debt, the earliest to occur of the following: (a) Debtors' failure to retain and continue to retain Fred C. Caruso as restructuring officer on terms and conditions acceptable to Lender; (b) Debtors' failure to retain on or before March 31, 2011, a nationally recognized investment banker acceptable to Lender on terms reasonably acceptable to Lender, for the purpose of selling the Debtors' businesses on or before August 24, 2011, or the failure of the Investment Banker or the Debtors to satisfy the Sale Milestones; (c) any intentional breach by any Debtor of the terms of any cash collateral, financing or sale orders entered in any of the cases; (d) filing by any Debtor of a motion seeking entry of an order authorizing the use, sale or other disposition of any Aggregate Collateral without the prior consent of Lender; (e) filing by any Debtor of a motion seeking to obtain, or entry of any order authorizing financing of any Debtor with liens or administrative priority over the priority of the liens and rights of payment of Lender; (f) filing by any Debtor of any plan, or entry of any order approving a disclosure statement of any plan, that does not provide for either (i) payment in full in cash of the Aggregate Debt on or prior to the effective date thereof or (ii) sale of substantially all of the Aggregate Collateral, subject to Lenders' rights to credit bid; (g) filing by John Apostolou, Eva Apostolou, any of the Debtors, or any other person or entity acting in concert with them, of a claim or cause of action against Lender or the Aggregate Collateral seeking to dispute the extent, validity or priority of Lender's asserted secured claims, or seeking the entry of any order disallowing or subordinating any of the Aggregate Debt; (h) appointment by the Court of a trustee for "cause" or the appointment of an examiner with expanded powers; (i) any material misrepresentation by any Debtor in any certificate, report or financial statement delivered to Lender after the Filing Date; (j) termination of any Debtor's exclusive right to file and seek acceptance of a plan under Code § 1121; (k) conversion or dismissal of any of the Cases without Lenders' consent; (l) filing by John Apostolou, Eva Apostolou or any Debtor of a motion seeking to modify, alter or amend this Order or the Sale Milestones without Lender's consent or the entry of any order modifying, altering or amending this Order or the Sale Milestones; and (m) the date of the Final Hearing, if this Order or the Sale Milestones are modified at the Final Hearing in a manner unacceptable to Lenders or August 24, 2011.

15. **Code.** The United States Bankruptcy Code (11 U.S.C. § 101 *et seq.*), as amended, and any successor statute. Unless otherwise indicated, all statutory section references in this Order are to the Code.

16. **Committee.** Collectively, the Committee and any other official creditors' committee appointed to represent unsecured creditors in these Cases pursuant to Code § 1102.

17. **Debtors.** The GEI Debtors and the General Debtors.

18. **DIP Commitment.** \$36,141,686.73.

19. **Event of Default.** At Postpetition Lender's election, (a) the occurrence and continuance of any Event of Default first arising after the Filing Date under the Postpetition Credit Agreement; (b) Debtors failure to comply with the covenants or perform any of their obligations in strict accordance with the terms of this Order; and (c) any Debtor's termination or rejection of (i) a franchise agreement, (ii) a real property lease or sublease or right of possession with respect to nonresidential leased property of a franchisee, or (iii) an equipment lease or equipment financing between JBA Equipment Finance, Inc. and a franchisee, in each case without the prior written consent of Postpetition Lender.

20. **Filing Date.** February 16, 2011.

21. **Final Hearing.** The final hearing on the Motion conducted in accordance with Fed. R. Bankr. P. 4001.

22. **GEI Debtors.** Giordano's Enterprises, Inc., an Illinois corporation, Giordano's Franchise, Inc., an Illinois corporation, Giordano's of Florida, Inc., an Illinois corporation, Giordano's Restaurants, Inc., an Illinois corporation, Giordano's Famous Stuffed Pizza, Inc., an Illinois corporation, Americana Foods, Inc., an Illinois corporation, Pizza Pizazze, Inc., and Illinois corporation, Giordano's LLC, a Delaware limited liability company, and, in their capacities as guarantors of the GEI Prepetition Debt, the General Debtors.

23. **GEI Guaranty.** That certain Amended and Restated Commercial Guaranty dated as of October 21, 2010, by GEI Guarantors in favor of Lender.

24. **GEI Guarantors.** John Apostolou, Eva Apostolou, John Apostolou Trust Dated June 20, 1986 and Eva Apostolou Trust Dated January 5, 1998, and in their capacity as guarantors of the GEI Prepetition Debt, the General Debtors.

25. **GEI Prepetition Collateral.** All of the "Collateral" (as that term is defined in the GEI Prepetition Documents) existing as of the Filing Date, and all proceeds, rents, issues, profits and products thereof.

26. **GEI Prepetition Credit Agreement.** That certain Amended and Restated Business Loan Agreement dated as of August 27, 2007, by and among GEI Debtors and Prepetition Lender, as amended, modified and supplemented from time to time.

27. **GEI Prepetition Debt.** (a) All indebtedness or obligations under the GEI Prepetition Documents as of the Filing Date, including all "Obligations" (as defined in the GEI

Prepetition Credit Agreement), and all fees, costs, interest, and expenses as and when due and payable pursuant to the GEI Prepetition Documents, plus (b) all Allowable 506(b) Amounts.

28. **GEI Prepetition Documents.** The GEI Prepetition Credit Agreement and the "Related Documents" (as that term is defined in the GEI Prepetition Credit Agreement).

29. **GEI Prepetition Liens.** Prepetition Lender's asserted security interests in the GEI Prepetition Collateral under the GEI Prepetition Documents, subject only to Permitted Priority Liens.

30. **General Debtors.** JBA Equipment Finance, Inc., an Illinois corporation, Oakbrook Partners, LLC, an Illinois limited liability company, Randolph Partners, LLC 20-24 Series, a series of a Delaware limited liability company, Randolph Partners, LLC - 327 Series, a series of a Delaware limited liability company, Randolph Partners, LLC - Lake Street Series, a series of a Delaware limited liability company, Randolph Partners, LLC - Formosa Series, a series of a Delaware limited liability company, Randolph Partners, LLC - Minooka Series, a series of a Delaware limited liability company, Randolph Partners, L.P., a Delaware limited partnership, Randolph Partners, LLC - 740 Series, a series of a Delaware limited liability company, Randolph Partners, LLC - 308 Series, a series of a Delaware limited liability company, Randolph Partners, LLC, a Delaware limited liability company, Randolph Partners, LLC - Ogden Oswego Series, a series of a Delaware limited liability company, Randolph Partners, LLC - 1425 Series, a series of a Delaware limited liability company, Randolph Partners, LLC - Mount Prospect Series, a series of a Delaware limited liability company, Belmont Pizza, Inc., an Illinois corporation, Rush Pizza, Inc., an Illinois corporation, Greektown Pizza, Inc., an Illinois corporation, Rosemont Pizza, Inc., an Illinois corporation, Willowbrook Pizza, Inc., an Illinois corporation, Randolph Partners, LLC - Sherberth Series, a series of a Delaware limited liability company, Illinois Management Company, Inc., an Illinois corporation, Randolph Partners, LLC - Oakbrook Partners Series, a series of a Delaware limited liability company, Randolph Partners, LLC - Cotton Lane Series, a series of a Delaware limited liability company, Altamonte Partners, LLC, a Florida limited liability company, Randolph Partners, LLC - Randall Orchard Series, a series of a Delaware limited liability company, and in their capacity as guarantors of the General Debtor Prepetition Debt, the GEI Debtors.

31. **General Debtor Guaranty.** That certain Amended and Restated Commercial Guaranty dated as of October 21, 2010, by General Debtor Guarantors in favor of Lender.

32. **General Debtor Guarantors.** John Apostolou, Eva Apostolou, John Apostolou Trust Dated June 20, 1986 and Eva Apostolou Trust Dated January 5, 1998, and in their capacity as guarantors of the General Debtor Prepetition Debt, the GEI Debtors.

33. **General Debtor Prepetition Collateral.** All of the "Collateral" (as that term is defined in the General Debtor Prepetition Documents) existing as of the Filing Date, and all proceeds, rents, issues, profits and products thereof.

34. **General Debtor Prepetition Credit Agreement.** That certain Amended and Restated Business Loan Agreement dated as of October 21, 2010, by and among General Debtors and Prepetition Lender, as amended, modified and supplemented from time to time.

35. **General Debtor Prepetition Debt.** (a) All indebtedness or obligations under the General Borrower Prepetition Documents as of the Filing Date, including all "Obligations" (as defined in the General Borrower Prepetition Credit Agreement), and all fees, costs, interest, and expenses as and when due and payable pursuant to the General Borrower Prepetition Documents, plus (b) all Allowable 506(b) Amounts.

36. **General Debtor Prepetition Documents.** The General Borrower Prepetition Credit Agreement and the "Related Documents" (as that term is defined in the General Borrower Prepetition Credit Agreement).

37. **General Debtor Prepetition Liens.** Prepetition Lender's asserted security interests in the General Borrower Prepetition Collateral under the General Borrower Prepetition Documents, subject only to Permitted Priority Liens.

38. **Guarantors.** The GEI Guarantors and the General Debtor Guarantors

39. **Guaranty.** The GEI Guaranty and the General Debtor Guaranty.

40. **Interim Hearing.** The interim hearing on the Motion conducted in accordance with Fed. R. Bankr. P. 4001.

41. **Interim Order.** The order authorizing the Debtors to use Cash Collateral and incur Postpetition Debt pending the Final Hearing entered at or in connection with the Interim Hearing on terms acceptable to Lenders.

42. **Investigation Period.** (a) With respect to any party-in-interest other than the Committee, the period from the Filing Date until the date that is seventy-five (75) days after entry of the Interim Order; and (b) with respect to the Committee, the date that is sixty (60) days after the date that a Committee is formed.

43. **New Money.** The amount of the Aggregate Debt minus the amount of Prepetition Debt as of the Filing Date.

44. **Obligations.** The "Obligations," as that term is defined in the Postpetition Credit Agreement.

45. **Permitted Priority Liens.** Collectively, (a) the Carveout, and (b) liens in favor of third parties upon the Prepetition Collateral, which third-party liens, as of the Filing Date: (1) had priority under applicable law over the Prepetition Liens, (2) were not subordinated by agreement or applicable law, and (3) were non-avoidable, valid, properly perfected and enforceable as of the Filing Date.

46. **Permitted Variance.** With respect to each weekly line item in the Budget, an amount equal to 10% of the amount set forth in the Budget, tested on a rolling four-week basis; provided, however, that the aggregate, cumulative variance for all line items shall not exceed \$100,000.

47. **Postpetition Charges.** Interest at the applicable rate of interest under the Postpetition Credit Agreement and all fees, costs, and expenses provided for in the Postpetition

Credit Agreement, including those incurred by Postpetition Lender in connection with the Postpetition Debt (regardless of whether any such fees, costs, interest and other charges are included in the Budget).

48. **Postpetition Collateral.** All of the real and personal property of Debtors of any description whatsoever, wherever located and whenever arising or acquired, including all cash, accounts, inventory, equipment, fixtures, chattel paper, general intangibles (including, upon entry of this Order, claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553, if any, asserted against Lenders, or their respective affiliates, subsidiaries, agents, officers, directors, employees, advisors, consultants, predecessors in interest, successors and assigns (collectively, the "Lender Actions")), all leaseholds (excluding the Gurnee Lease Agreement; provided, however, that the proceeds of any disposition of such lease shall constitute Postpetition Collateral), all commercial torts, all interests in any joint venture, all liquor licenses and other licenses and permits, and all other "Collateral" (as that term is defined in the Postpetition Credit Agreement), and all proceeds, rents, issues, profits and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance covering any of the foregoing; provided, however, that Postpetition Collateral shall exclude all claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553 other than the Lender Actions.

49. **Postpetition Credit Agreement.** That certain Debtor-In-Possession Loan Agreement dated as of February 22, 2011, by and between Debtors and Postpetition Lender, as amended, modified, supplemented, replaced or refinanced from time to time.

50. **Postpetition Debt.** All indebtedness or obligations of Debtors to Postpetition Lender incurred on or after the Filing Date pursuant to this Order or otherwise, including all Obligations and any advances made by Postpetition Lender to pay the Carveout.

51. **Postpetition Documents.** The Postpetition Credit Agreement and the "Related Documents" (as that term is defined in the Postpetition Credit Agreement).

52. **Postpetition Liens.** Priority Liens in the Aggregate Collateral, subject only to Permitted Priority Liens.

53. **Prepetition Collateral.** All of the GEI Prepetition Collateral and the General Debtor Prepetition Collateral.

54. **Prepetition Credit Agreements.** The GEI Prepetition Credit Agreement and the General Borrower Prepetition Credit Agreement.

55. **Prepetition Debt.** The GEI Prepetition Debt and the General Borrower Prepetition Debt.

56. **Prepetition Documents.** The GEI Prepetition Documents and the General Borrower Prepetition Documents.

57. **Prepetition Liens.** The GEI Prepetition Liens and the General Borrower Prepetition Liens.

58. **Prepetition Third Party Documents.** Collectively, Debtors' deposit account control agreements, leases, licenses, landlord agreements, warehouse agreements, bailment agreements, insurance policies, contracts or other similar agreements in which Prepetition Lender has an interest.

59. **Priority Liens.** Liens which are first priority, properly perfected, valid and enforceable security interests, which are not subject to any claims, counterclaims, defenses, setoff, recoupment or deduction, and which are otherwise unavoidable and not subject to recharacterization or subordination pursuant to any provision of the Code, any agreement, or applicable nonbankruptcy law.

60. **Replacement Liens.** Priority Liens in the Postpetition Collateral granted to Prepetition Lender pursuant to this Order, subject only to the Postpetition Liens and the Permitted Priority Liens.

61. **Termination Date.** At Postpetition Lender's election, the earliest to occur of: (a) the date on which Postpetition Lender provides, via facsimile or overnight mail, written notice to counsel for Debtors and counsel for any Committee of the occurrence and continuance of an Event of Default; (b) the date of the Final Hearing, if this Order is modified at the Final Hearing in a manner unacceptable to Lenders; (c) the date on which a sale of all or substantially all of the Aggregate Collateral is consummated on terms and conditions acceptable to Lenders and (d) August 24, 2011.

62. **Trustee.** Any trustee appointed or elected in the Cases.

EXHIBIT B

BUDGET

[attached]

(amounts in thousands)

CASH FORECAST	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	Wk 11	Total
	2/18	2/25	3/4	3/11	3/18	3/25	4/1	4/8	4/15	4/22	4/29	
	Act.	Bud.	Bud.	Bud.	Bud.	Bud.	Bud.	Bud.	Bud.	Bud.	Bud.	
Cash Balance, Beginning	-	259	50	50	50	50	50	50	50	50	50	-
Cash Receipts (Excluding Intercompany):												
Americana: Franchise Sales	184	140	149	149	149	159	159	179	179	179	179	1,807
GFI: Royalty Fees - Franchisees	-	36	69	81	35	23	23	78	91	52	39	526
Company-Owned Restaurant Sales	75	391	421	421	421	421	421	438	438	438	438	4,324
Other Income	-	-	45	-	-	-	-	45	-	-	-	90
Total Cash Receipts	259	567	685	651	605	603	603	740	708	669	657	6,748
Cash Disbursements- Operating												
Vendor Payments	(87)	(190)	(151)	(161)	(286)	(199)	(203)	(219)	(199)	(452)	(199)	(2,344)
503(b)9 Claim Vendor Payments	-	(700)	-	-	50	-	-	-	-	-	-	(650)
Freight/Delivery (Americana)	-	-	-	(7)	(25)	-	-	-	(7)	(25)	-	(64)
Utilities/Facility Costs	-	(18)	-	(16)	(2)	(18)	-	(16)	-	(20)	-	(90)
Repairs & Maintenance	-	(14)	-	-	(2)	(14)	-	-	-	(16)	-	(46)
Capital Expenditures	-	(10)	(15)	(25)	-	-	-	-	-	-	-	(50)
Sales Tax	-	(154)	-	-	(156)	(105)	(42)	(43)	(43)	(43)	(43)	(631)
Credit Card & Bank Fees/Discounts/Chargebacks	(5)	-	-	(34)	(6)	-	-	(42)	-	(6)	-	(93)
Payroll	(207)	(87)	(212)	(87)	(212)	(87)	(212)	(49)	(212)	(87)	(212)	(1,664)
Benefits	-	(25)	-	-	(20)	(5)	-	-	-	(20)	(5)	(75)
Rent	-	-	(100)	-	-	-	-	(100)	-	-	-	(200)
IT/Phone/Data Expenses	-	(6)	-	(6)	(2)	(6)	-	(6)	-	(8)	-	(34)
IT Review	-	-	(10)	(10)	-	-	-	-	-	-	-	(20)
Marketing/Advertising/Graphics/Promotions	-	(13)	-	(13)	-	(15)	-	-	-	(15)	-	(56)
Company Store Ad Fee	-	-	-	-	-	(20)	-	-	-	(42)	-	(62)
Insurance	-	(25)	-	-	(45)	-	-	-	-	(47)	-	(117)
Auto	(1)	(3)	-	-	(5)	-	-	-	-	(5)	-	(14)
Professional Fees - Operating	-	-	-	-	(10)	(15)	-	-	-	(15)	-	(40)
M&E, Travel, Misc. AmEx	-	(15)	-	-	(15)	-	-	-	-	(15)	-	(45)
Shipping (Internet Orders - Rosemont)	-	(9)	(8)	-	(14)	-	(14)	-	(14)	-	(14)	(73)
Accounting/Audit/Tax Fees	-	-	-	-	(30)	-	-	(30)	-	(30)	-	(90)
Other Misc. Operating Expenses	(5)	(42)	(25)	(20)	(16)	(20)	(16)	(20)	(16)	(20)	(16)	(216)
Total Disbursements- Operating	(305)	(1,311)	(521)	(379)	(796)	(504)	(487)	(526)	(492)	(866)	(490)	(6,674)
Cash Flows From Operations	(46)	(744)	164	272	(191)	99	116	214	216	(197)	167	74
Cash Disbursements - Intercompany/Related Party/Other												
Capital Expenditures - Randolph Partners	-	-	-	-	(48)	(200)	(25)	(25)	(25)	(25)	(25)	(373)
Capital Expenditures - 740 Rush Street	-	-	-	-	-	(650)	-	-	-	-	-	(650)
Property Taxes - Sherbereth (Note 1)	-	-	-	-	-	-	-	-	-	-	-	-
Other Transfers	-	-	-	-	-	-	-	-	-	-	-	-
Total Disbursements - Other Non-Operating	-	-	-	-	(48)	(850)	(25)	(25)	(25)	(25)	(25)	(1,023)
Cash Disbursements- Restructuring:												
Legal Counsel - Restructuring	-	-	-	(48)	-	-	-	-	(108)	-	-	(156)
Restructuring Officer	-	(23)	(55)	(55)	(49)	(49)	(42)	(38)	(38)	(38)	(38)	(425)
Creditors' Committee	-	-	-	-	-	-	-	-	(40)	-	-	(40)
Claims Agent	-	-	-	-	(25)	(9)	(9)	(9)	(9)	(9)	(9)	(79)
US Trustee Fees	-	-	-	-	-	-	-	(54)	-	-	-	(54)
Utility Deposits	-	-	(35)	-	-	-	-	-	-	-	-	(35)
Legal & Other - Litigation Support	-	-	-	(20)	-	-	-	-	(20)	-	-	(40)
Total Disbursements- Restructuring	-	(23)	(90)	(123)	(74)	(58)	(51)	(101)	(215)	(47)	(47)	(829)
Cash Flows Before Financing/Other	(46)	(767)	74	149	(313)	(809)	40	88	(24)	(269)	95	(1,779)
Cash Activity- Financing & Other Income/Expense:												
Interest Expense	-	-	(93)	-	-	-	-	(377)	-	-	-	(470)
Closing Fee	-	(25)	-	-	(25)	-	-	-	-	-	-	(50)
Other	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Activity- Financing/Other	-	(25)	(93)	-	(25)	-	-	(377)	-	-	-	(520)
Total Cash Activity	(46)	(792)	(19)	149	(338)	(809)	40	(289)	(24)	(269)	95	(2,299)
Cash Balance, Before DIP Financing	(46)	(533)	31	199	(288)	(759)	90	(239)	26	(219)	145	(2,299)
Net DIP Funding/(Paydown)	305	583	19	(150)	338	808	(40)	289	23	269	(94)	2,351
Cash Balance, Ending	259	50	50	50	50	50	50	50	50	50	50	50

Post-Petition Debt Rollforward	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	Wk 11	Total
	2/18	2/25	3/4	3/11	3/18	3/25	4/1	4/8	4/15	4/22	4/29	
Beginning Balance	-	305	888	907	757	1,097	1,905	1,865	2,154	2,177	2,446	-
DIP Funding	305	1,359	704	502	943	1,412	563	1,029	732	938	562	9,049
DIP Paydown	-	(776)	(685)	(652)	(604)	(604)	(603)	(740)	(709)	(669)	(656)	(6,698)
DIP Balance - Subtotal	305	888	907	757	1,097	1,905	1,865	2,154	2,177	2,446	2,351	2,351
Roll-up	-	-	-	-	33,642	-	-	-	-	-	-	33,642
Ending Balance	305	888	907	757	34,739	35,547	35,507	35,796	35,819	36,087	35,993	35,993

Pre-Petition Debt Rollforward	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	Wk 11	Total
	2/18	2/25	3/4	3/11	3/18	3/25	4/1	4/8	4/15	4/22	4/29	
Beginning Balance	45,670	45,670	45,670	45,670	45,670	12,029	12,029	12,029	12,029	12,029	12,029	45,670
Advances	-	-	-	-	-	-	-	-	-	-	-	-
Paydowns	-	-	-	-	-	-	-	-	-	-	-	-
Roll-up	-	-	-	-	(33,642)	-	-	-	-	-	-	(33,642)
Ending Balance	45,670	45,670	45,670	45,670	12,029	12,029	12,029	12,029	12,029	12,029	12,029	12,029

Note 1: Payment shall not exceed the actual amount needed to redeem the taxes.