

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA**

In re:

Graham Gulf, Inc.,

Debtor.

Chapter 11

Case No. 15-03065

**FINAL ORDER (I) AUTHORIZING THE DEBTOR TO OBTAIN POSTPETITION
FUNDING; (II) AUTHORIZING USE OF CASH COLLATERAL; AND (III) GRANTING
ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES**

This matter came before the Court on February 2, 2016 for a final hearing (the “**Final Hearing**”) on the Debtor’s *Motion (I) Pursuant to 11 U.S.C. Sections 105, 361, 362, 363, 364, and 507 Authorizing the Debtor to (A) Obtain Postpetition Financing, (B) Grant Senior Liens and Superpriority Administrative Expense Status, and (C) Utilize Cash Collateral of Pre-Petition Secured Parties; (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U.S.C. Section 361, 362, 363, and 364; (III) Scheduling a Final Hearing; and (V) Granting Related Relief* [Doc. 14] (the “**DIP Motion**”). It appears from the DIP Motion and the record before the Court that, among other things, use of cash collateral and additional funding is necessary to avoid immediate and irreparable harm to the Debtor’s estate.

Following an initial hearing on September 22, 2015, the Court entered an interim order, among other things, authorizing the Debtor to use cash collateral pursuant to the Budget as defined therein (the “**First Interim Order**”) [Doc. 34]. Following a second interim hearing, the Court entered a second interim order, dated October 20, 2015, authorizing the continued use of cash collateral through December 11, 2015 (the “**Second Interim Order**”) [Doc. 75]. On December 17, 2015, the Court entered a consent order extending the Debtor’s authorization to use cash collateral through January 29, 2016 (the “**Consent Order**”) [Doc. 143]. On December

22, 2015, the Court entered an order amending the Consent Order (the “**Amended Consent Order**”) [Doc. 146]. The First Interim Order, the Second Interim Order, the Consent Order, and the Amended Consent Order are collectively referred to hereinafter as the “**Interim Orders**.”

The Court has considered the DIP Motion, the relief sought therein, the presentations of the parties appearing at the Final Hearing, the proposals of the Debtor and the agent for the Debtor’s senior secured lenders, Wells Fargo Bank, N.A. (“**Wells Fargo**”), and the entire record before the Court. It appears on the record before the Court that approval of the relief set forth herein and the Interim Orders is: (1) necessary to avoid immediate and irreparable harm to the Debtor’s estate, (2) fair and reasonable and in the best interests of the Debtor, its creditors, estate and equity holders, and (3) essential for the continued operation of the Debtor’s business. After due deliberation and consideration, and good and sufficient cause appearing therefore, in accordance with Rule 4001 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”),

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. **Jurisdiction and Venue**. This Court has jurisdiction over these proceedings, and the persons and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the DIP Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Debtor’s above-captioned bankruptcy case (the “**Bankruptcy Case**”) and proceedings on the DIP Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

B. **Petition Filed**. The Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101, *et. seq.* (the “**Bankruptcy Code**”) on

September 18, 2015 (the “**Petition Date**”). The Debtor continues in the operation of its business and manages its property as a Debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the case. On October 15, 2015, the Court entered an order appointing an official committee of unsecured creditors (the “**Committee**”) [Doc. 56].

C. Debtor’s Stipulations. The Debtor admits, stipulates, acknowledges and agrees (collectively, paragraphs C(i) through C(iv) hereof shall be referred to herein as the “**Debtor’s Stipulations**”), as follows:

(i) Pre-Petition Liens. Prior to the Petition Date, Wells Fargo and the Pre-Petition Lenders (as defined below) made loans and advances and provided credit accommodations to the Debtor, C&G Boat Works, Inc. (“**C&G**”), and Graham Holding Company, Inc. (“**Parent**”) pursuant to that certain: (a) Credit Agreement dated as of March 13, 2014, by and among the lenders party thereto (collectively, the “**Pre-Petition Lenders**”), Wells Fargo, in its capacity as administrative agent for Pre-Petition Lenders and Bank Product Providers (in such capacity, “**Pre-Petition Agent**”), the Debtor, C&G, and Parent (as amended, restated, supplemented, or otherwise modified from time to time, the “**Pre-Petition Credit Agreement**”);¹ (b) Guaranty and Security Agreement, dated as of March 13, 2014, by and among Debtor, C&G, Parent, and Pre-Petition Agent (the “**Pre-Petition Guaranty and Security Agreement**”); (c) Promissory Note, dated as of March 13, 2014, in the original principal amount of \$20,000,000 payable to Regions Bank, (d) First Preferred Fleet Mortgage, dated March 13, 2014, executed by C&G in favor Pre-Petition Agent, (e) First Preferred Fleet Mortgage, dated March 13, 2014, executed by Debtor in favor Pre-Petition Agent, (f) Assignment of Freight/Hire, dated as of March 13, 2014, executed by C&G in favor Pre-Petition Agent, (g) Assignment of Freight/Hire, dated as of March 13, 2014, executed by Debtor in favor Pre-Petition Agent, (h) Assignment of Insurances, dated March 13, 2014, executed by C&G in favor of Pre-Petition Agent, (i) Assignment of Insurances, dated March 13, 2014, executed by Debtor in favor of Pre-Petition Agent, and (j) all other agreements, documents, and instruments executed and/or delivered with, to, or in favor of Pre-Petition Agent, including, without limitation, the security agreements, notes, guarantees, mortgages, and Uniform Commercial Code (“**UCC**”) financing statements and all other related agreements, documents, and instruments executed and/or delivered

¹ For purposes of this paragraph C only, all capitalized terms used but not defined herein shall be defined in the Pre-Petition Credit Agreement.

in connection therewith or related thereto (collectively, the “**Pre-Petition Loan Documents**”);

(ii) **Pre-Petition Secured Obligations Amount**. As of the Petition Date, the amount outstanding on the loans was \$21,691,252.80 in principal, plus all accrued and accruing default interest, costs, appraisal fees, expenses, professional fees and expenses, and other fees and charges (collectively, together with all other obligations arising under the Pre-Petition Loan Documents, the “**Pre-Petition Secured Obligations**”).

(iii) **Pre-Petition Collateral**. The Pre-Petition Secured Obligations and any and all post-petition obligations, accrued and/or owing, to Wells Fargo and the Pre-Petition Lenders (collectively, together with the Pre-Petition Secured Obligations, the “**Wells Fargo Obligations**”) are secured pursuant to the Pre-Petition Loan Documents by security interests and liens (the “**Pre-Petition Liens**”) granted by the Debtor, C&G, and Parent to Pre-Petition Agent upon all of the Debtor’s, C&G’s, and Parent’s assets, including, without limitation, all Accounts, chattel paper and electronic chattel paper, deposit accounts, documents, Equipment, general intangibles, Vessels, goods, instruments, Inventory, investment property, letter-of-credit rights, letters of credit, all sums on deposit in any deposit account or any Securities Account; together with (a) all substitutions and replacements for and products of such property; (b) in the case of all goods, all accessions; (c) all accessories, attachments, parts, Equipment and repairs now or subsequently attached or affixed to or used in connection with any goods; (d) all warehouse receipts, bills of lading and other documents of title that cover such goods now or in the future; (e) all collateral subject to any Lien of the Pre-Petition Agent; (f) any money or other assets of the Debtor, C&G, or Parent that come into the possession, custody, or control of Pre-Petition Agent now or in the future; (g) proceeds of any of the foregoing; (h) books and records of each of the Debtor, C&G, and Parent, including all mail or e-mail addressed to the Debtor, C&G, or Parent; and (i) all of the above collateral, whether now owned or existing or acquired now or in the future or in which the Debtor, C&G, or Parent has rights now or in the future; and (j) all of the foregoing, whether now owned or existing or hereafter acquired or arising or in which any of the Debtor, C&G, or Parent now has or hereafter acquires any rights (collectively, the “**Pre-Petition Collateral**”),² with priority over all other liens except for any liens otherwise permitted by the Pre-Petition Credit Agreement.

(iv) **Debtor’s Default**. As of the Petition Date the Debtor and the other Borrowers were in default under the Pre-Petition Loan Documents and remain in default under the Pre-Petition Loan Documents. As of the Petition Date, the

² The acknowledgment and agreement by the Debtor as to the Pre-Petition Secured Obligations and the liens, rights priorities and protections granted to or in favor of Wells Fargo, as set forth herein and in the Pre-Petition Credit Agreement, shall constitute a proof of claim on behalf of Wells Fargo and the Pre-Petition Lenders in the Debtor’s bankruptcy case.

credit facility evidenced by the Pre-Petition Loan Documents was terminated. Wells Fargo is not obligated to make any advances or allow the Debtor to use Wells Fargo's cash collateral under the Pre-Petition Loan Documents.

(v) Waiver of Claims. Pursuant to, without limitation, the Interim Orders, the Debtor has waived and will not assert any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of Wells Fargo's liens, claims and/or security interests in the Pre-Petition Collateral.

(vi) Validity of Pre-Petition Loan Documents and Pre-Petition Liens. As of the Petition Date, (1) the Pre-Petition Liens are valid, binding, enforceable, and perfected first-priority liens and are not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, (2) the Pre-Petition Secured Obligations constitute legal, valid and binding obligations of the Debtor and the other Borrowers, enforceable in accordance with the terms thereof (other than in respect of the stay of enforcement arising from Section 362 of the Bankruptcy Code), no offsets, defenses or counterclaims to any of the Pre-Petition Debt exists, and no portion of the Pre-Petition Secured Obligations is subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, and (3) the Pre-Petition Secured Obligations constitute an allowed secured claim. Further, Wells Fargo, together with its affiliates, agents, attorneys, officers, directors and employees, have been discharged and released from any right the Debtor, or any party in interest, may have had (1) to challenge or object to any of the Pre-Petition Secured Obligations, (2) to challenge or object to the security for the Pre-Petition Secured Obligations, and (3) to bring or pursue any and all claims, objections, challenges, causes of action and/or chooses in action arising out of, based upon or related to the Pre-Petition Credit Agreement or otherwise.

(vii) Pre-Petition Secured Obligations Are Oversecured. Wells Fargo is oversecured as of the Petition Date in that the value of the Pre-Petition Collateral exceeds the amount of the Pre-Petition Secured Obligations.

D. Cash Collateral. "**Cash Collateral**" is defined by Section 363(a) of the Bankruptcy Code, and includes post-petition proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in Section 522(b) and as the term "proceeds" is described in UCC Section 9-102.

E. Necessity and Best Interests Concerning Use of Cash Collateral. The Debtor does not have sufficient unencumbered cash or other assets with which to continue to operate its

business. The Debtor requires authority to use Cash Collateral as defined herein in order to continue its business operations without interruption. The Debtor's use of Cash Collateral, to the extent and on the terms and conditions set forth herein and the Pre-Petition Credit Agreement, is necessary to avoid immediate and irreparable harm to its estate.

F. Insider Unsecured Loan. In addition to the use of Cash Collateral, the Debtor requires additional post-petition funding in order avoid interruption of its business operations and avoid irreparable harm to its bankruptcy estate. The Debtor's president and ultimate beneficial owner of all equity interests in the Debtor, Janson Graham ("**Graham**") has agreed to fund one million dollars (\$1,000,000.00) on an unsecured, subordinated basis (as detailed below) in accordance with the Budget (defined below) and the terms of the Interim Orders (the "**Insider Unsecured Loan**"). Pursuant to agreement of Graham, the Insider Unsecured Loan shall be: (1) without interest, (2) unsecured, (3) of no greater priority than pre-petition general unsecured claims against the Debtor, and (4) subordinate to the claims of Wells Fargo and the Pre-Petition Lenders, such that no repayment of any portion of the Insider Unsecured Loan shall occur unless and until the Wells Fargo Obligations are satisfied in full. Graham has not yet funded the entire Insider Unsecured Loan.

G. Necessity and Best Interest Concerning Insider Unsecured Loan. The relief set forth herein authorizing the Insider Unsecured Loan is: (1) necessary to avoid immediate and irreparable harm to the Debtor's estate, (2) fair and reasonable and in the best interests of the Debtor, its creditors, estate and equity holders, and (3) essential for the continued operation of the Debtor's business.

H. Budget. The Debtor has prepared various budgets, copies of which were annexed to the DIP Motion and to the Interim Orders, and which were amended by the terms of the

Interim Orders (the “**Interim Budgets**”). An additional budget, prepared by the Debtor, and covering the period from January 29, 2016 through March 25, 2016 is annexed hereto as “**Exhibit A**” (such budget, together with the Interim Budgets, shall be referred to as the “**Budget**”). The Budget has been thoroughly reviewed by the Debtor and its management and sets forth, among other things, the projected cash receipts and disbursements for the periods covered thereby. The Budget provides, among other things, that (1) the Debtor shall pay to Wells Fargo advances for reimbursement of Wells Fargo’s professional fees incurred in connection with the Bankruptcy Case as follows: (a) \$50,000³ on or before October 7, 2015, and (b) an additional \$13,500⁴ each week commencing the week of September 19, 2015 (collectively, (a) and (b) shall be referred to as the “**Wells Fargo Professional Fee Advances**”), and (2) the Debtor shall pay to Wells Fargo interest payments in the amount of \$152,000.00 per month. The Wells Fargo Professional Fee Advances are not expected to cover all professional fees for which Wells Fargo will be entitled to reimbursement. The Wells Fargo Professional Fee Advances do not constitute a cap on professional fees reimbursable to Wells Fargo and shall be paid without prejudice to any right of Wells Fargo to reimbursement of the actual professional fees which have been or may be incurred in connection with the Bankruptcy Case and the Wells Fargo Obligations; provided, however, that the foregoing shall not prejudice any right of the Debtor, the Committee, or other appropriate parties to object to Wells Fargo’s professional fees. The Budget may be amended, restated, or extended by agreement of the Debtor, the Committee, and Wells Fargo in its sole discretion, or by further order of the Court.

³ \$25,000 of the \$50,000 October 7, 2015 advance constitutes reimbursement for a portion of the legal fees incurred by Wells Fargo prior to the Interim Hearing, and the remaining \$25,000 is for financial advisory fees.

⁴ \$7,000 of the weekly \$13,500 advances constitutes reimbursement for a portion of the legal fees which will be incurred by Wells Fargo during the Bankruptcy Case, and the remaining \$6,500 is for financial advisory fees.

I. Purposes. The Debtor seeks authority to use Cash Collateral, subject to the Budget, to meet the ordinary cash needs of the Debtor and for such other purposes necessary to (a) maintain and preserve its assets, and (b) pay items in accordance with the Budget.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that:

1. Use of Cash Collateral. The Debtor is authorized, subject to and in accordance with the Budget and the representations, stipulations, and terms set forth in this Final Order, the Interim Orders, and the Pre-Petition Credit Agreement, to use Cash Collateral for the following purposes:

- a) maintenance and preservation of its assets;
- b) collection of its accounts receivable; and
- c) payment of items pursuant to the Budget and this Final Order.

In addition to Cash Collateral arising from the collection of customer accounts as contemplated by the Budget, the Debtor is authorized to use Cash Collateral resulting from the recent tax refund received from the Internal Revenue Service on or about September 22, 2015 in the amount of \$72,270.13 and the insurance proceeds received on or about September 22, 2015 in the amount of \$170,489.42. No other use of proceeds of any Wells Fargo collateral, other than collections received on customer accounts, is authorized. Except as specifically provided by the Interim Orders and this Final Order, no proceeds of the Pre-Petition Collateral or any asset which the Debtor obtains after the Petition Date in which Wells Fargo has a lien may be utilized by the Debtor or the Committee to finance, in any way, any professional fees, disbursements, costs or expenses incurred in connection with asserting, or preparing, any claims or causes of action against Wells Fargo, or its counsel or advisors (including advisors to their counsel), arising from or relating to the Pre-Petition Loan Documents or the Interim Orders and/or investigating,

challenging or raising any defenses to the Wells Fargo Obligations, the Pre-Petition Liens, the Interim Orders, or the liens granted pursuant to the Interim Orders. Notwithstanding the forgoing, nothing in this Final Order shall preclude the use of Cash Collateral to pay up to \$20,000.00 for professional fees, disbursements, costs, or expenses incurred by the Committee prior to December 31, 2015 in connection with investigating the Pre-Petition Liens, provided, in each case, that any funding for the same from Cash Collateral is governed by the professional fees authorization in the Budget.

2. Debtor in Possession Bank Accounts. As part of the adequate protection provided to Wells Fargo and the Pre-Petition Lenders, and as a condition of Wells Fargo's consent to the use of its Cash Collateral, the Debtor shall maintain all debtor-in-possession bank accounts at Regions Bank, N.A. ("**Regions**"). In order to facilitate the Debtor's use of Cash Collateral and further implement the provisions of this Order, certain modifications will be made to the Debtor's existing bank accounts and cash management procedures at Regions. The Debtor maintains three accounts at Regions: (1) the Graham Gulf, Inc. operating account (account number ending in -753; the "**Operating Account**"), (2) the Graham Gulf payroll account (account number ending in -085; the "**Payroll Account**"), and (3) the Graham Gulf collection account (account number ending in -4031; the "**Collection Account**"). Each of the three accounts will be immediately re-designated as Debtor-in-Possession accounts and identified as such in the records of Regions and on all checks written on the Payroll or Operating Accounts. The Collection Account served, before the Petition Date, as the account into which customers or other payors would make payments owed to the Debtor, which payments were then swept to Wells Fargo pursuant to the terms of the Pre-Petition Loan Documents and the deposit account control agreement between Regions and Wells Fargo (the "**DACA**"). Wells Fargo would then

fund into a master account in the name of co-borrower Graham Holding Co. Inc., from which funds were drawn automatically by the Operating Account and Payroll Account as needed. Pursuant to this Order, the Debtor's funds shall be deposited into or held only in the Debtor's Collection, Payroll, or Operating Accounts, the Insurance Proceeds Account (defined below), and any other account established by the Debtor pursuant to an Order of this Court or with the consent of the Bankruptcy Administrator. The treasury management agreement between the Debtor and Regions and the DACA are hereby deemed amended as needed to allow the Debtor access to funds in the Collection Account and an ability to transfer funds from the Collection Account to the Operating Account or Payroll Account as needed for so long as the Debtor is authorized to use Cash Collateral under this Final Order; provided that Regions shall have no obligation to reinstate any pre-Petition Date controls on the Accounts modified by this Order absent specific further order of this Court. The Debtor shall ensure that funds are transferred into the Operating Account or Payroll Account before it issues any checks or authorizes any draws against such account. It shall be the Debtor's obligation to ensure that sufficient funds are moved into and held in the Operating Account or the Payroll Account, as appropriate, at all times to cover all checks issued or to-be-issued from, but not yet presented for payment against, the account, as well as all electronic draws from or debits to either account authorized by the Debtor; provided, however, that nothing herein shall expand in any way the Debtor's ability to use Cash Collateral as otherwise set forth herein. Regions shall have no duty to manage or move the Debtor's funds between or among the three accounts, whether to facilitate payment of items presented or otherwise. The Debtor shall bear sole responsibility for ensuring that no check is written or transfer authorized unless sufficient funds are in the account to be debited to cover that, and all other, pending transactions, and Regions shall bear no liability for returning any item

presented against insufficient funds. Regions is authorized to charge and collect its customary fees or charges associated with the Debtor's accounts in accordance with its typical practices. Regions is expressly authorized to share with Wells Fargo and the Committee any and all customer information relating to the Debtor, Parent, and C&G, including, without limitation, account balances and other account data.

3. Insurance Proceeds. Notwithstanding anything contained herein, the Debtor shall escrow \$110,000.00 of insurance proceeds (the "**Insurance Proceeds**") in a separate account (the "**Insurance Proceeds Account**"). All liens, to the extent valid, shall attach to the Insurance Proceeds, and further use or distribution of the Insurance Proceeds shall be subject to further order of the Court.

4. Minimum Liquidity. As part of the adequate protection provided to Wells Fargo and the Pre-Petition Lenders, and as a condition of Wells Fargo's consent to the use of its Cash Collateral, the Debtor shall maintain in its Collection, Payroll, and Operating Accounts total deposits of no less than one hundred thousand U.S. dollars (\$100,000.00) in aggregate among these accounts (the "**Minimum Liquidity Amount**"). The Insurance Proceeds shall not be included when calculating the Minimum Liquidity Amount.

5. Reporting. Consistent with the Interim Orders, on Tuesday of each week, the Debtor shall continue to provide Wells Fargo and the Committee with: (i) a variance report, in form and substance acceptable to Wells Fargo substantially consistent with the Debtor's form of the Budget annexed hereto as "**Exhibit A**", showing the actual cash receipts and disbursements of the Debtor for the preceding week and reconciling the same to the budgeted line item amounts set forth in the Budget for such week; (ii) detailed weekly cash and accounts receivable and accounts payable reports; (iii) weekly check and wire registers evidencing all payments made

during the previous week; (iv) a rolling thirteen (13) week written forecast; (v) a written vessel positioning report through the preceding Friday; and (vi) a written update of all refinancing or sales efforts, including, but not limited to, a chart showing all contacts made and correspondence with prospective funding sources and potential buyers. Within five (5) business days after the end of each calendar month, the Debtor shall provide Wells Fargo and the Committee with a written vessel utilization report. In addition the Debtor shall also continue to comply with the following reporting requirements in Schedule 5.2 of the Pre-Petition Credit Agreement as amended below:

- a) Notice of all claims, offsets, or disputes asserted by Account Debtors with respect to Debtor's Accounts.
- b) An aging by vendor, of any held checks.
- c) A detailed report listing any written notices regarding any material defaults or claim violations or termination in connection with any Customer Contract, and copies of such notices.
- d) A detailed list of Debtor's customers, with address and contact information.
- e) Notice of any labor strikes, labor disputes, or similar actions.
- f) Notice of any insurance policy ceasing to be in force and effect for any of Debtor's assets, or of any change in coverage on any directors and officers liability policy.

Notwithstanding anything to the contrary, the Debtor's obligations under the Prepetition Loan Documents to provided audited financial statements shall be excused, provided that the financial statements shall be subject to review.

6. Weekly Update Calls. On Wednesday of each week, at 3 p.m. prevailing central time, the Debtor's Chief Financial Officer and other members of management shall hold weekly update calls with Wells Fargo and its professionals during which the Debtor shall provide detailed updates concerning: (a) vessel utilization during the preceding week; (b) customer contracts; and (c) any progress concerning efforts to sell any or all assets of the Debtor, to reorganize the Debtor, or to refinance the Debtor, (d) the Debtor's operational status, and (e) any matter affecting Wells Fargo's collateral.

7. Creditor's Rights of Inspection and Audit. Upon reasonable notice by Wells Fargo, the Debtor shall permit Wells Fargo and any of its respective agents reasonable and free access to the Debtor's records, vessels, and place of business during normal business hours to verify the existence, condition and location of the Debtor's assets and to audit Debtor's cash receipts and disbursements and other matters relating to the financial affairs of the Debtor. Regions is authorized to share all information concerning Debtor's accounts with Wells Fargo.

8. Direct Access to Prospects. The Debtor has been attempting to refinance the Wells Fargo Obligations and/or to identify buyers for some or all of its assets. The Debtor shall promptly provide Wells Fargo and the Committee with, and Wells Fargo and the Committee shall be entitled to, disclosure of and direct, free, and unfettered access to any and all prospects for possible refinance and/or purchase of any of the Debtor's assets or any similar prospective transactions.

9. Retention of CFO. On or before February 5, 2016, Debtor shall retain a Chief Financial Officer ("**CFO**") acceptable to Wells Fargo in its sole discretion, and in consultation with the Committee (it being agreed and acknowledged that Robert Schleizer of BlackBriar Advisors LLC is a mutually acceptable CFO), such CFO having at all times all of the powers and

duties set forth in in this Order and engaged by the Debtor to perform all of the CFO duties outlined below.

10. Powers and Duties of CFO. As used herein, “CFO” means a consultant retained by the Debtor having all the powers and duties of a Chief Financial Officer including, but not limited to, managing all aspects of the Debtor’s finances including, but not limited to, budgeting, cash management, finance, forecasting, compliance with the Pre-Petition Loan Documents and this Order, and implementation of business strategy. The CFO shall be free to communicate directly with Wells Fargo, the Committee, and their respective professionals regarding all aspects of the Debtor’s business operations and finances. Within 30 days after entry of this Order, the CFO shall provide an updated budget to the Committee and Wells Fargo, which must be approved by Wells Fargo in its sole discretion.

11. Retention of Brokers Specializing in Marine Assets. As a condition to the continued use of Cash Collateral, on or before March 11, 2016, the CFO shall prepare a process for the marketing and sale of the Debtor’s assets in a form acceptable to Wells Fargo in its sole discretion, and in consultation with the Debtor and the Committee. The CFO shall prepare a report including the method and timing of the sales process, as well as whether the Debtor’s vessels should be sold individually or as a going concern. The plan shall include the retention of one or more brokers specializing in vessels of this type. Within 30 days after the entry of this Order, the Debtor must retain vessel brokers to market the Debtor’s assets. The vessel brokers are to be recommended by the CFO in consultation with the Debtor, the Committee, and Wells Fargo, and must be acceptable to Wells Fargo in its sole discretion. The vessel brokers shall be provided geographic exclusivity to sell vessels, subject to court approval. The requirement of exclusivity may be changed in consultation with the Debtor, the Committee, and Wells Fargo,

and must be acceptable to Wells Fargo in its sole discretion. To the extent the CFO deems advisable, the Debtor shall also retain a business broker to market the business as a going concern. Said business broker shall be chosen in consultation with the Debtor, the Committee, and Wells Fargo, and must be acceptable to Wells Fargo in its sole discretion. The CFO may also investigate financing alternatives.

12. Termination of Right to Use Cash Collateral. The “**Cash Collateral Termination Date**” shall mean the earliest to occur of: (i) the date on which Wells Fargo provides, via electronic mail or overnight mail, written notice to counsel for the Debtor and counsel for the Committee of the occurrence of an Event of Default (as defined below); or (ii) **September 1, 2016**, which date may be changed by written agreement among the Debtor, the Committee, and Wells Fargo in its sole discretion.

13. Adequate Protection. As adequate protection for the use of Cash Collateral, Wells Fargo is GRANTED, without limitation, the following:

a) Replacement Lien. Wells Fargo is hereby granted a replacement lien under Sections 361(1) and 361(2) of the Bankruptcy Code (the “**Replacement Lien**”) to the extent Wells Fargo’s Cash Collateral is used by the Debtor in all post-petition assets of the Debtor, including, without limitation, all accounts, accounts receivable, chattel paper and electronic chattel paper, deposit accounts, documents, equipment, vessels, contracts, general intangibles, goods, instruments, inventory, investment property, letter-of-credit rights, letters of credit, all sums on deposit in any account, and any items in any lockbox; together with (a) all substitutions and replacements for and products of such property; (b) in the case of all goods, all accessions; (c) all accessories, attachments, parts, equipment and repairs now or subsequently attached or affixed to or used in connection with any goods; (d) all warehouse receipts, bills of lading and

other documents of title that cover such goods now or in the future; (e) all collateral subject to liens granted in any of the Pre-Petition Loan Documents; (f) any money or other assets of the Debtor now or in the future; (g) proceeds of any of the foregoing; (h) books and records of the Debtor, including all mail or e-mail addressed to the Debtor (collectively, the “**Post-Petition Collateral**”). The Replacement Liens: (i) are and shall be in addition to the Pre-Petition Liens; (ii) shall have the same priority in the Debtor’s post-petition assets (the “**Post-Petition Collateral**”), and proceeds thereof, that Wells Fargo held in the Pre-Petition Collateral; (iii) are and shall be first priority liens, subject only to liens permitted under the Pre-Petition Credit Agreement that are properly perfected, valid, and enforceable without any further action as of the Petition Date; and (iv) shall remain in full force and effect notwithstanding any conversion or dismissal of the Bankruptcy Case.

b) Allowed Claim under Section 507(b) of the Bankruptcy Code. To the extent the adequate protection provided for hereby proves insufficient to protect Wells Fargo from diminution in the value of its collateral, Wells Fargo shall have a superpriority administrative expense claim, pursuant to Section 507(b) of the Bankruptcy Code, senior to and with priority over: (i) all costs and expenses of administration of the Debtor’s Bankruptcy Case that are incurred under any provision of the Bankruptcy Code, including, without limitation, Sections 503; 506(c); 507(a); or 552(b) of the Bankruptcy Code; and (ii) the claims of any other party under Section 507(b) of the Bankruptcy Code.

c) Adequate Protection Payments. As further adequate protection for the Debtor’s use of Cash Collateral, Wells Fargo shall be entitled to receive, without limitation, the following adequate protection payments from the Debtor (collectively, the “**Adequate Protection Payments**”):

(a) Accrual and Payment of Interest. The Pre-Petition Secured Obligations shall bear interest at the default interest rate, and be due and payable (and paid), as set forth in, and in accordance with the terms and conditions of this Final Order, the Budget, and the Pre-Petition Loan Documents, in each case without further notice, motion or application to, order of, or hearing before, this Court.

(b) Wells Fargo Professional Fee Advances. As further adequate protection, the Debtor shall timely pay the Wells Fargo Professional Fee Advances. The Wells Fargo Professional Fee Advances do not constitute a cap on professional fees reimbursable to Wells Fargo and shall be paid without prejudice to any right of Wells Fargo to reimbursement of actual professional fees and other expenses which have been or may be incurred in connection with the Bankruptcy Case and the Wells Fargo Obligations; provided, however, that the foregoing shall not prejudice any right of the Debtor to object to Wells Fargo's professional fees.

d) Deemed Perfected. The Replacement Liens granted herein are automatically deemed perfected upon entry of this Final Order without the necessity of Wells Fargo taking possession, filing financing statements, mortgages or other documents. Although not required, upon request by Wells Fargo, the Debtor shall execute and deliver to Wells Fargo and any and all UCC Financing Statements, UCC Continuation Statements, Certificates of Title or other instruments or documents considered by Wells Fargo to be necessary in order to perfect the security interests and liens in the Post-Petition Collateral and proceeds granted by this Second Interim Order, and Wells Fargo is authorized to receive, file and record the foregoing at Wells Fargo's own expense, which actions shall not be deemed a violation of the automatic stay.

14. No Surcharge. No costs or expenses of any kind incurred in connection with the Debtor's Bankruptcy Case by any party may be imposed upon Wells Fargo, the Pre-Petition Lenders, or any of their collateral pursuant to Section 506(c) of the Bankruptcy Code or otherwise without Wells Fargo's prior written consent, which Wells Fargo may grant or deny in its sole and absolute discretion, and no such consent shall be implied or imposed based on any action or inaction of Wells Fargo or any other party.

15. No Marshaling. In no event shall Wells Fargo be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Pre-Petition Collateral, the Post-Petition Collateral or any other asset subject to any Pre-Petition Lien or the Replacement Liens.

16. Events of Default. The occurrence of any of the following events, without limitation, shall constitute an event of default under this Final Order (each an "**Event of Default**"): (i) the Debtor fails to duly and punctually observe, perform or discharge any obligation or duty imposed upon it by this Final Order or any final order approving the use of Cash Collateral, including without limitation, the making of any of the Adequate Protection Payments; (ii) the Debtor fails to comply with the Budget, allowing for any exceptions and variances addressed herein and the Interim Orders; (iii) the Debtor's accounts receivable that are outstanding more than 45 days are in excess of one hundred thousand U.S. dollars (\$100,000); (iv) the Debtor's disbursements by line item (with the exception of disbursements made to Wells Fargo) are more than one hundred five percent (105%) of the amounts provided in the Budget on a four week rolling basis, allowing for any exceptions and variances addressed herein and the Interim Orders; (v) any changes are made to any insurance policy that would alter coverage for past and/or present directors and officers; (vi) the Debtor fails to produce at least eight hundred thousand U.S. dollars (\$800,000) in new billings in each calendar month and to provide Wells

Fargo with a detailed report of such billings by the sixth (6th) day of the subsequent month; (vii) the Debtor fails to maintain a Minimum Liquidity Amount of at least one hundred thousand U.S. dollars (\$100,000), which amount shall not include the Insurance Proceeds; (viii) the Debtor fails to maintain four vessels under monthly contracts; (ix) either one or both of the Exxon or BP contracts are terminated; (x) conversion of the case to Chapter 7; (xi) appointment of a Chapter 11 Trustee; (xii) appointment of an Examiner with expanded powers; (xiii) the Debtor ceases to employ Robert Schleizer of BlackBriar Advisors LLC as CFO, or the scope of the CFO's duties (as set forth in the definition of CFO provided in this Order) are reduced in any way, without the prior express written consent of Wells Fargo; or (xiv) the occurrence of the Cash Collateral Termination Date without payment in full of the Wells Fargo Obligations. Upon the occurrence of an Event of Default, unless waived in writing by Wells Fargo in its sole discretion, the Debtor's use of Cash Collateral shall automatically terminate. In no event shall the Debtor or any other party be authorized, without prior written consent from Wells Fargo, to use any proceeds of the Pre-Petition Collateral or any proceeds of the Post-Petition Collateral to pay any cost or expenses of administration in this Bankruptcy Case or in any subsequent or superseding Chapter 7 case after the occurrence of an Event of Default, until such time as all of the obligations under the Pre-Petition Loan Agreements and the Wells Fargo Obligations are paid, performed and satisfied in full.

17. Reservation of Rights. Nothing contained herein or in the Interim Orders shall be deemed or construed to: (a) limit Wells Fargo to the relief granted herein; (b) bar Wells Fargo from seeking other and further relief (including without limitation relief from the terms of this Final Order) for cause shown on appropriate notice to the Debtor and other parties-in-interest entitled to notice of same; or (c) require Wells Fargo or the Pre-Petition Lenders to make any

further loans or advances to the Debtor. All rights of Wells Fargo and the Pre-Petition Lenders are hereby expressly reserved and preserved, except as specifically set forth in this Final Order and the Interim Orders.

18. Bar of Challenges to the Wells Fargo Obligations. The Interim Orders set a deadline for the Debtor, the Committee, and/or another party in interest with requisite standing to: (a) to object to or challenge (i) the validity, extent, perfection or priority of the security interests and liens of Wells Fargo, including, without limitation the Pre-Petition Liens, in and to the Pre-Petition Collateral, or (ii) the validity, allowance, priority, status or size of the Pre-Petition Secured Obligations, or (b) to bring suit against Wells Fargo in connection with or related to the Pre-Petition Credit Agreement, or the actions or inactions of Wells Fargo arising out of or related to the Pre-Petition Credit Agreement. Parties in interest were required to commence any contested matters or adversary proceedings raising any such objection, challenge or claim, including without limitation any claim against Wells Fargo in the nature of a setoff, counterclaim or defense to the Pre-Petition Secured Obligations (including but not limited to, those under Sections 506, 544, 547, 548, 550 and/or 552 of the Bankruptcy Code or by way of suit against Wells Fargo), on or before **December 30, 2015**, if at all (the Petition Date through such date shall be referred to as the “**Challenge Period**”; and the date that is the next calendar day after the termination of the Challenge Period shall be referred to as the “**Challenge Period Termination Date**”). The Interim Orders provide that any such objection, challenge, or claim not asserted by the Challenge Period Termination Date is forever waived and barred, and, in the event no objection, challenge, or claim is brought within the Challenge Period, the Wells Fargo Obligations and associated liens are allowed in full and, to the extent of the value of the Pre-Petition Collateral on the Petition Date, are allowed for all purposes in connection with the

Debtor's Bankruptcy Case, and the Debtor's Stipulations are binding on all creditors, interest holders, parties in interest, trustees, successors, and assigns. The Challenge Period Termination Date has passed, and the Challenge Period has expired. No objections, challenges or claims have been initiated. Accordingly, without limitation, the Debtor's Stipulations are hereby approved, and the Wells Fargo Obligations and associated liens are allowed in full, and Wells Fargo has an allowed claim that is secured to the extent of the value of the Pre-Petition Collateral on the Petition Date.

19. Indemnification and Payment of Fees, Costs and Expenses. Wells Fargo shall be entitled to payment of all fees, costs, expenses and other charges payable under the terms of the Pre-Petition Loan Agreements; provided that Wells Fargo shall submit copies of its professional fee invoices to the Debtor, the Bankruptcy Administrator, and counsel for any Committee, if any (and any subsequent trustee of the Debtor's estate). Such invoices may be redacted to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work product doctrine. The Debtor, Bankruptcy Administrator, and the Committee (and any subsequent trustee of the Debtor's estates) may object to the reasonableness of the fees, costs and expenses included in any professional fee invoice submitted by Wells Fargo; provided that, any such objection shall be forever waived and barred unless (i) it is filed with this Court and served on counsel to Wells Fargo no later than fourteen (14) days after the objecting party's receipt of the applicable professional fee invoice and (ii) it describes with particularity the individual entries and/or items of fees, costs, and expenses that are the subject of the objection and provides the specific basis for the objection to each such entry or item of fees, costs, and

expenses; provided, further, that the Debtor shall immediately pay any portion of the fees, costs and expenses included in any professional fee invoice submitted by Wells Fargo that is not subject of any objection filed by the Bankruptcy Administrator or the Committee upon the expiration of the fourteen (14) day objection period provided in this paragraph. Any hearing on an objection to payment of any fees, costs and expenses of Wells Fargo set forth in a professional fee invoice shall be limited to the reasonableness or necessity of the particular items of categories of the fees, costs, and expenses which are the subject of such objection. The Debtor shall indemnify Wells Fargo to the extent set forth in the Pre-Petition Credit Agreement. All unpaid fees, costs, expenses, charges and indemnities that have not been disallowed by this Court on the basis of an objection filed by the Debtor, Bankruptcy Administrator, or Committee (or any subsequent trustee of the Debtor's estates) in accordance with the terms hereof shall be secured by the Pre-Petition Collateral and the Post-Petition Collateral as specified in this Final Order. Any and all fees, commissions, costs and expenses paid prior to the Petition Date by the Debtor to Wells Fargo in connection with or with respect to the Pre-Petition Loan Documents are hereby approved in full.

20. Release of Claims. Wells Fargo and the Pre-Petition Lenders, together with their respective affiliates, agents, attorneys, members, officers, directors and employees (collectively, the "**Protected Parties**") are released and discharged from any and all claims and causes of action arising out, based upon or related to, in whole or in part, the Pre-Petition Credit Agreement, any aspect of the pre-petition relationship between, or among, the Protected Parties and the Debtor, and/or any other acts or omissions of the Protected Parties in connection with the Pre-Petition Credit Agreement or their pre-petition relationships with the Debtor, including, without limitation, any avoidance action available under Chapter 5 of the Bankruptcy Code (or

under Section 502(d) of the Bankruptcy Code). The Debtor has waived any and all claims and/or defenses (including, without limitation, offsets and counterclaims of any nature or kind) as to the validity, perfection, first priority, enforceability and avoidability (under the Bankruptcy Code or otherwise) of the Pre-Petition Secured Obligations and the Pre-Petition Liens. Wells Fargo is entitled, without further Court order and without the need for filing of any proof of claim, to the allowance of the pre-petition claims of Wells Fargo pursuant to Sections 502 and 506 of the Bankruptcy Code on account of such indebtedness as fully secured claims for principal, plus accrued pre-petition and post-petition interest, fees, expenses and other amounts chargeable under the Pre-Petition Loan Documents.

21. No Release of Liens. Under no circumstances shall any of Wells Fargo's liens, whether arising pre-petition or post-petition, be required to be released unless and until all the Wells Fargo Obligations have been satisfied in full and are no longer subject to challenge and any claims or causes of action against Wells Fargo and/or the Pre-Petition Lenders relating to the Debtor have been fully and finally resolved by final court order with any appeal period having expired.

22. Survivability; Binding Effect. No reorganization plan or other disposition of the property of the estate proposed by the Debtor, any insider of the Debtor, or any third party shall modify or abrogate any of the rights and benefits afforded to Wells Fargo by this Final Order or the Pre-Petition Credit Agreement without the prior written consent of Wells Fargo, which may grant or deny such consent in its sole and absolute discretion. The provisions of this Final Order shall be binding upon the Debtor and its buyers, successors and assigns. In the event that this Bankruptcy Case is dismissed, superseded, substantively consolidated with another Chapter 11 case or entity, or the Debtor merges into any other entity under any plan of reorganization,

neither the dismissal of this Case, nor such consolidation or merger shall affect the rights of Wells Fargo under this Final Order or the Pre-Petition Credit Agreement, and all of Wells Fargo's rights and remedies thereunder and hereunder shall remain in full force and effect. As a condition to Wells Fargo's consent to the Debtor's use of Cash Collateral, the provisions of this Final Order shall survive and be binding upon any successor trustee appointed in the Case or any Chapter 7 case to which the Debtor's bankruptcy cases may subsequently be converted.

23. Insider Unsecured Loan. In addition to the use of Cash Collateral, the Debtor is authorized to enter into the Insider Unsecured Loan in an amount up to one million dollars (\$1,000,000) in accordance with the Budget. The Insider Unsecured Loan shall be: (1) without interest, (2) unsecured, (3) of no greater priority than pre-petition general unsecured claims against the Debtor, and (4) subordinate to the Wells Fargo Obligations and any other claims of Wells Fargo, such that no repayment of any portion of the Insider Unsecured Loan shall occur unless and until the Wells Fargo Obligations and any other claims of Wells Fargo are satisfied in full. Moreover, prior to payment in full of the Wells Fargo Obligations, Graham shall receive no compensation, distributions, or payments from the Debtor or its estate, except for regular payments of salary to Janson Graham in the amount of \$100,000.00 on an annualized basis.

24. Access for Wells Fargo's Financial Advisors. As a further condition of the consensual use of Cash Collateral, the Debtor shall continue to provide Wells Fargo's financial advisors and analysts immediate on-site access to the Debtor's financial records, Chief Financial Officer, and other Debtor's personnel as needed, and cooperate with Wells Fargo in efforts to arrive at a revised budget governing the use of Cash Collateral in connection with any Final Order.

25. No Waiver of Existing Defaults. Neither the authorization to use Cash Collateral set forth herein, nor Wells Fargo's consent thereto, shall be construed as a waiver of any existing defaults by the Debtor under the Interim Orders or the Pre-Petition Loan Documents, and all rights of Wells Fargo and the Pre-Petition Lenders are expressly reserved and preserved.

26. Final Order. Without limiting any protections granted to Wells Fargo and the Pre-Petition Lenders in the Interim Orders and this Final Order, and without prejudice to any right of Wells Fargo to seek additional adequate protection or other protections, this Final Order and the Interim Orders constitute final orders with respect to the Challenge Period and other protections granted to Wells Fargo and the Pre-Petition Lenders herein and therein.

Dated: February 2, 2016


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE

	0	1	2	3	4	5	6	7	8
Cash Collateral / DIP Budget	01/23-01/23	01/30-02/05	02/06-02/12	02/13-02/19	02/20-02/26	02/27-03/04	03/05-03/11	03/12-03/18	03/19-03/25
	1	2	3	4	5	6	7	8	9
TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL
Beginning cash	\$ 773,834	\$ 630,334	\$ 1,433,265	\$ 1,203,755	\$ 932,485	\$ 581,479	\$ 554,069	\$ 792,659	\$ 482,149
Cash Receipts From Operations									
ADRIATIC MARINE				14,140					
BP AMERICAN		561,045			27,404		561,000		180,000
ENI PETROLEUM									
EXXON MOBIL		389,135			400,000				
GUICE OFFSHORE									
GULF OFFSHORE LOGISTICS									
BILGORE MARINE									
Tax Refund									
Insurance Refund			126,000						
Loan from Davenport									
GHC Management Fee/Other									
Total Cash Receipts	\$ -	\$ 950,180	\$ 1,259,265	\$ 14,140	\$ 27,404	\$ 400,000	\$ 561,000	\$ -	\$ 180,000
Draw / Repayment DIP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cash Available for Disbursements	\$ 773,834	\$ 1,580,515	\$ 1,559,265	\$ 1,217,895	\$ 959,889	\$ 981,479	\$ 1,115,069	\$ 792,659	\$ 672,149
Cash Disbursement - Vessels									
Vessel - Wages & Taxes	\$ -	\$ -	\$ 117,000	\$ -	\$ 117,000	\$ -	\$ 117,000	\$ -	\$ 117,000
Vessel - Insurance									(65,000)
Vessel - Repairs & Supplies	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000
Vessel - Broker Vessel					126,000				130,200
Vessel - Trade AP	35,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Total Vessel Disbursements	\$ 80,000	\$ 70,000	\$ 187,000	\$ 70,000	\$ 313,000	\$ 70,000	\$ 187,000	\$ 70,000	\$ 252,200
Cash Disbursements - SGBA									
Payroll - GG	\$ 11,000	\$ 11,000	\$ 11,000	\$ 11,000	\$ 11,000	\$ 11,000	\$ 11,000	\$ 11,000	\$ 11,000
Payroll - GHCI	21,000	21,000	19,160	16,160	16,160	16,160	16,160	16,160	16,160
Insurance - ALL Benefits			85,000				70,000		
Company Insurance - ALL Other									
Rent/Utilities			15,100					15,100	
Legal - Helmsing	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000
US Trustee									
Interest - WFB Line of Credit				150,000				150,000	
UPCC - Professional Fees	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Lender Professional Fees	13,500	13,500	13,500	13,500	13,500	13,500	13,500	13,500	13,500
Financial - GGG		5,000							
Other Acc't & Legal / CFO		8,750	8,750	8,750	8,750	8,750	8,750	8,750	8,750
Other / Ad Valorem Taxes	5,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Graham Holdings (Interco)						250,000			
Total Cash Disbursements	\$ 143,500	\$ 147,250	\$ 355,510	\$ 285,410	\$ 378,410	\$ 427,410	\$ 322,110	\$ 300,510	\$ 317,610
Net Weekly Cash Flow	\$ (143,500)	\$ 802,930	\$ (229,510)	\$ (271,270)	\$ (351,006)	\$ (27,410)	\$ 238,990	\$ (900,510)	\$ (137,610)
Ending Cash Balance	\$ 630,334	\$ 1,433,265	\$ 1,203,755	\$ 932,485	\$ 581,479	\$ 554,069	\$ 792,659	\$ 492,149	\$ 354,539

