

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

RELATIVITY FASHION, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 15-11989(MEW)

(Jointly Administered)

**SECOND AMENDED STIPULATION AND ORDER SETTLING CASH
COLLATERAL MOTION, AUTHORIZING USE OF ULTIMATES
CASH COLLATERAL AND PROVIDING RELATED RELIEF**

Relativity Fashion, LLC, and its debtor subsidiaries and affiliates (collectively, the “**Debtors**”), CIT Bank, N.A., formerly known as OneWest Bank N.A. (“**CIT**”), in its capacity as administrative agent for certain lenders (in such capacity, the “**Ultimates Agent**”), and certain guilds and unions, including the Directors Guild of America, Inc., Screen Actors Guild-American Federation of Television and Radio Artists, and the Writers Guild of America West, Inc., for itself and on behalf of its affiliate Writers Guild of America, East, Inc. (collectively, the “**Guilds**,” and together with the Debtors and the Ultimates Agent the “**Parties**”), by and through their respective counsel, hereby enter into this stipulation (the “**Stipulation and Order**”) for an agreed order, and stipulate and agree as follows

RECITALS

A. Petition Date. On July 30, 2015 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). Pursuant to an Order of the Court entered on July 31, 2015 [Dkt. No. 36], the Debtors’ Chapter 11 cases have been consolidated for procedural purposes only and are being

jointly administered under Case No. 15-11989.

B. Debtors in Possession. The Debtors are continuing in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

C. Ultimates Facility. Pursuant to that certain Credit, Security, Guaranty and Pledge Agreement (as the same may have been amended, restated, supplemented, or otherwise modified to date, and collectively with all related loan and other documents identified therein, the “**Ultimates Credit Agreement**”), dated as of September 25, 2012, among RMLDD Financing, LLC (“**RMLDD**”), the Ultimates Agent, the Ultimates Guarantors (as defined below), and the lenders party thereto from time to time (the “**Ultimates Lenders**”), the Ultimates Lenders provided RMLDD, as borrower, with a senior secured revolving credit facility in a committed amount of \$202,500,000 (the “**Ultimates Facility**”). The Ultimates Credit Parties’ (as defined below) obligations under the Ultimates Credit Agreement are (a) guaranteed by certain other Debtors (collectively, the “**Ultimates Guarantors**,”² and together with RMLDD, the “**Ultimates Credit Parties**”) and (b) secured by a first-priority security interest in and liens on (collectively, the “**Ultimates Liens**”) substantially all assets of the Ultimates Credit Parties. As of the Petition

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are listed on Exhibit A hereto.

² The following Debtors are guarantors of RMLDD’s obligations under the Ultimates Credit Agreement: (i) RML Distribution Domestic, LLC; (ii) RML Distribution International, LLC; (iii) 21 & Over Productions, LLC; (iv) 3 Days to Kill Productions, LLC; (v) RML Acquisitions IV, LLC; (vi) RML Acquisitions IX, LLC; (vii) RML Acquisitions III, LLC; (viii) Best of Me Productions, LLC; (ix) Blackbird Productions, LLC; (x) Black or White Films, LLC; (xi) Brick Mansions Acquisitions, LLC; (xii) RML Desert Films, LLC; (xiii) Don Jon Acquisitions, LLC; (xiv) RML Echo Films, LLC; (xv) Malavita Productions, LLC; (xvi) RML Acquisitions V, LLC; (xvii) RML Turkeys Films, LLC; (xviii) RML Hector Films, LLC; (xix) RML Acquisitions XI, LLC; (xx) RML Lazarus Films, LLC; (xxi) RML Acquisitions VI, LLC; (xxii) RML Acquisitions II, LLC; (xxiii) Snow White Productions, LLC; (xxiv) Movie Productions, LLC; (xxv) RML November Films, LLC; (xxvi) RML Oculus Films, LLC; (xxvii) Furnace Films, LLC; (xxviii) Paranoia Acquisitions, LLC; (xxix) RML Acquisitions I, LLC; (xxx) Safe Haven Productions, LLC; (xxxii) RML Solace Films, LLC; and (xxxii) RML WIB Films, LLC.

Date, the approximate outstanding principal owing under the Ultimates Facility was \$27,789,945.00, exclusive of fees and interest.

D. Ultimates Intercreditor Agreement. On or about September 25, 2012, (a) the Ultimates Agent, (b) Cortland Capital Market Services LLC, as agent for certain second lien lenders (including RM Bidder, LLC as the holder (the “**Retained Loan Lender**”) of a \$60,000,000 loan (the “**Retained Loan**”) under the Existing Second Lien Facility) (the “**Second Lien Lenders**”), Manchester Securities Corp., as lender (the “**Mezzanine Lender**” and together with the Second Lien Lenders, the “**Junior Lenders**”), and Manchester Library Company LLC entered into that certain Subordination and Intercreditor Agreement (the “**Ultimates Intercreditor Agreement**”)³ to govern the respective rights, interests, obligations, priority, and positions of the Ultimates Lenders and Junior Lenders. Pursuant to the Intercreditor Agreement, among other things, (a) the Ultimates Liens are senior and prior in right to the liens of the Junior Lenders (the “**Junior Liens**”) and (b) the Junior Liens are junior and subordinate to the Ultimates Liens.

E. Guild Liens. In certain instances, certain Guilds have been granted security interests in motion picture rights (the “**Guild Liens**”), which rights comprise collateral for the Guild Liens and the Ultimates Liens. Each such lien was granted to an applicable Guild on or about commencement of principal photography for each applicable motion picture, and the Guilds contend that in most instances, the Guild Liens comprise first-priority security interests in collateral common to the Guilds and to the Ultimates Lenders.

F. Treatment of Ultimates Cash Collateral Under Existing Orders. On August 27, 2015, the Court entered its *Final Order Pursuant to Sections 105, 361, 362, 363, 364, and 507 of*

³ RMLDD and the Ultimates Guarantors each acknowledged and agreed to the Ultimates Intercreditor Agreement.

the Bankruptcy Code (I) Authorizing Debtors to Obtain Superpriority Secured Debtor-In-Possession Financing, (II) Authorizing Debtors to Use Cash Collateral, (III) Granting Adequate Protection to the Cortland Parties, and (IV) Granting Related Relief [Dkt. No. 342] (the “**Final DIP Order**”) authorizing the Debtors to obtain \$49,500,000 in postpetition debtor in possession financing (the “**Original DIP Facility**”) from certain of the Debtors’ prepetition secured lenders (the “**DIP Lenders**”). The Original DIP Facility does not prime the Ultimates Liens or the Guild Liens, *see* Final DIP Order, ¶ J(iii); Par. 17, and the Final DIP Order prohibits the Debtors from using the cash collateral securing the Ultimates Facility (the “**Ultimates Cash Collateral**”) including without limitation funds held by CIT in a collateral account in the name of RMLDD (and having account number ending in -0091), established with, maintained by and under the control of the Ultimates Agent in accordance with the Ultimates Credit Agreement (the “**Ultimates Cash Collateral Account**”), or the cash collateral that constitutes collateral under each Guild Lien *Id.*, ¶ E; Par. 17. The Final DIP Order was amended to reflect the sale of the Original DIP Facility to Heatherden Securities LLC (“**Heatherden**”) in the *Amended and Restated Final Order Pursuant to Sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code (I) Authorizing Debtors to Obtain Superpriority Secured Debtor-in-Possession Financing, (II) Authorizing Debtors to Use Cash Collateral, (III) Granting Adequate Protection to the Cortland Parties and Manchester Parties and (IV) Granting Related Relief* [Dkt. No. 931] (the “**Amended and Restated DIP Order**”).

G. Also on August 27, 2015, the Court entered a *Final Order (A) Authorizing Continued Use of Existing Cash Management System, Bank Accounts and Business Forms, and Payment of Related Prepetition Obligations, (B) Waiving Certain Investment and Deposit Requirements on a Limited Basis, (C) Authorizing Continued Engagement In Intercompany*

Transactions, and (D) According Administrative Expense Priority Status to All Postpetition Intercompany Claims [Dkt. No. 335] (the “**Cash Management Order**”). Pursuant to Paragraph 2 of the Cash Management Order, the Debtors cannot use Ultimates Cash Collateral without further order from the Court.

H. *Cash Collateral and Sealing Motions*. On November 26, 2015, the Debtors filed the *Motion of Debtors and Debtors in Possession, Pursuant to 11 U.S.C. §§ 361 and 363, Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure and Rule 4001-2 of the Local Bankruptcy Rules for the Southern District of New York, for Entry of an Order Permitting the Debtors to Use Cash Collateral* [Dkt. No. 1033] (the “**Cash Collateral Motion**”) and related sealing motion [Dkt. No. 1035] (the “**Sealing Motion**”).

I. On Monday, November 30, 2015, the Court held a telephonic conference at which, among other things, the time for the Ultimates Agent and the Guilds to respond to the Cash Collateral and Sealing Motions was extended until Monday, December 7, 2015.

J. On Friday, December 4, 2015, the Court held a telephonic conference at which, among other things, the time for the Ultimates Agent and the Guilds to respond to the Cash Collateral and Sealing Motions was further extended until Friday, December 11, 2015, and a hearing on the Cash Collateral and Sealing Motions was set for Tuesday, December 15, 2015. A status conference and non-evidentiary hearing on the Cash Collateral and Sealing Motions was set for Wednesday, December 9, 2015 (the “**December 9 Hearing**”), the date originally noticed by the Debtors for the hearing on the Cash Collateral and Sealing Motions.

K. At the December 9 Hearing, the Parties conducted certain settlement discussions and reached agreement on the consensual resolution of the Cash Collateral and Sealing Motions on the terms set forth in the *Stipulation and Order Settling Cash Collateral Motion, Authorizing*

Use of Ultimates Cash Collateral and Providing Related Relief, entered by the Court on December 14, 2015 [Dkt. No. 1125] (the “**Cash Collateral Stipulation and Order**”). The Cash Collateral Stipulation, among other things, provides for the consensual use of Ultimates Cash Collateral pursuant to an agreed-upon budget through January 31, 2016.

L. Pursuant to the Cash Collateral Stipulation and Order, the following disbursements were made from the Ultimates Cash Collateral Account: (i) \$17,040,000 to the Ultimates Agent, for the benefit of itself and the Ultimates Lenders; (ii) \$3,610,000 to an account designated by counsel for the Guilds; and (iii) \$1,741,000 in post-petition residuals to an account designated by counsel for the Guilds.

M. *Amended Cash Collateral Stipulation and Order*. On January 27, 2016, the Court entered the *Amended Stipulation and Order Settling Cash Collateral Motion, Authorizing Use of Ultimates Cash Collateral and Providing Related Relief* [Dkt. No. 1439] (the “**Amended Cash Collateral Stipulation and Order**”). The Amended Cash Collateral Stipulation and Order, among other things, provides for the consensual use of Ultimates Cash Collateral pursuant to an agreed-upon budget through February 17, 2016.

N. Pursuant to the Amended Cash Collateral Stipulation and Order, the following disbursements were made from the Ultimates Cash Collateral Account: (i) \$4,125,908 to the Ultimates Agent, for the benefit of itself and the Ultimates Lenders; (ii) \$874,092 to an account designated by counsel for the Guilds; and (iii) \$1,060,847.88 in post-petition residuals to an account designated by counsel for the Guilds.

O. *Extension of Amended Cash Collateral Stipulation and Order*. The Debtors have sought an amendment of the Amended Cash Collateral Stipulation and Order that will provide for consensual use of Ultimates Cash Collateral through and including March 4, 2016. The

Parties have conducted certain settlement discussions and have reached agreement on a consensual extension of the Amended Cash Collateral Stipulation and Order on the terms set forth in this Second Amended Stipulation and Order.

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND SO ORDERED THAT:

1. Disbursement of Funds from Ultimates Cash Collateral Account: Immediately upon entry of this Second Amended Stipulation and Order, \$6,000,000 shall be disbursed from the Ultimates Cash Collateral Account as follows: \$4,950,000 to the Ultimates Agent, for the benefit of itself and the Ultimates Lenders, to be applied in accordance with the Ultimates Credit Agreement; and \$1,050,000 to an account designated by counsel for the Guilds, in accordance with the Guild Liens. The Ultimates Agent may allocate \$500,000 of its \$4,950,000 disbursement to fund a post-Effective Date indemnity reserve; *provided that* the Debtors and the Ultimates Agent agree that such reserve will fully resolve any amounts required to be paid in connection with the payoff of the Ultimates Facility other than principal, interest, and attorney's fees accrued through the Effective Date; *provided further, however* that nothing in this Second Amended Stipulation and Order shall modify or impact the Continuing Obligations of the Debtors or Reorganized Debtors as set out in the Payoff Letter. To the extent necessary, the automatic stay is hereby modified solely to permit (i) the Debtors to make, and the Ultimates Agent and Guilds to receive and apply, these disbursements and (ii) the disbursement by CIT of certain post-petition residuals funds, as set out in paragraph 2, below. Disbursements made pursuant to this Paragraph 1 shall not be made from any funds that constitute P&A Cash Collateral (as defined below).

2. Disbursement of Post-Petition Residuals Funds: Immediately upon entry of this

Stipulation and Order, CIT shall disburse to an account designated by counsel for the Guilds \$34,453.34 currently being held at CIT in the Ultimates Cash Collateral Account, which amount represents funds that have accumulated for the period beginning August 1, 2015 through the period ending December 31, 2015 and which have been set aside as estimates of post-petition residuals, but not yet disbursed pursuant to the Cash Collateral Stipulation and Order or the Amended Cash Collateral Stipulation and Order; provided, however, that this sum will not be distributed to Guild-represented employees until the Debtors and Guilds are in agreement as to the amount and allocation of this sum, or by order of the Court.

3. Authorization to Use Ultimates Cash Collateral. On the date (the “**Commencement Date**”) that is the latest to occur of (a) entry of this Second Amended Stipulation and Order, (b) the payment of the sums set forth in paragraph 1 above and (c) the balance of cash in the Ultimates Cash Collateral Account (net of the disbursements required by this Second Amended Stipulation and Order) reaching an amount of no less than \$6,500,000, then, subject to the terms and conditions of this Second Amended Stipulation and Order, and solely in accordance with the budget (the “**Budget**”) attached hereto as Exhibit B, the Debtors are authorized to use Ultimates Cash Collateral (or Guild Cash Collateral, as applicable), in an amount not to exceed \$18,748,000 (subject to the 15% variance set forth in the Budget) for the period (the “**Specified Period**”) from the Commencement Date through the date which is the earliest to occur of (a) March 4, 2016; (b) the written agreement of the Ultimates Agent, the Guilds, and the Debtors or (c) further order of this Court. The authorization for the Debtors to use Ultimates Cash Collateral (or Guild Cash Collateral, as applicable) shall terminate at the expiration of the Specified Period. Nothing in this Second Amended Stipulation and Order shall authorize the use of any cash collateral other than the Ultimates Cash Collateral on the terms and

conditions set forth herein. For the avoidance of doubt, the Debtors are not authorized to use Macquarie US Trading LLC's and/or Macquarie Investments US Inc.'s cash collateral in the proceeds of the films *Beyond the Lights*, *The Lazarus Effect* and/or *Woman in Black 2: Angel of Death* (collectively, the "**P&A Cash Collateral**").

4. Maintenance of Minimum Balance in Cash Collateral Account; Priority of Lien of Ultimates Agent: The Debtors shall maintain at all times a minimum balance of \$6,500,000 in the Ultimates Cash Collateral Account (net of the disbursements to be made to the Ultimates Agent and the Guilds pursuant to this Second Amended Stipulation and Order) *plus* any amounts constituting P&A Cash Collateral to the extent that the Ultimates Cash Collateral Account holds P&A Cash Collateral. The lien of the Ultimates Agent shall have a first priority claim against and lien on the Ultimates Cash Collateral Account up to \$4,950,000 (exclusive of any P&A Cash Collateral held therein).

5. Excess Proceeds: Proceeds of Ultimates collateral in excess of \$18,748,000 (subject to the 15% variance set forth in footnote 1 of the Budget) collected during the Specified Period shall be deposited into the Ultimates Cash Collateral Account and shall not be used or disbursed absent further Court order. The Debtors shall maintain a reserve of no less than \$3,780,000 (exclusive of any P&A Cash Collateral held therein) in an operating account in the name of Relativity Media, LLC (and having account number ending in -0518) and shall not use or disburse such reserve until the Effective Date of the Plan or further agreement by the Ultimates Agent and the Guilds, or by Court order.

6. Reporting: The Debtors shall provide the Ultimates Agent, the Guilds, the Retained Loan Lender, Heatherden and Manchester Securities Corp. ("**Manchester**") with a weekly cash flow variance to forecast report and a detailed report of receipts and disbursements

that details all inflows and outflows of cash from each of the Debtors' accounts containing Ultimates Cash Collateral in the template form attached hereto as **Exhibit C**.

7. **Rights Preserved**. Nothing in this Order authorizes the use of Cash Collateral (as defined in the Final DIP Order and Amended and Restated DIP Order) for any purpose or in any manner other than as set out in this Second Amended Stipulation and Order and in accordance with the Budget. The Parties reserve all rights to the extent that any Party (or any other person) seeks to use Cash Collateral other than on the terms and conditions set forth herein.

8. **Good Faith**. The Parties each have acted in good faith in connection with this Second Amended Stipulation and Order and their reliance on this Second Amended Stipulation and Order is in good faith.

9. **Continuing Effect of Ultimates Intercreditor Agreement**. Nothing in this Second Amended Stipulation and Order is meant to or shall be deemed to alter or otherwise modify the respective rights, interests, obligations, priority, and positions set out in the Ultimates Intercreditor Agreement.

10. **Reservation of Rights**. Nothing in this Second Amended Stipulation and Order is meant to or shall be deemed to alter or otherwise waive any rights or remedies Heatherden, Manchester or the Cortland Parties (as defined in the Final DIP Order) may have under the Original DIP Facility, the Final DIP Order, or the Amended and Restated DIP Order, all of which rights and remedies are expressly preserved. Nothing in this Second Amended Stipulation and Order is meant to or shall be deemed to alter or impair the Cortland Liens on the Cortland Collateral or the Manchester Securities Liens on the Manchester Securities Collateral (as defined in the Final DIP Order and the Amended and Restated DIP Order). Nothing in this Second Amended Stipulation and Order is meant to or shall be deemed to (i) alter or waive any rights or

remedies of the Retained Loan Lender under the Existing Second Lien Facility, all of which rights and remedies are expressly preserved; or (ii) alter or impair the Junior Liens on any collateral to which they attach. Nothing in this Second Amended Stipulation and Order is meant to or shall be deemed to alter the rights that the P&A Agent and MIUS (each as defined in the Final DIP Order and the Amended and Restated DIP Order) may have in the P&A Collateral (as defined in the Final DIP Order and the Amended and Restated DIP Order) and/or to alter or otherwise waive any rights or remedies the P&A Agent and MIUS may have under the Final DIP Order or the Amended and Restated DIP Order, all of which rights and remedies are expressly preserved.

11. Sealing Motion. The Sealing Motion is granted.

12. Agreement in Settlement of Motion; Compliance with Rule 4001(d)(4). This Second Amended Stipulation and Order fully and finally resolves the matters raised in the Cash Collateral Motion and constitutes an agreement in settlement of that motion. Notice of the Cash Collateral and Sealing Motions and the time fixed for objections to those motions and the hearings thereon, as modified by the Court in the telephonic conferences held on November 30 and December 4 2015, was good and sufficient and no other or further notice is required. Accordingly, the procedures contained in Fed. R. Bankr. P. 4001(d)(1)-(3) do not apply to this agreement memorialized and approved in this Second Amended Stipulation and Order.

13. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Second Amended Stipulation and Order according to its terms.

JONES DAY

By: /s/ Bennett L. Spiegel
Richard L. Wynne, Esq.
Bennett L. Spiegel, Esq.
Lori Sinanyan, Esq. (admitted *pro hac vice*)
222 East 41st Street
New York, NY 10017
Tel: (212) 326-3939
Fax: (212) 755-7306
E-mail:
rlwynne@jonesday.com
blspiegel@jonesday.com
lsinanyan@jonesday.com
- and -

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

Craig A. Wolfe, Esq.
Malani J. Cademartori, Esq.
Blanka K. Wolfe, Esq.
30 Rockefeller Plaza
New York, New York 10112
Tel: (212) 653-8700
Fax: (212) 653-8701
E-mail:
cwolfe@sheppardmullin.com
mcademartori@sheppardmullin.com
bwolfe@sheppardmullin.com

*Co-Counsel to the Debtors and Debtors in
Possession*

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Julie Frost-Davies
Glenn E. Siegel, Esq.
101 Park Avenue
New York, NY 10178-0600
Telephone: (212) 309-6780
Facsimile: (212) 309-6001
Email:
glenn.siegel@morganlewis.com
- and -
Julia Frost-Davies, Esq. (*pro hac vice*)
Andrew J. Gallo, Esq. (*pro hac vice*)
Amelia Clark Joiner, Esq. (*pro hac vice*)
One Federal Street
Boston, MA 02110-1726
Telephone: (617) 341-7700
Facsimile: (617) 341-7701
Email:
julia.frost-davies@morganlewis.com
andrew.gallo@morganlewis.com
amelia.joiner@morganlewis.com

Counsel for CIT Bank, N.A.

BUSH GOTTLIEB, a Law Corporation

By: /s/ Joseph A. Kohanski
Joseph A. Kohanski, Esq. (*pro hac vice*)
David Ahdoot, Esq.
Suite 800
500 North Central Ave.
Glendale, California 91203
(818) 973-3200 (telephone)
kohanski@bushgottlieb.com

Counsel for the Guilds

**MILBANK, TWEED, HADLEY &
M^cCLOY LLP**

By: /s/ Dennis C. O'Donnell

Mark Shinderman, Esq. (admitted *pro hac vice*)
Haig M. Maghakian, Esq. (admitted *pro hac vice*)
601 S. Figueroa St., 30th Floor
Los Angeles, CA 90017
Telephone: (213) 892-4000

- and -

Dennis C. O'Donnell, Esq.
28 Liberty Street
New York, NY 10005
Telephone: (212) 530-5000

*Attorneys for RM Bidder LLC, as Retained
Loan Lender*

O'MELVENY & MYERS LLP

By: /s/ James A. Wright III
Daniel S. Shamah, Esq.
7 Times Square
New York, New York 10036
(212) 326-2000

Evan M. Jones, Esq. (*pro hac vice*)
400 South Hope Street
18th Floor
Los Angeles, CA 90071
(213) 430-6000

- and -

ROPES & GRAY LLP

Keith H. Wofford, Esq.
James A. Wright III, Esq.
1211 Avenue of the Americas
New York, NY 10036-8704
Telephone: (212) 596-9000
Facsimile: (212) 596-9090

*Counsel to Heatherden Securities LLC &
Manchester Securities Corp.*

**SKADDEN, ARPS, SLATE, MEAGHER &
FLOM LLP**

By: /s/ Van C. Durrer, II

Van C. Durrer, II, Esq.
300 South Grand Avenue, Suite 3400
Los Angeles, CA 90071
Tel: 213-687-5200
Fax: 213-621-5200
E-mail: van.durrer@skadden.com

*For the Holders of \$175 million of Cortland
TLA/TLB Facility Debt*

NO OBJECTION

/s/ Frank A. Oswald

Official Committee of Unsecured Creditors

By its Attorneys:

TOGUT, SEGAL & SEGAL LLP

Frank A. Oswald, Esq.

Brian F. Moore, Esq.

One Penn Plaza

Suite 3335

New York, NY 10119

Phone: (212) 594-5000

SO ORDERED by the Court this 3rd day of March, 2016.

s/Michael E. Wiles

UNITED STATES BANKRUPTCY JUDGE