

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re

ULTIMATE ACQUISITION
PARTNERS, LP, *et al.*¹

Chapter 11
Case No. 11-____ ()

Debtors

(Joint Administration Requested)

**MOTION OF DEBTORS' PURSUANT TO BANKRUPTCY CODE
SECTIONS 105, 361, 362, 363 AND 507 FOR ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE USE OF CASH COLLATERAL,
(II) GRANTING ADEQUATE PROTECTION, AND
(III) SCHEDULING A FINAL HEARING**

The above-captioned debtors and debtors in possession (each, a “*Debtor*” and, collectively, the “*Debtors*”) file this motion (the “*Motion*”), pursuant to sections 105(a), 361, 362, 363 and 507 of title 11 of the United States Code (the “*Bankruptcy Code*”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) and Rule 4001-2 of the Local Bankruptcy Rules for the District of Delaware (the “*Local Rules*”), seeking entry of an interim order, substantially in the form attached here as Exhibit A (the “*Interim Order*”), and a final order (the “*Final Order*”) substantially in the form of the Interim Order, (a) authorizing the Debtors to use cash collateral (“*Cash Collateral*”), (b) authorizing the Debtors to provide adequate protection for the use of Cash Collateral, and (c) scheduling a hearing (the “*Final Hearing*”) for the entry of a Final Order, providing for the relief requested herein on a final basis. In support of the Motion, the Debtors submit the *Declaration of F. Bruce Giesbrecht In Support of Chapter 11 Petitions First Day Pleadings* (the “*First Day Declaration*”). In further support of this Motion, the Debtors respectfully state as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Ultimate Acquisition Partners, LP (2832) and CC Retail, LLC (7780). The Debtors’ address is 321 West 84th Avenue, Suite A, Thornton, Colorado 80260.



Jurisdiction

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief sought herein are Bankruptcy Code sections 105, 361 and 363, Bankruptcy Rules 2002, 4001, and 9014 and Local Rule 4001-2.

Background

4. On January 26, 2011 (the “*Petition Date*”), each of the Debtors filed a petition with this Court under chapter 11 of the Bankruptcy Code. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of these chapter 11 cases, is set forth in detail in the First Day Declaration.

5. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no statutory committees have been appointed or designated.

Concise Statement Pursuant to Bankruptcy Rule 4001(b) and Local Rule 4001-2

6. Pursuant to Bankruptcy Rule 4001(b) and Local Rule 4001-2, the following is a concise statement and summary of the proposed material terms of the Interim Order:

Parties with an interest in cash collateral	General Electric Capital Corporation as “ <i>Prepetition Agent</i> ” and “ <i>Prepetition Lenders</i> ”
Use of Cash Collateral	Subject to the terms and conditions of the Interim Order, the Debtors are authorized to use Cash Collateral for the period (the “ <i>Specified Period</i> ”) from the Petition Date through the Final Hearing. Except as otherwise expressly provided in the Interim Order, during the Specified Period, Cash Collateral may be (i) used in the ordinary course of business for working capital and general corporate purposes, (ii) used for the payment of Professional Fees (as defined below) and other fees and expenses, in each case, to the extent of the Carve Out, (iii) used for the payment of expenses not incurred in the ordinary course of business, in an aggregate amount during the Specified Period not to exceed \$10,700,000. A 30-day budget is attached hereto as Exhibit B (“ <i>Budget</i> ”) and will be supplemented prior to the requested Final Hearing. Following the date of entry of the Final Order, the Debtors’ authority to use Cash Collateral shall be governed by the terms of the Final Order. Nothing in the Interim Order shall authorize the disposition of any assets of the Debtors or their estates outside the ordinary course of business, or any Debtor’s use of any Cash Collateral or other proceeds resulting therefrom, except as permitted in the Interim Order or another order of the Court. Interim Order, ¶3.
Adequate Protection Liens	As adequate protection against any diminution in value (“ <i>Diminution in Value</i> ”) of its interests in the collateral securing the obligations under the prepetition Loan and Security Agreement (the “ <i>Prepetition Collateral</i> ”), pursuant to Bankruptcy Code sections 361 and 363(e), the Prepetition Agent, for the benefit of itself and the Prepetition Lenders, shall be granted additional and replacement continuing valid, binding, enforceable, non-avoidable, and automatically perfected postpetition security interests in and liens (the “ <i>Adequate Protection Liens</i> ”) on any and all presently owned and hereafter acquired personal property, real property and all other assets of the Debtors, together with any proceeds thereof (collectively, the “ <i>Collateral</i> ”) in and to the same extent, validity and priority as they existed on the Petition Date, but excluding any of the Debtors’ claims or causes of action arising under Bankruptcy Code sections 502(d), 544, 545, 547, 548, 549, 550 and 553 and any other avoidance or similar action under the Bankruptcy Code. The Adequate Protection Liens shall be junior to: (A) the Carve Out; and (B) the liens having priority over the Prepetition Agent’s and Prepetition Lenders’ liens on the Prepetition Collateral. Interim Order ¶4.
Carve Out	As used in the Interim Order, “Carve Out” means the (i) unpaid fees of the Clerk of the Court and the United States Trustee pursuant to 28 U.S.C. § 1930(a), and (ii) reasonable and documented unpaid fees and expenses of professional persons (the “ <i>Professional Fees</i> ”) retained by any Debtor or any Statutory Committee pursuant to an order of the Court (collectively, “ <i>Professionals</i> ”) as itemized in the Budget. Interim Order, ¶ 5(a).
Grant of Priority or Liens on Property of the Estate	Only the Adequate Protection Liens are being granted and no lien is being granted upon the Debtors’ claims or causes of action arising under Bankruptcy Code sections 502(d), 544, 545, 547, 548, 549, 550 and 553 and any other avoidance or similar action under the Bankruptcy Code.
Provisions that provide disparate treatment for the professionals retained by a creditors’ committee	Payment of the professional fees for the Debtors and any committee will be subject to the Budget, which is estimated to pay all allowed fees and expenses reasonably expected to be incurred in a case of this size and complexity.

The Interim Order does not contain any provisions relating to the following:

- (a) Adequate Protection or Priority for a Claim that Arose Prepetition
- (b) Determination of the Validity, Enforceability, Priority, or Amount of a Claim that Arose Before the Commencement of the Case
- (c) Waiver or Modification of the Automatic Stay
- (d) Waiver or Modification of the Authority to File a Plan, Seek an Extension of Time in which the Debtors have the Exclusive Right to File a Plan, Request Use of Cash Collateral, or Request Authority to Obtain Credit
- (e) Establishment of Deadlines for Filing a Plan, for Approval of a Disclosure Statement, for a Hearing on a Confirmation Order, or for Entry of a Confirmation Order
- (f) Waiver or Modification of Applicability of Non-Bankruptcy Law Relating to the Perfection of a Lien on Property of the Estate, or on the Foreclosure or Other Enforcement of the Lien.
- (g) Release, Waiver, or Limitation on any Claim or Cause of Action Belonging to the Estate
- (h) Indemnification of Any Entity
- (i) Release, Waiver, or Limitation on Rights under 11 U.S.C. § 506(c).
- (j) Liens Granted on Claims Arising under Chapter 5 of the Bankruptcy Code.
- (k) Cross-collateralization protection
- (l) Findings of Fact that bind the estate or other parties in interest
- (m) Provisions that prime any secured lien without the consent of that lienor

7. As set forth herein, the Debtors propose these provisions in good faith to allow them to use Cash Collateral to continue their business operations in an orderly manner.

PrePetition Indebtedness

8. In September 2005, the Prepetition Agent, Prepetition Lenders and Ultimate Acquisition Partners, L.P. (among others), entered into a certain Loan and Security Agreement, as amended, modified and supplemented on January 5, 2006, April 18, 2006, November 4, 2007

and May 23, 2008. The Loan and Security Agreement was amended again in July 2010 at which time CC Retail, LLC, among others, became a party to the Loan and Security Agreement.

9. Pursuant to the Loan and Security Agreement, the Debtors have a \$150,000,000 commitment for a revolving line of credit. The Debtors also have the availability to request the issuance of letters of credit in an amount up to \$10,000,000.

10. The Loan and Security Agreement has a loan maturity date of June 23, 2011.

11. As of the Petition Date, the Debtors have borrowed approximately \$64,800,000 either on the revolver or through the issuance of outstanding letters of credit. First Day Declaration at ¶23.

12. As set forth in the Budget, as of the Petition Date, the Debtors' accounts receivable are valued in the amount of \$2,000,000. First Day Declaration at ¶24.

13. As set forth in the Budget, as of the Petition Date, the Debtors' inventory is valued in the amount of \$98,000,000. First Day Declaration at ¶24.

14. The Prepetition Lenders are secured by additional collateral. The Prepetition Lenders hold a mortgage granted by Wattles Real Estate Partners, LLC on 30 acres of real property located in Thornton, Colorado ("*Colorado Property*"). The Colorado Property houses the Debtors' main offices, a distribution center and a retail location. The Colorado Property has a value of approximately \$12,800,000. First Day Declaration at ¶24.

15. Therefore, the Prepetition Lenders are oversecured by at least \$48,000,000. First Day Declaration at ¶24.

The Proposed Use of Cash Collateral

16. The Debtors require the immediate postpetition use of Cash Collateral in order to continue operating their businesses in an orderly manner during the pendency of these chapter 11 cases. The Debtors' ability to use Cash Collateral will allow the Debtors to, among other things, maintain business relationships with vendors, suppliers and customers, pay the wages of their employees and satisfy other ordinary operational costs, including rent, taxes and insurance. If the Debtors are not authorized to immediately use Cash Collateral, the Debtors could be forced to cease business operations, thereby causing serious, irreparable harm to the Debtors and their estates. Thus, the use of Cash Collateral is critical to enabling the Debtors to preserve and maintain the value of their estates for the benefit of all parties in interest.

17. The Debtors' maintenance of sufficient liquidity to support the continued ordinary course operation of their businesses is extremely important to the Debtors' successful reorganization. If the Debtors are granted immediate access to Cash Collateral, the Debtors will be able to demonstrate to their vendors, suppliers, customers and employees that they have sufficient capital to continue operating. In the absence of the authorization to use Cash Collateral, the Debtors would be unlikely to be able to sustain their businesses, thereby decreasing the value of the Debtors' estates to the detriment of all creditors.

Proposed Adequate Protection

18. The Prepetition Lenders are oversecured. However, in order to protect the Prepetition Agent and the Prepetition Lenders from any Diminution in Value of the Prepetition Collateral, including Cash Collateral, the Debtors have agreed to grant adequate protection in the form of replacement liens. Specifically, the Prepetition Agent, for the benefit of itself and the Prepetition Lenders, will be granted the Adequate Protection Liens.

Relief Requested

19. By this Motion, the Debtors seek entry of the Interim Order (a) authorizing the Debtors to use Cash Collateral, (b) authorizing the Debtors to provide adequate protection for the use of Cash Collateral, and (c) scheduling a Final Hearing for the entry of a Final Order, providing for the relief granted herein on a final basis.

Supporting Authority

I. The Use of Cash Collateral is Warranted and Should Be Approved

20. The Debtors satisfy the requirements for the use of Cash Collateral. Pursuant to Bankruptcy Code section 363(c)(2), a debtor may not use cash collateral unless “(A) each entity that has an interest in such collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.” 11 U.S.C. § 363(c)(2). Pursuant to section 363(c)(2) of the Bankruptcy Code, the Court may authorize the Debtors to use cash collateral as long as the applicable secured creditors consent or are adequately protected. See In re McCormick, 354 B.R. 246, 251 (Bankr. C.D. Ill. 2006) (to use the cash collateral of a secured creditor, the debtor must have the consent of the secured creditor or establish to the Court that the secured creditor’s interest in the cash collateral is adequately protected).

21. The Debtors do not yet have the Prepetition Agent’s and Prepetition Lenders’ consent to use cash collateral; however, as noted herein, the Prepetition Lenders are oversecured and the Debtors are granting adequate protection to protect against the diminution in value.

22. As set forth above, the Debtors’ use of Cash Collateral is necessary in order to enable the Debtors to meet the obligations of their ordinary operating costs and expenses during the pendency of these chapter 11 cases. Among other things, the use of Cash Collateral will enable the Debtors to maintain business relationships with their vendors, suppliers and customers

and pay their employees and satisfy other ordinary operational costs that are essential to the continued operation of their businesses. Moreover, in the absence of the ability to use Cash Collateral, the Debtors' ability to continue operating in the ordinary course of business could be jeopardized, which would result in harm to the Debtors' estates and all parties in interest. Thus, the use of Cash Collateral is critical to the Debtors' continued viability and the preservation of the value of the Debtors' estates.

II. The Proposed Adequate Protection Should Be Approved

23. The adequate protection proposed by the Debtors is appropriate and should be approved. Bankruptcy Code section 363(e) requires that the debtor adequately protect the secured creditors' interest in property to be used by a debtor against any diminution in value of such interest resulting from the debtor's use of the property during the chapter 11 cases. Bankruptcy Code section 361 contains a nonexhaustive list of acceptable forms of adequate protection, including a cash payment or periodic cash payments, additional liens, replacement liens, and the "indubitable equivalent of such entity's interest in such property." 11 U.S.C. § 361.

24. Adequate protection is aptly described as "a balancing of the debtor's and a creditor's respective harm." In re Carson, 34 B.R. 502, 505 (Bankr. D. Kan. 1983) (citation omitted). The legislative history of section 361 of the Bankruptcy Code reflects Congress' intent to give the Court flexibility to fashion adequate protection in light of the facts and equitable considerations in each case. E.g., In re O'Connor, 808 F.2d 1393, 1396-97 (10th Cir. 1987); In re 5-Leaf Clover Corp., 6 B.R. 463, 466 (Bankr. S.D. W. Va. 1980); see also In re Harrington & Richardson, Inc., 48 B.R. 431, 433 (Bankr. D. Mass. 1985) (noting that adequate protection is "a flexible concept which requires a Court to make decisions on a case-by-case basis."). For example, in determining what constitutes "adequate protection," courts must consider not only

the interests of the secured creditor whose cash collateral is affected, but the interests of all other creditors in light of the debtor's efforts to enhance the prospects of reorganization. O'Connor, 808 F.2d at 1397-98.

25. The Debtors' use of Cash Collateral pursuant to the terms and conditions set forth above and in the Interim Order is fair and reasonable, and will adequately protect the interests of the oversecured Prepetition Agent and the Prepetition Lenders. The Prepetition Agent, for the benefit of itself and the Prepetition Lenders, will be granted the Adequate Protection Liens on Collateral in and to the same extent, validity and priority as existed prior to the Petition Date to adequately protect against the Diminution in Value of the Prepetition Collateral. The Debtors believe that the foregoing form of adequate protection will sufficiently protect the interests of the Prepetition Agent and the Prepetition Lenders in the Cash Collateral. Thus, the adequate protection proposed by the Debtors is fair and reasonable and sufficient to satisfy the requirements of Bankruptcy Code section 363(c).

III. The Interim Approval Should Be Granted

26. Bankruptcy Rule 4001(b) provides that a final hearing on a motion to use cash collateral may not be commenced earlier than 14 days after the service of such motion. Upon request, however, the Court is empowered to conduct a preliminary expedited hearing on the motion and authorize the use of cash collateral to the extent necessary to avoid immediate and irreparable harm to a debtor's estate pending a final hearing.

27. Pursuant to Bankruptcy Rule 4001(b), the Debtors request that the Court conduct an expedited preliminary hearing on the Motion and (i) authorize the Debtors to use the Cash Collateral of the Prepetition Agent and the Prepetition Lenders in order to (a) maintain and finance the ongoing operations of the Debtors in the ordinary course of business during the

pendency of these chapter 11 cases, and (b) avoid immediate and irreparable harm and prejudice to the Debtors' estates and all parties in interest, and (ii) schedule the Final Hearing on the relief requested herein.

28. Absent authorization from the Court to use Cash Collateral on an interim basis pending a Final Hearing, the Debtors will be immediately and irreparably harmed. As set forth above, the Debtors' ability to use Cash Collateral on the terms described herein is critical to their ability to operate their business in the ordinary course. Without the liquidity provided by the use of Cash Collateral, the Debtors' businesses will be brought to an immediate halt, and the Debtor's reorganization would be frustrated. In addition, the Debtors' ability to maintain business relationships with their vendors, suppliers, and customers and to meet payroll and other operating expenses will be compromised without the use of Cash Collateral. Serious and irreparable harm to the Debtors and their estates would occur, with disastrous consequences for the Debtors, their estates, and creditors, if the Debtors do not obtain entry of the Interim Order immediately.

Request for Final Hearing

29. Pursuant to Bankruptcy Rules 4001(b)(2), the Debtors request that the Court set a date for the Final Hearing that is as soon as practicable but within approximately thirty (30) days of the Petition Date, and fix the time and date prior to the Final Hearing for parties to file objections to the Motion.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

30. This Motion seeks the use of cash collateral; however, to the extent applicable, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule

6004(h). Pursuant to Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” As set forth above, the payments proposed herein are essential to prevent potentially irreparable damage to the Debtors’ operations, value, and ability to reorganize. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

Notice

31. The Debtors shall provide notice of this Motion by facsimile, email and/or overnight mail to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors’ thirty (30) largest unsecured creditors on a consolidated basis; (iii) the Prepetition Agent and counsel to the Prepetition Agent; (iv) the Internal Revenue Service; (v) all known parties that may be asserting a lien on Cash Collateral; (vi) all applicable state taxing authorities; and (vii) the Office of the United States Attorney for the District of Delaware. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). The Debtors submit that no other or further notice need be provided.

No Prior Request

32. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, (a) authorizing the Debtors to use Cash Collateral, (b) authorizing the Debtors to provide adequate protection for the use of Cash

Collateral, (c) scheduling a Final Hearing for the entry of a Final Order, providing for the relief granted herein on a final basis, and (d) granting such other relief as is just and proper.

CAMPBELL & LEVINE, LLC

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Dated: January 26, 2011
Wilmington, Delaware

*Proposed Counsel for Debtors and Debtors-in –
Possession*

EXHIBIT A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re

ULTIMATE ACQUISITION
PARTNERS, LP, *et al.*¹

Debtors

Chapter 11
Case No. 11-____ (___)

(Joint Administration Requested)

**INTERIM ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL, (II)
GRANTING ADEQUATE PROTECTION, AND
(III) SCHEDULING A FINAL HEARING**

THIS MATTER having come before the Court upon the motion (the “Motion”²) of the above captioned debtors and debtors in possession (collectively the “Debtors” or “Debtors in Possession”) in the above-captioned chapter 11 cases (collectively, the “Cases”), pursuant to sections 105, 361, and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the “Bankruptcy Code”) and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) seeking entry of an interim order (this “Interim Order”) *inter alia*:

(i) authorizing the Debtors’ use of “cash collateral” (as defined in section 363(a) of the Bankruptcy Code, “Cash Collateral”) of the Prepetition Agent and Prepetition Lenders (each as defined herein);

(ii) providing adequate protection to the Prepetition Agent and Prepetition Lenders for any diminution in value of their respective interests in the Prepetition Collateral (as defined herein), including the Cash Collateral; and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Ultimate Acquisition Partners, LP (2832) and CC Retail, LLC (7780). The Debtors’ address is 321 West 84th Avenue, Suite A, Thornton, Colorado 80260.

² Capitalized terms not defined herein have the meanings ascribed to them in the Motion.

(iii) scheduling a final hearing (the “Final Hearing”) to consider the relief requested in the Motion and the entry of a Final Order (as defined herein), and approving the form of notice with respect to the Final Hearing.

The Court having considered the Motion, the *Declaration of F. Bruce Giesbrecht In Support of Chapter 11 Petitions First Day Pleadings* (the “First Day Declaration”), and the evidence submitted or adduced and the arguments of counsel made at the interim hearing held on January ____, 2011 (the “Interim Hearing”); and notice of the Interim Hearing having been provided in accordance with Bankruptcy Rules 2002, 4001(b) and (d), and 9014; and the Interim Hearing to consider the interim relief requested in the Motion having been held and concluded; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved or overruled by the Court; and it appearing to the Court that granting the interim relief requested is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing, and otherwise is fair and reasonable and in the best interests of the Debtors, their estates, and their creditors and equity holders and is essential for the continued operation of the Debtors’ businesses; there is a reasonable likelihood Debtors will prevail at the Final Hearing; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING AND THE FIRST DAY DECLARATION, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. *Petition Date*: On January 26, 2010 (the “Petition Date”), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware commencing these Cases.

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. *Jurisdiction and Venue.* This Court has jurisdiction, pursuant to 28 U.S.C. §§ 157(b) and 1334, over these proceedings, and over the persons and property affected hereby. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue for the Cases appears proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

D. *Statutory Committee.* As of the date hereof, the United States Trustee for the District of Delaware (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in these Cases pursuant to section 1102 of the Bankruptcy Code (a “Statutory Committee”).

E. *Necessity of Relief Requested.* The ability of the Debtors to finance their operations requires the use of Cash Collateral, absent which immediate and irreparable harm will result to the Debtors, their estates and creditors, and the possibility for successful chapter 11 cases. In the absence of the use of Cash Collateral, the continued operation of the Debtors’ businesses would not be possible and serious and irreparable harm to the Debtors, their estates and their creditors would occur. The Debtors do not have sufficient available sources of working capital and financing to operate their businesses in the ordinary course of business or to maintain their property without the use of Cash Collateral. The relief requested in the Motion is therefore necessary, essential, and appropriate for the continued operation of the Debtors’ businesses and the management and preservation of their property. Entry of this Interim Order is in the best interests of the Debtors and their estates.

F. *Final Hearing.* At the Final Hearing, the Debtors will seek final approval of the relief requested in the Motion for the proposed use of Cash Collateral arrangements on a final basis pursuant to a final order (the “Final Order”), notice of which Final Hearing will be provided in accordance with this Interim Order.

G. *Notice.* Notice of the Interim Hearing and the emergency relief requested in the Motion has been provided by the Debtors, whether by facsimile, email, overnight courier or hand delivery, to certain parties in interest, including: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors’ thirty (30) largest unsecured creditors on a consolidated basis; (iii) the Prepetition Agent and counsel to the Prepetition Agent; (iv) the Internal Revenue Service; (v) all known parties that may be asserting a lien on Cash Collateral; (vi) all applicable state taxing authorities; (vii) the Office of the United States Attorney for the District of Delaware and (viii) all appropriate state taxing authorities. Notice has been given pursuant to Bankruptcy Rule 4001(b).

Based upon the foregoing findings and conclusions, the Motion, the First Day Declaration and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that:

1. Motion Granted. The Motion is granted, and the use of Cash Collateral on an interim basis is authorized, subject to the terms and conditions set forth in this Interim Order.
2. Objections Overruled. All objections to the Motion to the extent not withdrawn or resolved are hereby overruled.
3. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the Debtors are authorized to use Cash Collateral as set forth herein for the period

(the “Specified Period”) from the Petition Date through the date of the Final Hearing. Except as otherwise expressly provided herein, during the Specified Period, Cash Collateral may be (i) used in the ordinary course of business for working capital and general corporate purposes, (ii) used for the payment of Professional Fees (as defined herein) and other fees and expenses, in each case, to the extent of the Carve Out, (iii) used for the payment of expenses not incurred in the ordinary course of business, in an aggregate amount during the Specified Period not to exceed \$10,700,000. Following the date of entry of the Final Order, the Debtors’ authority to use Cash Collateral shall be governed by the terms of the Final Order. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors or their estates outside the ordinary course of business, or any Debtor’s use of any Cash Collateral or other proceeds resulting therefrom, except as permitted in this Interim Order or another order of the Court.

4. Adequate Protection Liens.

(a) *Adequate Protection Liens.* As adequate protection against any Diminution in Value, pursuant to sections 361 and 363(e) of the Bankruptcy Code, the Prepetition Agent, for the benefit of itself and the Prepetition Lenders, is hereby granted additional and replacement continuing valid, binding, enforceable, non-avoidable, and automatically perfected postpetition security interests in and liens (the “Adequate Protection Liens”) on any and all presently owned and hereafter acquired personal property, real property and all other assets of the Debtors, together with any proceeds thereof (collectively, the “Collateral”) in and to the same extent, validity and priority as they existed on the Petition Date on the Prepetition Collateral, but excluding any of the Debtors’ claims or causes of action arising under sections 502(d), 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code.

(b) *Priority of Adequate Protection Liens.* The Adequate Protection Liens shall be junior to: (A) the Carve Out; and (B) the liens having priority over the Prepetition Agent's and Prepetition Lenders' liens on the Prepetition Collateral. To the extent valid, the Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the Collateral.

5. Carve Out.

(a) *Carve Out.* As used in this Interim Order, "Carve Out" means the (i) unpaid fees of the Clerk of the Bankruptcy Court and the U.S. Trustee pursuant to 28 U.S.C. § 1930(a), (ii) reasonable and documented unpaid fees and expenses, as itemized in the Budget, of professional persons (the "Professional Fees") retained by any Debtor or any Statutory Committee pursuant to an order of the Court (collectively, "Professionals").

(b) *No Direct Obligation to Pay Professional Fees.* The Prepetition Agent and Prepetition Lenders shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Cases or any Successor Cases. Nothing in this Interim Order or otherwise shall be construed (i) to obligate the Prepetition Agent or Prepetition Lenders, in any way to pay compensation to or to reimburse expenses of any Professional, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement, (ii) as consent to the allowance of any professional fees or expenses of any Professionals, or (iii) to affect the right of the Prepetition Agent or Prepetition Lenders to object to the allowance and payment of such fees and expenses.

6. Reservation of Certain Third Party Rights and Bar of Challenges and Claims.

Nothing in this Interim Order shall prejudice the rights of a Statutory Committee, a successor trustee and, solely if no Statutory Committee is appointed, any other party in interest

granted standing by the Court, to seek to object to or to challenge the: (a) the validity, extent, priority, or perfection of the mortgage, security interests, and liens of the Prepetition Agent or any Prepetition Lender; or (b) the validity, allowability, priority, full secured status or amount of the Prepetition Obligations. The Adequate Protection Liens are valid only to the extent and priority of the Prepetition Agent's and Prepetition Lender's liens on the Prepetition Collateral.

7. No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

8. Binding Effect of Interim Order. Immediately upon entry by this Court (notwithstanding any applicable law or rule to the contrary), the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtors, the Prepetition Agent, the Prepetition Lenders, all other creditors of any of the Debtors, any committee appointed in the Cases, and all other parties in interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in any of the Cases, any Successor Cases, or upon dismissal of any Case or Successor Case. In the event of any inconsistency between the provisions of this Interim Order and any other order (including any "First Day" order), the provisions of this Interim Order shall govern and control. Any payments to be made under any order (including any "First Day" order) shall be made in accordance with this Interim Order.

9. No Modification of Interim Order. In the event any or all of the provisions of this Interim Order are hereafter modified, amended or vacated by a subsequent order of this Court or any other court, such modification, amendment or vacatur shall not affect the validity, perfection, priority, allowability, enforceability or non-avoidability of any advances previously made or

made hereunder, or lien, claim or priority authorized or created hereby. Any liens or claims granted to the Prepetition Agent and Prepetition Lenders hereunder arising prior to the effective date of any such modification, amendment or vacatur of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges and benefits granted herein.

10. Final Hearing. The Final Hearing to consider entry of the Final Order is scheduled for _____, 2011 at ___ [a.m./p.m.] (Eastern Time) before the Honorable _____, United States Bankruptcy Judge, Courtroom ___ at the United States Bankruptcy Court for the District of Delaware. On or before _____, 2011, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the "Final Hearing Notice"), together with a copy of this Interim Order and the Motion, on: (a) the parties having been given notice of the Interim Hearing; (b) any party which has filed prior to such date a request for notices with this Court; (c) the 30 largest unsecured creditors and (d) any Statutory Committee appointed in these Cases. The Final Hearing Notice shall state that any party in interest objecting to the relief requested in the Motion on a final basis shall file written objections with the Clerk of the Court no later than 4:00 p.m. (Eastern Time) on _____, 2011, which objections shall be served so as to be received on or before such date by: (i) counsel to the Debtors, attn: Jay L. Welford, Esq., Richard E. Kruger, Esq., Jaffe, Raitt, Heuer & Weiss, PC, 27777 Franklin Road, Suite 2500, Southfield, Michigan 48034; (ii) counsel to the Prepetition Agent and Prepetition Lenders; and (iii) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801.

11. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Petition Date immediately upon execution thereof.

12. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

Dated: _____, 2011.

The Honorable
United States Bankruptcy Judge

EXHIBIT B

Budget

	Week 1 02/04/11	Week 2 02/11/11	Week 3 02/18/11	Week 4 02/25/11
Cash Receipts	722.7	539.3	520.8	402.1
CC Receipts	8,011.8	6,109.3	5,712.1	4,499.3
Sales Taxes	550.3	418.9	392.7	308.8
Total Cash Receipts	9,284.8	7,067.5	6,625.6	5,210.3
Starting Inventory	93,185.1	85,761.4	81,536.9	76,348.2
COGS Relief	(7,423.7)	(4,224.5)	(5,188.7)	(3,533.8)
Critical Receipts Plan	-	-	-	-
Ending Inventory	85,761.4	81,536.9	76,348.2	72,814.4
CASH FLOW				
Critical Pymts	-	-	-	-
Total Inventory Pymts	-	-	-	-
Payroll				
Store	-	1,370.6	-	1,370.6
Corporate	-	400.0	-	400.0
Total Payroll	-	1,770.6	-	1,770.6
Operating Expenses				
Sales Taxes	250.0	250.0	500.0	250.0
Rent	1,790.8	-	-	-
Utilities	31.7	31.7	31.7	31.7
Freight	59.1	59.1	59.1	59.1
Insurance	72.0	72.0	72.0	72.0
Advertising	519.2	519.2	519.2	519.2
Bank Fees	49.4	49.4	49.4	49.4
G&A	226.3	226.3	226.3	226.3
Total Operating Expenses	2,998.5	1,207.8	1,457.8	1,207.8
Professional Fees				
Jaffe	-	100.0	-	-
Local Council	-	25.0	-	-
FTI	-	-	25.0	-
Creditor Comm	-	-	12.5	-
Falcon Advisors	-	-	25.0	-
KCC	-	-	-	25.0
EKSH	-	-	-	50.0
Total Professional Fees	-	125.0	62.5	75.0
Total Payments	2,998.5	3,103.3	1,520.3	3,053.3
ABL Borrowing Capacity	58,724.9	54,917.6	51,805.9	49,164.3
Actual Line of Credit	55,064.0	51,334.9	48,089.3	45,692.1
Available Cash	334.5	523.9	2,411.9	1,967.0