



UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY Caption in Compliance with D.N.J. LBR 9004-2(c)	
LOWENSTEIN SANDLER PC Kenneth A. Rosen, Esq. (KR 4963) S. Jason Teele, Esq. (SJT 7390) Vincent A. D'Agostino, Esq. (VD 0120) 65 Livingston Avenue Roseland, New Jersey 07068 Tel: (973) 597-2500 Fax: (973) 597-2400 <i>Proposed Counsel to the Debtors and Debtors in Possession</i>	
In re: U.S. EAGLE CORPORATION, <i>et al.</i> <p style="text-align: center;">Debtors.</p>	Chapter 11 Case No. 11-10392 (NLW) Joint Administration Requested

INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL, PROVIDING ADEQUATE PROTECTION AND SETTING A FINAL HEARING

The relief set forth on the following pages, numbered two (2) through six (6), is hereby **ORDERED**.

DATED: 01/11/2011



 Honorable Novalyn L. Winfield
 United States Bankruptcy Judge

Page: 2
In Re: U.S. Eagle Corporation, *et al.*
Case No.: 11-10392 (NLW)
Caption of Order: Interim Order Authorizing Use of Cash Collateral, Providing Adequate Protection and Setting a Final Hearing

THIS MATTER having come before the Court on the motion (the “**Motion**”)¹ of U.S. Eagle Corporation, *et al.* (collectively, the “**Debtors**”) for entry of an interim order pursuant to 11 U.S.C. §§ 105, 361, 362 and 363 and Fed. R. Bankr. P. 4001 (i) approving the use of cash collateral, (ii) providing adequate protection, and (iii) setting a final hearing pursuant to Fed. R. Bankr. P. 4001; and the Court finding that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interest of the Debtors, their estates and creditors; (iv) proper and adequate notice of the Motion and the hearing thereon has been given and that no other or further notice is necessary; and (v) upon the record herein, after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein, it is hereby

ORDERED:

1. **Use of Cash Collateral.** The Debtors are authorized, in accordance with the cash collateral budget (the “**Budget**”) attached hereto as **Exhibit “A”**, to use Comerica’s cash collateral. The Debtors may amend, alter, revise or supplement the Budget after the date of this Order with the written consent of Comerica, which consent shall not be unreasonably withheld. The Debtors are authorized to retain all cash receipts collected during any week to the extent necessary to fund the disbursements contained in the Budget. For the purposes of this Order, the term “cash receipts” means all funds collected by the Debtors whether on account of accounts receivable, asset sales or otherwise.

2. **Adequate Protection.** As adequate protection for the Debtors’ use of cash collateral:

(a) The Debtors grant to Comerica Bank, solely to the extent of any post-petition diminution in the value of the Comerica’s interests, a post-petition security interest in

¹ All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

Page: 3
In Re: U.S. Eagle Corporation, *et al.*
Case No.: 11-10392 (NLW)
Caption of Order: Interim Order Authorizing Use of Cash Collateral, Providing Adequate Protection and Setting a Final Hearing

and replacement lien upon the following: all present and future real and personal property of the Debtors' estates, including all accounts (including post-petition accounts receivable arising post-petition notwithstanding the provisions of section 552 of the Bankruptcy Code), chattel paper, deposit accounts, documents, documents of title, goods (including all inventory, equipment and fixtures), instruments, investment property (including all certificated and uncertificated securities, securities entitlements, securities accounts, commodity contracts and commodity accounts), letter of credit rights, money, and general intangibles, all supporting obligations and security for any of the foregoing and all proceeds of the foregoing (including all distributions made on account of any of the foregoing, all claims arising from the loss, nonconformity, or interference with the use of, or defects or infringement of rights in, any of the foregoing and any insurance payable by reason of any such loss, nonconformity, interference, defects or infringement) (collectively, the "**Post-Petition Collateral**"), which security interests and replacement liens with respect to the Post-Petition Collateral shall have priority over all existing and future liens and encumbrances on such property other than (a) existing liens in favor of Comerica Bank, and (b) existing liens on or security interests in any specific items of equipment which is (or are) the subject of a pre-petition lease between the Debtors and a third party, but only to the extent such liens (or security interests) were duly perfected pre-petition. For the avoidance of doubt, the security interests and replacement liens granted to Comerica hereunder shall secure the obligations of the Debtors to Comerica solely to the extent of any post-petition diminution in the value of the Comerica's interests, whether resulting from the Debtors' use of cash collateral or otherwise. For the purposes of this Order, the phrase "post-petition diminution in the value of the Comerica's interests" shall be determined either by agreement between the Debtors and Comerica or by Court order, after notice and a hearing.

(b) The Debtors shall maintain and insure the Post-Petition Collateral in accordance with the requirements of the Credit Agreement and/or Mortgages.

Page: 4
In Re: U.S. Eagle Corporation, *et al.*
Case No.: 11-10392 (NLW)
Caption of Order: Interim Order Authorizing Use of Cash Collateral, Providing Adequate Protection and Setting a Final Hearing

(c) The Debtors, for themselves but not on behalf of the estates, waive their rights under section 506(c) of the Bankruptcy Code or otherwise to surcharge Comerica, any collateral securing the Debtors' obligations to Comerica (including the Post-Petition Collateral) for any expenses incurred from and after the Petition Date.

(d) The Debtors shall provide Comerica Bank with a list of all depository institutions at which it maintains any of its deposit accounts together with a list of account numbers, it being understood that any exhibit filed with the Court setting forth this information shall satisfy the foregoing obligation. By service of this Order on each depository institution, such institution shall be on notice that (i) Comerica Bank has a security interest in each deposit account maintained at such depository institution for the purpose of securing all obligations owed to Comerica Bank by any Debtor, (ii) Comerica Bank shall be deemed to have sufficient control of such deposit accounts for purposes of perfecting its security interests therein under applicable non-bankruptcy law, and (iii) the depository institution is prohibited from setting off or debiting from any such account monies that the depository claims are owed to such depository other than customary debits for returned items in accordance with applicable law, and reasonable and customary fees for the maintenance and administration of such deposit accounts, and similar customary fees charged to depositors, such as fees associated with checks that are deposited in the Debtor's accounts, but are returned by the drawee bank for insufficient funds (*i.e.*, "NSF" checks written by payors to the Debtor). In addition, the depository institution is authorized to mail a copy of any and all bank statements relating to any deposit account at such institution held by any of the Debtors, including in its capacity as debtor in possession, concurrently with sending the same to any of the Debtors. It shall not be necessary for Comerica to obtain an account control agreement from the depository institution or the Debtor to obtain such rights as are described in this subparagraph because all such rights shall become effective immediately upon entry of this Order.

Page: 5
In Re: U.S. Eagle Corporation, *et al.*
Case No.: 11-10392 (NLW)
Caption of Order: Interim Order Authorizing Use of Cash Collateral, Providing Adequate Protection and Setting a Final Hearing

(e) The Debtors shall reimburse Comerica for its reasonable attorneys' fees and costs within ten (10) business days of the submission of an invoice by Comerica.

3. **Administrative Priority Claim.** To the extent that the adequate protection provided herein fails to protect Comerica Bank against any diminution in the value of Comerica's interests, Comerica shall be entitled to an administrative expense claim pursuant to section 507(b) of the Bankruptcy Code with priority over any and all other administrative expense claims of any kind payable or allowed pursuant to any provision of Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 503(b), 507(a) and 507(b) of the Bankruptcy Code, provided that Comerica agrees to subordinate any section 507(b) claim to the fees payable pursuant to 28 U.S.C. § 1930 to the extent such fees remain unpaid and do not exceed the sum of \$10,000.

4. **Default Hearing.** In the event the Debtors default or violate this Order, Comerica is entitled to request a hearing within five (5) days (or if immediate and irreparable injury, loss or damage may occur, an emergency hearing within 48 hours).

5. **Comerica's Rights of Inspection and Audit.** Upon reasonable notice by Comerica, the Debtors shall permit Comerica and any of their agents reasonable access to the Debtors' records and place of business during normal business hours to verify the existence, condition and location of collateral in which Comerica holds a security interest and to audit the Debtors' cash receipts and disbursements.

6. **Reservation of Rights.**

(a) By granting Comerica the adequate protection specified herein, the Debtors and their estates do not waive, and expressly reserve, their rights to subsequently contest the validity, extent, priority and/or perfection of Comerica's liens and security interests in the Debtors' property and to assert any other claims.

(b) Nothing contained herein shall be deemed or construed to: (a) limit

Page: 6
In Re: U.S. Eagle Corporation, *et al.*
Case No.: 11-10392 (NLW)
Caption of Order: Interim Order Authorizing Use of Cash Collateral, Providing Adequate Protection and Setting a Final Hearing

Comerica to the relief granted herein; (b) bar Comerica from seeking other and further relief (including without limitation relief from the terms of this Order) for cause shown on appropriate notice to the Debtors and other parties-in-interest entitled to notice of same; or (c) require Comerica to make any loans or advances to the Debtor.

7. **Final Hearing.** A final hearing on the Motion shall be held on January 21, 2011 in Courtroom 3-D of the United States Bankruptcy Court, Martin Luther King, Jr. Federal Building, 50 Walnut Street, Newark, New Jersey 07102 at 2:00 PM a.m./p.m. All objections to the Motion and the entry of a final order granting the Motion shall be filed and served on January 19, 2011 by 4:00 p.m. (ET). In the event no objections are timely filed, this Order shall continue in full force and effect and shall be deemed a final order without further notice or hearing in accordance with Federal Rules of Bankruptcy Procedure 4001(d)(3).

8. **Notice of Order.** Within two (2) business days of the entry of this Order, the Debtors shall serve, or caused to be served, a copy of this Order by first class mail on: (i) the Office of the United States Trustee; (ii) counsel for Comerica, (iii) all known secured creditors; (iv) counsel to any committee appointed under section 1102 of the Bankruptcy Code, if one has been appointed, and if not, to the Debtors' consolidated twenty (20) largest unsecured creditors; and (v) all financial institutions at which the Debtors maintain accounts.

9. **Immediate Effect.** Order shall be effective immediately upon its entry.

Exhibit A

US EAGLE CONSOLIDATED *et al* - DIP
CASE # 11-10392 (NLW)
INTERIM CASH COLLATERAL BUDGET

DRAFT - TENTATIVE & PRELIMINARY
SUBJECT TO CHANGE

CASH BUDGET	BUDGET			TOTAL BUDGET
	01/09/11	01/16/11	01/23/11	
Beginning Cash Balance	\$1,140,095	\$1,100,363	\$1,173,256	\$1,140,095
Cash Receipts:				
A/R Collections	694,834	620,082	628,001	1,942,917
Rental Income	-	-	-	-
Other: Freight	-	-	-	-
Total Cash Receipts	694,834	620,082	628,001	1,942,917
Cash Disbursements - Operating:				
Wage / Salary Employee Obligations	314,859	224,988	184,817	724,665
Sales Commissions	-	25,000	-	25,000
Vendor Payments	263,126	145,477	357,067	765,670
Insurance	-	-	-	-
Federal/State income taxes	-	-	-	-
State Sales Taxes	-	-	-	-
Property Taxes	10,258	-	-	10,258
Utilities	16,000	1,400	2,050	19,450
Other / Misc	5,000	5,000	5,000	15,000
Total Operating Disbursements	609,243	401,865	548,934	1,560,042
Cash Flows From Operations	85,591	218,216	79,067	382,875
Cash Disbursements - Restructuring:				
Legal Counsel (Lowenstein)	105,000	75,000	50,000	230,000
CRO (Traxi)	-	50,000	25,000	75,000
Creditor's Comm. Professionals	-	-	-	-
US Trustee	-	-	-	-
Total Restructuring Disbursements	105,000	125,000	75,000	305,000
Cash Disbursements - Sr. Secured Lender:				
Adequate Protection Payments [1]	20,323	20,323	20,323	60,969
Total Lender Disbursements	20,323	20,323	20,323	60,969
Cash Flow	(39,732)	72,893	(16,256)	16,906
Ending Cash Balance	\$1,100,363	\$1,173,256	\$1,157,001	\$1,157,001

NOTE:

[1] Adequate Protection Payments estimated as follows:

	Principal Amount	Interest Rate	Rate Increase	Weekly Estimate
Pre-Petition Sr. Secured - Revolving Credit	10,000,000	4.25%	3.00%	13,942
Pre-Petition Sr. Secured - Mortgage	3,000,000	8.06%	3.00%	6,381
				\$20,323