

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

THE WOODCREST CLUB, INC.,

Chapter 11

Case No.

Debtor.

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INTERIM ORDER (A) (i) AUTHORIZING POSTPETITION FINANCING BY JB HOLDINGS, INC., (ii) GRANTING JB HOLDINGS, INC. SUPERPRIORITY ADMINISTRATIVE EXPENSES AND LIENS ON CERTAIN ASSETS, AND (iii) GRANTING RELATED RELIEF

Upon the Emergency Application (the "Application") of The Woodcrest Club, Inc., Debtor and Debtor-in-Possession (the "Debtor"), seeking, among other things, the entry of an order: (a) authorizing the Debtor to obtain post-petition financing on an interim basis with superpriority over administrative expenses and secured by liens pursuant to Sections 105(a), 364(c)(1), (c)(2) and (c)(3) of the Bankruptcy Code (the "DIP Financing"); (b) scheduling a final hearing and establishing notice requirements pursuant to Bankruptcy Rules 2002, 4001, and 9014, and (3) granting related relief, and upon consideration of any objections to the entry of this Order raised at the Hearing on December __, 2009 and the Court's consideration of the objections; and it appearing that, subject to the approval of this Court, the Debtor has reached an agreement with JB Holdings, Inc. (the "DIP Lender") for post-petition financing to be provided immediately by the DIP Lender in an amount not to exceed \$2.0 Million (the "DIP Funds") for working capital, with (i) the DIP Lender granted superpriority administrative expense status and a secured lien on all of the Debtor's accounts receivable, real property and equipment and proceeds thereof and all other tangible and intangible assets (collectively, the "DIP Assets"), junior only to Permitted Liens (as defined in the DIP Loan Agreement"), but senior in all other respects;

NOW, THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. **The DIP Funds.** The Debtor, through Legacy Capital Management, Inc., is authorized to borrow the DIP Funds from the DIP Lender in an amount not to exceed in the aggregate \$2.0 million, only upon approval of a final order granting this Application, with all parties

reserving their rights to object to entry of a final order at the final hearing. Upon the entry of this interim order (the "Interim Order"), the Debtor shall be authorized to borrow DIP Funds from the DIP Lender in the amount of up to \$400,000, which sum is estimated to be the sums reasonably necessary to fulfill cash requirements up to the time of the hearing on the final approval of the Application. A secured lien, junior to Permitted Liens, but senior in all other respects, is hereby granted to the DIP Lender on all of the DIP Assets, subject only to the Carve-out. Annexed hereto as **Exhibit A** is the budget for the Interim Period (the "Approved Budget").

2. **Disposition.** The Application is granted to the extent set forth herein and in the transcript of the hearing held on December __, 2009 as So-Ordered by the Court. Subject to the terms hereof, this Order is valid immediately and is fully effective upon its entry. The maturity date of the Loan shall be the Maturity Date defined in the DIP Loan Agreement¹. Each factual finding and conclusion of law set forth herein shall be limited to, and effective to the extent of, moneys advanced, lent or used pursuant to this Order.

3. **Jurisdiction.** The Court has jurisdiction over this case, the parties and the Debtor's property pursuant to 28 U.S.C. §1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(D).

4. **Purpose and Necessity of Financing.** Good cause has been shown for entry of this Order. The Debtor requires the financing described in the Application to, among other things, fund the Debtor's cash requirements, including without limitation, working capital to maintain its going concern value. The Debtor is unable to obtain adequate unsecured credit allowable under section 503 of the Code as an administrative expense and is unable to obtain, within the time required by its needs to avoid immediate and irreparable harm, other financing under section 364 of the Code on equal or more favorable terms than the DIP Loan Agreement and the other DIP Loan Documents. A facility in the amount provided by the DIP Loan Agreement is unavailable to the

¹ Capitalized terms not otherwise defined herein shall be given the meaning ascribed to such terms in the DIP loan documents.

Debtor generally without its granting to the Lender, pursuant to sections 364(c)(1), (c)(2) and (c)(3) of the Code, the following: (i) superpriority administrative claims with respect to all Loans advanced post petition and all other obligations of the Debtor under the DIP Loan Agreement and the other DIP Loan Documents having priority over any and all administrative expenses including the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 503(b), 507, and 1114 of the Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment (except as otherwise expressly provided for herein with respect to the UST/Clerk Fees) and a secured lien on the Collateral, junior to Permitted Liens, but senior in all other respects, is hereby granted to the DIP Lender on all of the DIP Assets, subject only to the Carve-out. After considering all alternatives, the Debtor has concluded in the exercise of its prudent business judgment that this loan facility represents the best working capital financing available to it.

5. **Exigency.** The ability of the Debtor to obtain sufficient working capital and liquidity through the incurrence of new indebtedness for borrowed money and other financial accommodations is vital to the estate of the Debtor and its creditors, so that the Debtor can continue operating through the reorganization process. The preservation and maintenance of the going concern value of the Debtor is vital to enable any recovery for unsecured creditors. Absent entry of this Order, the Debtor's estate will be immediately and irreparably harmed.

6. **Good Faith Bargaining.** The DIP Loan Agreement, including the requirement that the Debtor enter into the Management Agreement with an entity affiliated with the DIP Lender, has been negotiated in good faith and at arm's-length between the Debtor on the one hand, and the DIP Lender on the other, and any Loans extended and other financial accommodations made to the Debtor by the DIP Lender pursuant to this Order and the DIP Loan Agreement shall have been extended by the DIP Lender in good faith, as that term is used in section 364(e) of the Code.

7. **Interim Borrowing Authorization.** The Debtor is immediately authorized to obtain Loans pursuant to the terms of the DIP Loan Agreement, the DIP Loan Documents, and this Interim

Order in the principal amount of up to \$400,000.00. As more fully described above, available financing and advances under the DIP Loan Agreement will be made only to fund, among other things, the Debtor's ordinary working capital, cover the expense of maintaining the Property that are included in the Approved Budget, in accordance with this Interim Order and the DIP Loan Agreement and other amounts required or allowed to be paid pursuant to the DIP Loan Agreement, this Order or any other order of this Court.

8. **Acknowledgements.** In providing for the advancement of post-petition financing under the DIP Loan Agreement, the Debtor and the DIP Lender acknowledge, represent, stipulate and agree that in entering into the DIP Loan Documents, and as consideration therefore, the Debtor hereby agrees that until such time as all Obligations are indefeasibly paid in full in cash, the Debtor shall not in any way prime or seek to prime the junior liens provided to the DIP Lender under this Order by offering a subsequent lender or a party-in-interest a superior or pari passu lien or claim pursuant to section 364(d) of the Code or otherwise.

9. **Power to Execute Necessary Documents.** Subject to approval at the Final Hearing, the Debtor is expressly authorized and empowered to enter into and deliver, inter alia, the DIP Loan Agreement and the other attendant DIP Loan Documents. The Debtor is also authorized and empowered to perform all of its obligations under the DIP Loan Agreement and the other attendant DIP Loan Documents and such other agreements as may be required by the DIP Loan Documents to give effect to the terms of the financing provided for in this Order. The Debtor is authorized and directed to perform and do all acts that may be required in connection with the DIP Loan Agreement and the other DIP Loan Documents. The DIP Loan Agreement and the other DIP Loan Documents shall constitute valid and binding obligations of the Debtor enforceable against it, and its successors and assigns, in accordance with their terms, subject to the terms of this Order. The Debtor, with the express written consent of the DIP Lender, may enter into any non material amendments or modifications to the DIP Loan Agreement and the other DIP Loan Documents without the need of further notice and hearing or Order of this Court; provided, that such

modifications or amendments do not materially and adversely affect, in the reasonable view of the Debtor and the Committee, the rights of any creditor or party in interest. For purposes of this Order, and subject to the preceding sentence, non-material amendments or modifications to the DIP Loan Agreement and the DIP Loan Documents shall include, without limitation, clarifications of procedures and reporting requirements, insertions of incomplete information or corrections of any errors, any waivers or consents that the Lender can exercise at its discretion, or any other amendments to the DIP Loan Agreement or the other DIP Loan Documents to the extent that such amendments or modifications do not cause an increase in the maximum amount available pursuant to the DIP Loan Agreement and the other DIP Loan Documents.

10. **Carve-Out.** Subject to the terms and conditions contained in this paragraph, the Liens, Superpriority Claims, and claims held by the DIP Lender shall be subject to the following: (i) unpaid fees of the Clerk of the Bankruptcy Court and the U.S. Trustee pursuant to 28 U.S.C. § 1930(a) and 31 U.S.C. § 3717; (ii) accrued professional fees and expenses of the Debtor and any official committee of unsecured creditors (the “Committee”) (the “Professional Fees”) incurred (to the extent such fees are thereafter approved by Order of this Court) to the extent consistent with the Budget, but unpaid, prior to delivery of a notice of an Event of Default (the “Carve-Out Notice”); (iii) Professional Fees incurred subsequent to delivery of the Carve- Out Notice to the extent consistent with the Budget in an aggregate amount not to exceed \$100,000; and (iv) the approved professional fees and expenses incurred by any court appointed Chapter 7 Trustee up to an aggregate amount of \$15,000 (collectively, (i)–(iv), the “Carve-Out”). The Carve-Out shall exist at all times, but only be triggered upon (i) the occurrence of an Event of Default under the DIP Financing Agreement and the DIP Lender’s delivery of a Carve-Out Notice to the Debtor, counsel for the Debtor, and counsel to any Committee or (ii) the Maturity Date.

11. **Claim/Lien Status and Priority.** For all of the Obligations, the DIP Lender is hereby granted, pursuant to section 364(c) of the Code a senior lien on any property of the estate, subject

only to Permitted Liens, an allowed superpriority administrative expense claim (the "Superpriority Claim"), having priority over any and all administrative expenses including the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 503(b), 507, 546(c), and 1114 of the Code, subject and subordinate in priority of payment only to the Carve Out. The liens and security interests granted to DIP Lender under this Order shall continue in this and in any superseding case or cases under the Code and such liens and security interests shall maintain their priority as provided in this Order until all the Obligations have been satisfied in full, except, however, that such Liens shall not attach to any proceeds from recoveries on Avoidance Claims under Chapter 5 of the Bankruptcy Code.

12. **Priority of the United States Trustee and Clerk of the Court Fees.** Except as permitted herein or in the DIP Loan Documents, all of the Debtor's Obligations to the DIP Lender are hereby authorized and granted superpriority administrative expense status in accordance with sections 364(c)(1) of the Code over any and all expenses of and claims against the Debtor, whether heretofore or hereinafter incurred, including the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 503(b), 507, and to the extent permitted by law, 1114, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, subject and subordinate only to amounts payable pursuant to 28 U.S.C. § 1930(a)(6) and 31 U.S.C. §3717 and the UST/Clerk Fees and the Carve Out.

13. **Limitation Upon Additional Surcharges.** No consent to a charge against the Collateral pursuant to sections 506(c) or 105(a) of the Code shall be implied from any action, inaction, or acquiescence by the DIP Lender in this case, including but not limited to the funding, on an interim basis, of the Debtor's ongoing operations by the DIP Lender. The right to seek a waiver of any surcharge against the Lender or the Collateral under section 506(c) or any other section of the Code after the Final Hearing is hereby expressly preserved. In no event shall the DIP Lender be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral.

14. **Lien to Secure Obligations.** As security for all of the Obligations, and as more fully described above and in the DIP Loan Documents, the DIP Lender is hereby granted (effective immediately and without the necessity of the execution or filing by the Debtor of a security agreement, financing statements, trademark, copyright, trade name or patent assignment filings with the United States Patent and Trademark Office or Copyright Office, mortgages, landlord lien waivers, licensee consents or otherwise), pursuant to section 364(c) of the Code, a security interest in and lien upon all of the Collateral of the Debtor, subject only to Permitted Liens and the Carve-out. The security interests and liens in the Collateral granted to the DIP Lender hereunder include, but are not limited to: (i) those items and types of Collateral in which security interests may be created under Article 9 of the Uniform Commercial Code; (ii) those items and types of Collateral not governed by Article 9 of the Uniform Commercial Code, including, without limitation, mortgage liens, licenses issued by any federal or state regulatory authority and any leasehold or other real property interests; and (iii) the products and proceeds of any of the foregoing. The liens and security interests arising hereunder shall be and hereby are fully perfected security interests, such that no additional steps need be taken by the DIP Lender to perfect such interests. Additionally, any provision of any lease or other license, contract or other agreement that requires the consent or approval of one or more landlords or other parties, or requires the payment of any fees or obligations to any governmental entity, in order for the Debtor to pledge, grant, sell, assign or otherwise transfer any such leasehold interest or the proceeds thereof or other Collateral, is and shall be deemed to be inconsistent with the provisions of the Code and shall have no force and effect with respect to the transactions granting the DIP Lender a priority security interest in such leasehold interest or the proceeds of any assignment and/or sale thereof by the Debtor in favor of the DIP Lender in accordance with the terms of the DIP Loan Agreement. Notwithstanding anything in this Order to the contrary, the liens, security interests and superpriority claims granted to the DIP Lender by this Order shall not attach to or be payable from avoidance actions under chapter 5 of the Bankruptcy Code or any proceeds thereof.

15. **Additional Perfection Measures.** The liens and priority granted to the DIP Lender pursuant to this Order and the DIP Loan Agreement and the other DIP Loan Documents with respect to property of the Debtor's estate granted herein shall be perfected by operation of law upon entry of this Order by the Court. The DIP Lender shall not be required to enter into or to obtain landlord waivers, mortgagee waivers, bailee waivers or warehouseman waivers or to file or record financing statements, mortgages, deeds of trust, leasehold mortgages, notices of lien or similar instruments in any jurisdiction (including, trademark, copyright, tradename or patent assignment filings with the United State Patent and Trademark Office, Copyright Office or any similar agency with respect to intellectual property), or obtain consents from any licensor or similarly situated party-in-interest, or take any other action in order to validate and to perfect the security interest and lien granted to the Lender pursuant to this Order. If the DIP Lender, in its sole discretion, chooses to obtain consents from any licensor or similarly situated party in interest, to file a mortgage, financing statements, notices of lien or similar instruments, or to otherwise confirm perfection of such security interests and liens: (i) all such documents shall be deemed to have been recorded and filed as of the time and on the date of entry of this Order; and (ii) no defect in any such act shall affect or impair the validity, perfection and enforceability of the liens granted hereunder. In lieu of obtaining such consents or filing such financing statements, notices of lien or similar instruments, the DIP Lender may, at its sole discretion, choose to file a true and complete copy of this Order in any place at which any such instruments would or could be filed, together with a description of Collateral located within the geographic area covered by such place of filing, and such filing by the DIP Lender shall have the same effect as if such financing statements, notices of lien or similar instruments had been filed or recorded at the time and on the date of entry of this Order.

16. **Interim Management Agreement.** The Debtor is authorized and directed to perform under the terms of the Interim Management Agreement, subject only to the Court's approval of a Final Management Agreement.

17. **Enabling Clause.** The Debtor is authorized to perform all acts, to make, execute

and deliver all instruments and documents and to pay fees and all other amounts which may be required or necessary for their performance under the DIP Loan Agreement and the other DIP Loan Documents, including, without limitation, the execution and delivery of the DIP Loan Agreement and the other DIP Loan Documents.

18. **Successors and Assigns.** The provisions of this Order shall be binding upon the DIP Lender, the Debtor and their respective successors and assigns, and shall inure to the benefit of the DIP Lender and the Debtor and their respective successors and assigns.

19. **Binding Nature of Agreement.** Each of the DIP Loan Documents to which the Debtor is and will become a party shall constitute legal, valid and binding obligations of the Debtor, enforceable in accordance with this Order. The rights, remedies, powers, privileges, liens and priorities of the Lender provided for in this Order and in any other DIP Loan Document shall not be modified, altered or impaired in any manner by any subsequent order (including a confirmation order) or by any plan of reorganization or liquidation in these cases or in any subsequent case under the Code unless and until the Obligations have first been paid in full in cash and completely satisfied.

20. **Subsequent Reversal or Modification.** This Order is entered pursuant to section 364 of the Code, granting DIP Lender all protection afforded by Code section 364(e). If any or all of the provisions of this Order are hereafter reversed, modified, vacated or stayed, that action will not affect (i) the validity of any obligation, indebtedness or liability incurred hereunder by the Debtor to the DIP Lender prior to the date of receipt of written notice to the DIP Lender of the effective date of such action; or (ii) the validity and enforceability of any lien or priority authorized or created hereby or pursuant to the DIP Loan Agreement. Notwithstanding any such reversal, stay, modification or vacatur, any post-petition indebtedness, obligation or liability incurred by the Debtor to the DIP Lender prior to written notice to the DIP Lender of the effective date of such action shall be governed in all respects by the original provisions of this Order, and DIP Lender shall be entitled to all the rights, remedies, privileges and benefits granted herein and in the DIP Loan Agreement and

other DIP Loan Documents with respect to all such indebtedness, obligation or liability.

21. **No Waiver.** This Order shall not be construed in any way as a waiver or relinquishment of any rights that the DIP Lender may have to bring or be heard on any matter brought before this Court, nor as a waiver or relinquishment of any rights or defenses held by the United States and/or its agencies.

22. **Benefits.** The Debtor will receive postpetition loans and/or advances and credit, and other direct and indirect benefits from the DIP Lender authorized by this Order.

23. **Priority of Terms.** To the extent of any conflict between or among the express terms or provisions of any of the DIP Loan Documents, the Application, any other order of this Court, or any other agreements and the express written terms and provisions of this Order unless such term or provision herein is phrased in terms of "as defined in" or "as more fully described in" the DIP Loan Agreement, the terms and provisions of this Order shall govern.

24. **Notice.** The Debtor shall serve a notice of the final hearing ("Final Hearing") to be held on _____, 2009 at __:__ .m. ("Notice of Hearing") together with a copy of the Interim Order and the Application with exhibits by hand delivery or overnight mail, within two (2) days after entry of the Interim Order, upon (a) the Office of the United States Trustee, (b) White and Williams LLP, 1650 Market Street, One Liberty Place, Suite 1800, Philadelphia, PA 19103-7395, attn: Robert A. Kargen, Esq., attorneys for the Lender, (c) the Debtor's secured creditors, and, by first class mail, on (d) the District Director for the Internal Revenue Service, (e) all parties that have filed notices of appearances and requests for notices of appearances and requests for notices in the Debtor's chapter 11 case, and the Notice of Hearing and the Interim Order by first class mail on (f) all of the Debtor's remaining creditors. Under the circumstances, no further notice of the request for the relief granted at the Final Hearing is required.

25. The Clerk is hereby directed to enter this Order on the Court's docket in this case.

EXHIBIT A

01 - THE WOODCREST CLUB INC.
 OPERATING PROJECTIONS
 FUNDS NEEDED IN DEC / JAN / FEB 2010

Code	Supplier Name	Pro Rata		
		December	January	February
	CAR LEASES	1,144.13	1,477.83	1,477.83
	EQUIPMENT LEASES	16,061.28	20,389.53	21,423.95
	INSURANCE	31,064.76	22,792.03	22,792.03
	UTILITIES	45,182.98	24,058.83	24,058.83
F004	FEDERAL EXPRESS	-	25.00	25.00
P101	PETRO COMMERCIAL SERVICES	-	3,500.00	-
P034	PURCHASE POWER	-	1,000.00	-
O001	OTIS ELEVATOR COMPANY	286.07	-	-
	REAL ESTATE TAXES - Genl	-	-	33,000.00
J004	JAMAICA ASH & RUBBISH REMOVAL	-	1,200.00	1,200.00
	MORTGAGE	-	51,329.93	51,329.93
Payroll	PAYROLL	60,000.00	60,000.00	60,000.00
	MANAGEMENT FEE	16,129.03	20,833.33	20,833.33
	INTEREST ON DIP FINANCING	-	1,333.00	3,750.00
	DUMP	-	25,000.00	25,000.00
	FOOD & BEVERAGE MGR - DORN	6,193.55	8,000.00	8,000.00
	PARTS REPAIR - GREENS	-	-	10,000.00
	CATERING - 2 PARTIES	1,500.00	-	-
Total - Other Expenses		177,561.80	240,939.48	282,890.90

Accrue
 Accrue

01 - THE WOODCREST CLUB INC.
OPERATING INCOME PROJECTIONS
DEC / JAN / FEB 2010

Source	Pro Rata	
	December	January February
Catering	11,000.00	- -
Membership Dues	-	- -
Total	11,000.00	- -

Notes: There are 2 parties scheduled for December none for January and February 2010

No membership dues are anticipated until March 2010