

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

ZIP'S WISEGUYS INC.,

Debtor.¹

Chapter 11

BK No. 1-16-12294-CLB

Hon. Carl L. Bucki

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, AND 363:
(A) AUTHORIZING DEBTOR USE OF CASH COLLATERAL AND
(B) TO CONTINUE GRANTING ADEQUATE PROTECTION**

Upon consideration of the Debtor's motion for, *inter alia*, an order authorizing the use of Cash Collateral (the "Motion"),² in the above-captioned proceeding, by and through its proposed counsel, Amigone, Sanchez & Mattrey, LLP; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (b)(2)(M); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and an emergency hearing having been held on November 15, 2016; and the Court having granted certain relief associated with the Motion on an *ex parte* emergency basis (the "Ex Parte Order") [as amended by the Court to reflect correct interim hearing date, ECF No. 18], as set forth more fully in the *Ex Parte Order*; and due service of copies of the *Ex Parte Order* as well as notice of the interim hearing

¹ The last four digits of the Debtor's federal tax identification number are 2087. *See* 11 U.S.C. §342(c).

² Capitalized terms utilized but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

having been duly served on the creditors and interested parties as set forth in the *Ex Parte* Order; and it appearing that no other or further notice of the Motion or the *Ex Parte* Order need be provided; and a further interim hearing having been held by the Hon. Carl L. Bucki on November 22, 2016, with appearances being made by counsel to the Debtor (Scott J. Bogucki, Esq.), the Office of the United States Trustee (Jill Zubler, Esq.), and the Department of the Treasury, Internal Revenue Service (Mary Clare Kane, Esq.); and a final hearing having been held on December 5, 2016; and the Court having determined that the final relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor and its estate pending a final hearing, and otherwise is fair and reasonable and in the best interests of the Debtor, its estate, and its creditors, and is essential for the continued operation of the Debtor's business; and adequate protection being provided on account of the interests of certain holders of liens on the property of the Debtor's estate; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, the Motion is granted on a final basis, as set forth herein; and it is further

ORDERED that, the Debtor is authorized to use Cash Collateral as set forth in the 13 Week Budget attached as Exhibit A, and thereafter for reasonable and necessary expenses associated with the Debtor's business operations; and it is further

ORDERED that, the Department of the Treasury, Internal Revenue Service, is hereby granted roll-over or replacement liens granting security to the same extent, in the same priority, and with respect to the same assets, as served as collateral for its Prepetition IRS Indebtedness, to the extent of Cash Collateral actually used during the pendency of this

Chapter 11 case, without the need of any further public filing or other recordation to perfect such roll-over or replacement liens or security interests; and it is further

ORDERED that, as additional adequate protection, the Debtor shall make monthly payments to the IRS in the amount of \$625.00 commencing no later than December 15, 2016, and continuing on the 15th of each month thereafter, pending a final hearing on the Motion; and it is further

ORDERED that, the New York State Department of Taxation and Finance is hereby granted roll-over or replacement liens granting security to the same extent, in the same priority, and with respect to the same assets, as served as collateral for its Prepetition NYS Tax Dep't Indebtedness, to the extent of Cash Collateral actually used during the pendency of this Chapter 11 case, without the need of any further public filing or other recordation to perfect such roll-over or replacement liens or security interests; and it is further

ORDERED that, as additional adequate protection, the Debtor shall make monthly payments to the NYS Tax Dep't in the amount of \$625.00 commencing no later than December 15, 2016, and continuing on the 15th of each month thereafter, pending a final hearing on the Motion; and it is further

ORDERED that, the New York State Department of Labor, Unemployment Insurance Division is hereby granted roll-over or replacement liens granting security to the same extent, in the same priority, and with respect to the same assets, as served as collateral for its Prepetition NYS DOL Indebtedness, to the extent of Cash Collateral actually used during the pendency of this Chapter 11 case, without the need of any further public filing or other recordation to perfect such roll-over or replacement liens or security interests; and it is

further

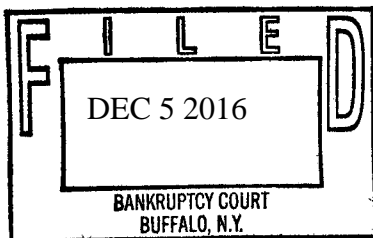
ORDERED that, as additional adequate protection, the Debtor shall make monthly payments to the NYS DOL in the amount of \$70.00 commencing no later than December 15, 2016, and continuing on the 15th of each month thereafter, pending a final hearing on the Motion; and it is further

ORDERED that, the Debtor hereby reserves all its rights to challenge the validity, extent, and priority of the Prepetition IRS Tax Liens, Prepetition NYS Tax Dep't Liens, and the Prepetition NYS DOL Liens; and it is further

ORDERED that, notwithstanding Rules 4001(a)(3), 6004(h), 6006(d), 7062, and 9024 or any other Rule, or rule 62(a) of the Federal Rules of Civil Procedure, this ~~Interim~~ Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order; and it is further

ORDERED that, to the extent applicable, the requirements set forth in Rule 6003(b) have been satisfied and the relief granted herein is necessary to avoid immediate and irreparable harm to the Debtor and its estate.

Dated: December 5, 2016
Buffalo, New York





HON. CARL L. BUCKI
United States Bankruptcy Judge

Exhibit A

ZIP'S WISEGUYS INC.

**13 Week Budget for period from December 6, 2016,
through March 7, 2017**

Gross Sales	\$137,603
Rebate Income	
Sales Tax	\$9,462
Net Sales	\$128,141
Total Purchases	\$43,257
Gross Profit	\$84,884
Expenses:	
Insurance	\$2,142
Delivery & Fees	\$474
Interest	
Supplies	
Repair & Maintenance	\$177
Advertising	
Wages	\$36,000
Auto	\$1,914
Bank Charge	
Utilities	\$9,660
Legal & Accounting	
Rent	\$8,580
NYS (Tax & DOL)	\$2,085
IRS	\$1,875
Misc. Cash Expenses	\$1,038
Total Expenses	\$63,945
Net Cash	\$20,945