

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:

EXCEL STAFFING SERVICES, INC.¹

Debtor.

Case No.

16-35795-KLP

Chapter

11

**ORDER AUTHORIZING POST-PETITION
FINANCING PURSUANT TO 11 U.S.C. § 364(c)**

This matter came before the Court upon the motion of the above-captioned debtor and debtor-in-possession (the “Debtor”) for Entry of an Order Authorizing Post-Petition Financing Pursuant to 11 U.S.C. § 364(c) (the “Motion”). It appearing to the Court that the Debtor and Stephen Brown, Edward Brown, Beverly Davis, Lydia Saboor, Eugene Thomas, and/or Bill Weber (collectively the “Lenders,” and each individually a “Lender”) have reached an agreement pursuant to which Lenders will provide certain post-petition financing (the “Post-Petition Financing”) to the Debtor to be secured by a first-priority, senior security interest in and lien upon an identified receivable (the “Identified Receivable”), and the proceeds thereof pursuant to § 364(c) of the Bankruptcy Code, and having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the Motion at a hearing before the Court (the “Hearing”); and the

¹ The Debtor’s principal place of business is 200 East Cary Street, Richmond, VA 23219 and the Debtor’s EIN is 31-1676369.

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Counsel for the Debtor

Court being fully advised in the premises and having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; it is hereby

FOUND, DETERMINED, ORDERED, AND ADJUDGED, that:

1. The Motion is GRANTED nunc pro tunc to August 10, 2017.
2. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.
3. The Debtor is authorized effective August 10, 2017, to enter into the Post-Petition Financing in accordance with the terms provided in the Motion.
4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2) and (c) notice of this Motion and the Hearing was sufficient under the circumstances
5. The Post-Petition Financing is necessary to allow the Debtor to pay the costs of operating its business as a going concern or otherwise manage its assets in the pursuit of a reorganization in accordance with Chapter 11 of the Bankruptcy Code. Without the relief requested, the Debtor will not be able to pay wages, salaries, taxes and other ongoing operating expenses in the ordinary course of its operations. Interruption of the Debtor's business in this manner will significantly harm the Debtor's estate and fundamentally undermine its reorganization efforts.
6. A financing facility is not available to the Debtor except in accordance with § 364(c) and the terms of this Order.
7. The respective Lenders shall have a perfected security interest in the respective Identified Receivable.

8. The Post-Petition Financing has been negotiated in good faith and at arms' length between the Debtor and the Lenders. The terms of the Post-Petition Financing are fair and reasonable under the circumstances, reflect the Debtor's exercise of sound business judgment, and are supported by reasonably equivalent value and fair consideration. Thus, any loans made to the Debtor by the Lenders shall be deemed to have been extended in good faith, as that term is used in Bankruptcy Code § 364(e), and shall be entitled to the protections of § 364(e) in the event of the modification or reversal on appeal of the authorization granted by this Order to enter into the Post-Petition Financing.

9. This Order shall constitute valid, binding obligations of the Debtor enforceable against the Debtor in accordance with their terms.

10. The Debtor is authorized and directed to do and perform all acts, to make, execute, and deliver all instruments and documents, and to pay fees, which may be required or necessary. However, the provisions of this Order shall be self-executing. Neither the Lenders nor the Debtor shall be required to take any action or obtain any additional Orders to enjoy the benefits and/or protections of this Order. Nothing herein is intended, however, to waive any rights of the Lenders to request any relief it may believe is appropriate, including to seek additional adequate protection of its interests in its collateral, relief from the automatic stay, conversion of the cases, to propose a plan of reorganization or liquidation, or any other relief or remedies that may be available to the Lenders under bankruptcy or non-bankruptcy law

11. The provisions of this Order shall be binding upon the Lenders and the Debtor and their respective successors and assigns (including any Trustee hereinafter appointed for the estate

of the Debtor) and inure to the benefit of the Lenders and the Debtor and their respective successors and assigns.

12. The notice given by the Debtor of the Motion constitutes due and sufficient notice in accordance with the Bankruptcy Rules and the Local Rules of this Court.

13. Upon entry the Clerk shall serve (by first class mail, postage prepaid or overnight delivery) copies of this Order on: the Office of the United States Trustee, the Debtor's counsel, the Debtor's twenty largest unsecured creditors as identified in their chapter 11 petitions, the Debtor's known secured creditors, any known legal counsel for the secured creditors, and the IRS.

Entered: Aug 18 2017

/s/ Keith L. Phillips

UNITED STATES BANKRUPTCY JUDGE

I ask for this:

Entered on Docket: Aug 21 2017

/s/ Paula S. Beran

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Counsel to the Debtor

CERTIFICATION

I hereby certify that the foregoing proposed Order has been either served on by first-class mail, postage prepaid, and/or electronic delivery or endorsed by all necessary parties.

/s/ Paula S. Beran

Paula S. Beran (Va. Bar No. 34679)

Counsel to the Debtor