

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:)	
)	Case No. 17-36349-KLP
RMG Enterprises, LTD.,)	
)	Chapter 11
Movant)	
)	
v.)	
)	
Interstate Billing Service, Inc.)	
)	
Respondent.)	

FINAL ORDER 1) AUTHORIZING POST-PETITION FINANCING, 2) AUTHORIZING DEBTOR TO ENTER INTO FACTORING AND SECURITY AGREEMENT, 3) GRANTING LIENS AND SECURITY INTERESTS, 4) MODIFYING THE AUTOMATIC STAY, AND 5) APPROVING NOTICE

This matter comes before the Court upon the Debtor’s Emergency Motion for 1) Order Authorizing Post-Petition Financing, 2) Authorizing Debtor to Enter into Factoring Agreement (also referenced herein as the “Recourse Client Accounts Receivable Financing Agreement” and Security Agreement, 3) Granting Liens and Security Interests, 4) Modifying the Automatic Stay, 5) Approving Notice, and 6) Scheduling of Final Hearing (the “Motion”). The Motion seeks relief pursuant to §§ 105, 361, 362, 363 and 364 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure. Upon consideration of the Motion and any responses or opposition thereto, and upon further consideration of the arguments of counsel and the evidence presented at the preliminary hearing that took place before this Court on January 3, 2018 (the “Preliminary Hearing”), and the final hearing on the Motion that took place on January 30, 2018 (thee “Final Hearing”) the Court makes the following findings of fact and conclusions of law:

A. The Debtor, RMG (“Debtor”) is a corporate entity organized and existing under the laws of Virginia which commenced the within case by filing a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the U.S. Code, 11 U.S.C. §101 et seq. with the United States Bankruptcy Court for the Eastern District of Virginia on December 27, 2017 (the “Petition”).

B. This proceeding is a “core” proceeding over which this Court has jurisdiction pursuant to 28 U.S.C. §§157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§1408 and 1409.

C. The Court finds that sufficient and adequate notice of the Motion and the hearing with respect thereto has been given pursuant to Bankruptcy Rules 2002, 4001(c) and 9006, and as required by Bankruptcy Code Sections 102, 362 and 364 for the final relief provided herein.

D. The Debtor continues to manage its affairs and operates its business and properties as a Debtor-In-Possession.

E. As of the Final Hearing, no Committee of Unsecured Creditors or Chapter 11 Trustee had been appointed.

F. Prior to the filing of the voluntary petition for relief, the Debtor and Interstate Billing Service, Inc. (“IBS”) had been parties to a Recourse Client Accounts Receivable Financing Agreement for several years.

G. Pursuant to the terms of the Interim Order entered herein, IBS has continued funding the Debtor, but the Interim Order expired on its terms as of the date of the Final Hearing.

H. An immediate and critical need exists for the Debtor to obtain additional funds to continue the operation of the business. Without such funds, the Debtor and its estate will suffer

immediate and irreparable harm. For example, without such funds, the Debtor will not be able to pay payroll, fuel and other operating expenses needed to carry on its business. The Debtor's ability to finance its operation and the availability to it of sufficient working capital and liquidity through the use of cash collateral and the incurrence of post-petition financing is vital to the confidence of the Debtor's suppliers of goods and services, insurance carriers, to its customers and employees and to the preservation and maintenance of the going concern value of the Debtor's business.

I. Along with the filing of the Motion, the Debtor has filed a motion seeking the authority to use cash collateral (the "Cash Collateral Motion"); however, the Debtor requires post-petition date financing under Section 364 of the Bankruptcy Code, in addition to the authorization to use cash collateral.

J. IBS is willing, subject to Bankruptcy Court approval of the within Motion, to extend a factoring arrangement in accordance with the same or substantially similar terms, and which are not materially different from, those set forth in that certain Recourse Client Accounts Receivable Financing Agreement filed on January 2, 2018 in this case and reflected on Bankruptcy Court's case docket as entry number 11 (the "Financing Agreement").

K. On a final basis, the Court finds that based on the Debtor's Motion and other filings to date, and in light of the Debtor's current financial situation as evidenced by the filing of the voluntary petition for relief, the Debtor is unable to obtain an adequate unsecured revolving credit facility allowable under §503(b)(1) of the Bankruptcy Code to be treated as an administrative expense of the estate pursuant to §364(b) of the Bankruptcy Code. IBS has conditioned the financing upon the grant of the duly perfected security interest in the Collateral

(as defined herein), for which IBS shall have a senior post-petition lien on all accounts, accounts receivable, and Proceeds thereof, to the extent such accounts and accounts receivable were purchased or funded by IBS, as the term “Proceeds” is defined in that certain Intercreditor Agreement dated February 7, 2014 by and between the Debtor and Union Bank & Trust (collectively, the “Accounts and Proceeds”) and a post-petition lien against any other assets of the Debtor granted under the Financing Agreement to the same extent and priority as IBS’ lien existed on such collateral immediately prior to the filing of the Petition (the “Other Collateral,” and collectively with the Accounts and Proceeds, the “Collateral”).

L. This Order is subject to, and IBS is entitled to, on a final basis, the benefits of the provisions of §364(e) of the Bankruptcy Code.

M. Good cause has been shown for the entry of this Order. Among other things, the entry of this Order will help minimize disruption of the Debtor’s business and operations and permit the Debtor to meet payroll and other operating expenses, obtain fuel, retain customer and vendor confidence by demonstrating an ability to maintain normal business operations. The findings authorized by the Order are therefore in the best interest of the Debtor’s estate.

THEREFORE, WITH THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FORMING A PART OF THIS ORDER, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. The Motion is granted on a final basis, effective as of December 27, 2017.
2. The Debtor is hereby authorized to enter into a financing arrangement with IBS in accordance with the same or substantially similar terms as provided for, and which are not materially different from, the Financing Agreement (the “DIP Financing Agreement”) and to incur the indebtedness provided for therein, which the Debtor may utilize in accordance with this

Order and the DIP Financing Agreement (the “Post-Petition Debt”). The Post-Petition Debt, subject to the terms and conditions set forth in this Order and the DIP Financing Agreement, shall be used only for working capital, adequate protection and other loan payments to creditors and other expenses incurred in the ordinary course of the Debtor’s business, as well as fees to the United States Trustee.

3. The automatic stay provisions of 11 U.S.C. §362 are hereby vacated and modified to the extent necessary to permit the Debtor to execute and deliver to IBS such other agreements, instruments and documents as may be reasonably necessary or deemed appropriate by IBS in order to evidence or secure the DIP Financing Agreement or otherwise to effectuate the terms of the DIP Financing Agreement and this Order. The Debtor is authorized to enter into nonmaterial modifications and amendments to the DIP Financing Agreement without further Court order. Other modifications or amendments to the DIP Financing Agreement may be made only as agreed upon in writing between the Debtor, IBS, Union Bank & Trust (“Union”), People’s United Equipment Finance Corp. (“People’s United”), Madison Funding, Inc. (“Madison”), Commercial Credit Group, Inc. (“CCG”), and the Internal Revenue Service (“IRS”) (collectively “Secured Creditors”) or subject to further Court Order.

4. The obligations described in the DIP Financing Agreement are and shall be valid and binding obligations on the Debtor, enforceable against the Debtor and its estate in accordance with its terms. The Debtor is authorized and directed to comply with each and every one of its obligations under the DIP Financing Agreement without further Order of Court. The Debtor is authorized and directed to do and perform all acts, to make, execute and deliver the DIP Financing Agreement and all related instruments, agreements and documents, to pay all principal, interest, fees and other expenses as set forth in the DIP Financing Agreement, including IBS’s attorney’s fees and costs incurred in connection with entering into the DIP Financing Agreement.

5. As security for the Post-Petition Debt reflected by the DIP Financing Agreement, IBS is hereby granted, pursuant to § 364(d)(1) of the Bankruptcy Code a valid, first priority, binding enforceable and perfected security interest in and lien on the post-petition Accounts and Proceeds.

6. As security for the Post-Petition Debt reflected by the DIP Financing Agreement, IBS is hereby granted, pursuant to § 364(c)(3) of the Bankruptcy Code a valid binding enforceable and perfected security interest in and lien on the Other Collateral, to the same extent and priority as its lien existed on such collateral immediately prior to the filing of the Petition.

7. Pursuant to 364(d)(1) of the Bankruptcy Code, the security interest and liens granted herein and pursuant to the DIP Financing Agreement in the post-petition Accounts and Proceeds shall be a first and prior security interest and lien on the post-petition Accounts and Proceeds, with priority over all other present and future security interests and liens of every kind.

8. Adequate protection payments shall be made to the Secured Creditors in the amounts and under the terms provided for in the Cash Collateral Motion and the final Order granting such motion (the “Cash Collateral Order”).

9. The failure of the Debtor to make any payments due in accordance with this Order or the Cash Collateral Order, or the failure of the Debtor to otherwise comply with any of the requirements of the DIP Financing Agreement, the Secured Creditors applicable loan documents, this Order, or the Cash Collateral Order shall constitute a default under this Order (“Default”).

10. Upon the occurrence of a Default that is not cured within ten (10) days of receiving written notice of the existence of a Default: (i) the Debtor shall provide written notice of such Default to all Secured Creditors, IBS, the U.S. Trustee and file the notice with the Court within one business day following the expiration of the cure period; (ii) the Debtor shall immediately cease using all Cash Collateral, as such term is defined in the Cash Collateral Order; and (iii) the Debtor shall immediately stop using any financing which may be provided for under

this Order or any amended version thereof. Nothing contained in this Order or otherwise shall be construed to obligate IBS in any way to lend or advance any additional funds to the Debtor, or provide other financial accommodations to the Debtor upon or after the occurrence of a Default.

11. Should IBS in its sole discretion, from time to time, choose to file such financing statements, mortgages, notices of lien or similar instruments, or to take any other action to validate or perfect any such security interest, mortgage or lien, the Debtor and its officers are hereby authorized and directed to execute any such documents or instruments as IBS shall reasonably request in accordance with the terms of the DIP Financing Agreement and all such documents and instruments shall be deemed to have been filed or recorded at the time and on the date of entry of this Order. IBS may file financing statements, mortgages, notices of lien or similar instruments in any jurisdiction or filing office and the Court finds that the name "RMG Enterprises, LTD." is proper to identify the Debtor and is the right name to use for such filings.

12. A certified copy of this Order, in the discretion of IBS, may be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby directed to accept such a certified copy of this Order for filing and recording.

13. IBS shall not be deemed: (a) to be in control of the operations of the Debtor; (b) to be an "employer" of any of the Debtor's employees; or (c) to be acting as a "responsible person" or managing agent with respect to the operation or management of the Debtor, and IBS shall not have any liability to any third party as a result of actions taken by it pursuant to or in connection with the DIP Financing Agreement or this Order.

14. This order shall be binding upon and inure to the benefit of IBS and the Debtor and their respective successors and assigns, including without limitation, any chapter 11 or chapter 7 trustee hereinafter appointed, as applicable, as a representative of the Debtor's estate; provided, however, that IBS shall have no obligation to extend any financing to any chapter 7 or

chapter 11 trustee appointed for the estate of the Debtor.

15. The automatic stay imposed by virtue of § 362 of the Bankruptcy Code is hereby vacated and modified insofar as necessary to permit IBS to take any action authorized or contemplated by this order or the DIP Financing Agreement and to carry out the terms thereof, subject, however, to the satisfaction of any notice, procedural and other conditions contained in this order or the DIP Financing Agreement.

16. Debtor's obligations to IBS pursuant to the DIP Financing Agreement and this Order shall be paid in full at closing of any sale of Debtor's business.

17. IBS may seek further protection of its liens and security interests if IBS deems necessary in these or any superseding proceedings, to which the Debtor reserves all of its defenses.

18. The liens, security interests and other rights, benefits, protections and priorities granted to IBS under this Order and the DIP Financing Agreement shall survive any conversion or dismissal of this Chapter 11 case and shall remain in full force and effect notwithstanding any such conversion or dismissal or any order confirming a plan of reorganization of the Debtor.

19. In the event of any direct conflict between this Order and the terms of the DIP Financing Agreement, this Order shall govern and control.

20. Nothing herein constitutes a waiver by IBS of any right it may have to oppose or object to any plan of reorganization, to challenge any impairment of its claim, its security interests in the Collateral, and incident thereto to introduce such evidence of its claim, lien and security interests and the value of its Collateral as may be appropriate under the circumstances.

21. Debtor shall execute and deliver to IBS any and all further agreements, instruments and documents which may be reasonably necessary to effectuate the purposes of the DIP Financing Agreement.

22. The entry and enforcement of this Order is specifically conditioned on the entry

of the Cash Collateral Order and in the absence of the entry of such order this Order shall have no force or effect.

23. Unless specifically addressed in this Order, this Order shall preserve each and every party's rights against any other party.

24. This Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon entry hereof.

Dated: Feb 5 2018

SO ORDERED:
/s/ Keith L. Phillips

Keith L. Phillips, Judge
United States Bankruptcy Court

I ASK FOR THIS:

Entered on Docket: Feb 5 2018

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SEEN AND AGREED:

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SEEN:

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(Interstate Billing Service, Inc. gave approval to the terms of the order by e-mail to Robert B. Easterling from its in-house counsel, Ann Collins Mockbee. Interstate Billing Service, Inc. was acting without local counsel.)

/s/Robert B. Easterling
Robert B. Easterling

CERTIFICATION OF ENDORSEMENT
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/Robert B. Easterling
Robert B. Easterling