

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
NWL HOLDINGS, INC., et al.,¹)	Case No. 08-____()
)	
Debtors.)	Joint Administration Pending

**DECLARATION OF MICHAEL P. GOLD
IN SUPPORT OF INITIAL REQUESTS FOR RELIEF**

I, Michael P. Gold, hereby declare, under penalty of perjury, that the following information is true to the best of my knowledge, information and belief.

1. I am the Chief Financial Officer of NWL Holdings, Inc., a New York corporation (“NWL”), and shareholder and/or managing member of each of the other entities identified in Footnote 1 hereof (collectively, the “Debtors”) that have contemporaneously filed related voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) in this Court. As Chief Financial Officer, my current duties for the Debtors include responsibility, together with the Chairman and Chief Executive

¹ The Debtors are the following entities: NWL Holdings, Inc.; National Wholesale Liquidators, Inc.; National Wholesale Liquidators of Spring Valley, Inc.; 632 Broadway Variety Store, Inc.; Nanuet Wholesale Liquidators, Inc.; National Wholesale Liquidators of West Hempstead; National Wholesale Liquidators of Kissena Center, Inc.; National Wholesale Distributors, Inc.; National Wholesale Liquidators of Bethpage, Inc.; National Wholesale Liquidators of Baldwin, Inc.; National Wholesale Liquidators of Farmingdale, Inc.; National Wholesale Liquidators of Middleton, Inc.; National Wholesale Liquidators of Linden, Inc.; National Wholesale Liquidators of Newark, Inc.; National Wholesale Liquidators of Philadelphia, Inc.; National Wholesale Liquidators of Cottman, LLC; National Wholesale Liquidators of Patterson, LLC; National Wholesale Liquidators of Glenolden, LLC; National Wholesale Liquidators of Hempstead, Inc.; National Wholesale Liquidators of Brooklyn, Inc.; National Wholesale Liquidators of Yonkers, Inc.; National Wholesale Liquidators of Staten Island, Inc.; NWL Buying, Inc.; National Wholesale Liquidators of Kissena Center 2, Inc.; NWL of East Haven, Inc.; NWL of Babylon, Inc.; NWL of Co-op City, Inc.; NWL of Nanuet, Inc.; NWL of Bay Parkway, Inc.; NWL of Langley Park, Inc.; NWL of Reistertown, Inc.; National Wholesale Liquidators of Union, Inc.; National Wholesale Liquidators of Bridgeport, Inc.; National Wholesale Liquidators of Cherry Hill, Inc.; National Wholesale RX, Inc.; NWL Management, Inc.; National Wholesale Liquidators of Jersey City, Inc.; National Wholesale Liquidators of Orange, Inc.; NWL of Green Acres, Inc.; NWL of Edison, Inc.; NWL of Northern Blvd., Inc.; NWL of Benning Road, Inc.; NWL of Hunting Park, Inc.; NWL of District Heights, Inc.; NWL of New Castle, Inc.; NWL of RI Ave, Inc.; NWL of Dorchester, Inc.; NWL of Reading, Inc.; NWL of Upper Darby, Inc.; NWL of Dekalb, Inc.; NWL of New Carrollton, Inc.; NWL of Cranston, Inc.; NWL of Fall River, Inc.; NWL of Oregon Ave., Inc.; NWL of Northland, Inc.; NWL of Bel Air, Inc.; NWL of Aramingo, Inc.; NWL of Evergreen, Inc.; NWL of South Orange, Inc.; NWL of Cermak, Inc.; NWL of Revere, Inc.; NWL of Catonsville, Inc.; and NWL of North Bergen, Inc.

Officer, other members of the Debtors' operating management and the Board of Directors, for overseeing all of the Debtors' business and operational affairs, including, but not limited to, preparation and implementation of business plans and strategies, leading the Debtors' efforts at obtaining debtor in possession financing, participating in the negotiations concerning the Debtors' financial restructuring activities and the implementation thereof, and providing advice concerning the management of the Debtors' properties and issues concerning the Debtors' management, agents and employees. In my capacities with the Debtors, I have also been actively involved in the Debtors' efforts to obtain new capital and otherwise preserve and maximize the value of their assets, with the assistance of other employees of the Debtors, the Debtors' outside legal counsel and financial consultants, and members of the Debtors' Board of Directors and equity holders. I am authorized by the Debtors to submit this Affidavit. In that capacity, I am familiar with the Debtors' operations, business records, financial affairs and related agreements and contracts.

2. Except as otherwise indicated, all facts set forth in this Declaration are offered to the best of my knowledge, information and belief, and are based upon my personal knowledge, my review of relevant documents, information provided to me by the Debtors' management or professionals working with me or under my supervision, or my informed opinion based upon my experience and knowledge of the Debtors' industry, operations and financial condition. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this Declaration on behalf of the Debtors.

3. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of Bankruptcy Code. To enable the Debtors to operate effectively and preserve the value of estate assets, the Debtors have requested various types of

relief in “first-day” applications and motions filed with this Court contemporaneously herewith (collectively, the “First Day Pleadings”).

4. I submit this Declaration in support of the First Day Pleadings. Any capitalized term not defined herein shall have the meaning ascribed to such term in the relevant First Day Pleading. The First Day Pleadings seek, among other things, to: (a) ensure the continuation of the Debtors’ cash management systems and other business operations without interruption; (b) preserve customer and vendor relationships; (c) maintain employee morale and confidence; and (d) establish certain other administrative procedures to promote a smooth transition into chapter 11. Gaining and maintaining the support of the Debtors’ employees, customers, vendors, and other key constituencies, as well as maintaining the day-to-day operations of the Debtors’ business with minimal disruption, will be critical to the Debtors’ reorganization efforts and in maximizing recovery prospects for all interested constituencies.

5. Part I of this Declaration describes the Debtors’ business and the circumstances surrounding the filing of the chapter 11 petitions. Part II sets forth the relevant facts in support of the First Day Pleadings. Part III concludes that the relief requested in the First Day Pleadings is in the best interests of the Debtors, their creditors and estates and therefore should be granted.

PART I

BACKGROUND

A. General Background

6. Founded in 1984 with the opening of its first store in Rosedale, NY, the Debtors currently operate a leading chain of general merchandise close-out stores located across 10 states and the District of Columbia in the Northeast and Mid-Atlantic regions of the United States

(collectively, the “Stores”). The Stores, which operate under the name “National Wholesale Liquidators,” are targeted to lower and lower/middle income customers in densely populated urban and suburban markets. The Debtors employ a unique hybrid merchandising strategy that employs both continuity and close-out products. The Debtors offer customers both an everyday selection of first quality, brand name merchandise and opportunistic and varying special buys. The Debtors maintain relationships with over 1500 domestic-based vendors, with any average life of more than 10 years, and with many of their relationships dating back to their inception.

7. The Debtors’ average Store size is 54,000 square feet, with their largest Store sized at more than 150,000 square feet. The Debtors also maintain warehouse and distribution facilities in Edison, New Jersey and Kingston, Pennsylvania, as well as corporate offices in West Hempstead, New York. Prior to the Filing Date, the Debtors began the process of discontinuing operations at 5 underperforming Store locations through company managed store closing sales, which store closures are intended to be completed on or before December 31, 2008.

8. As of the Petition Date, the Debtors employed 1,948 persons in the aggregate. Of the Debtors’ 1,948 employees, 1,475 are employed on a full time basis; while 473 are employed part time. Compensation to the Debtors’ employees is provided as follows: 1,662 of the Debtors’ employees are compensated on an hourly basis and 286 employees are compensated on annual salary basis. In addition, many of the Debtors’ store-level and distribution center employees are unionized (the “Union Employees”). The Union Employees’ terms of employment are governed in part by the terms of a certain Collective Bargaining Agreement with Amalgamated Local 298 AFL-CIO dated as of October 1, 2007 (the “CBA”).

9. In 1998, private equity investment firm Madison Dearborn Partners acquired approximately 60% equity stake in the Debtors, and since that time the Debtors have shown

consistent revenue and margin growth. In addition, the Debtors have enjoyed sustained profitability since their inception.

10. Starting in the Fall of 2007, the Debtors' financial performance has been significantly negatively impacted by the challenging macro-economic environment. The combination of an uncertain economy, rising gas and food prices, increased interest rates, and increased unemployment have reduced customers' disposable income, which has resulted in a corresponding reduction in both shopping frequency and transaction value.

11. In addition, in the first half of 2008, the Debtors were also negatively impacted by reduced working capital availability, which in turn resulted in lower than projected inventory levels in key product categories, thus negatively impacting sale volume. More specifically, in 2008 the Debtors' senior secured revolving lenders have significantly reduced their lending rate as a percentage of the Debtors' inventory value, increased ineligible inventory reserves, introduced a monthly borrowing base "block" (beginning at \$500,000 in /May 2008, and increasing to \$3 million in October 2008 and beyond). These revised lending terms in effect have mandated a paydown of the revolver debt, at the expense of sorely needed liquidity with which to meet ordinary course operating expenses and for inventory purchases. Most recently, in the weeks leading up to the Filing Date, the lenders further significantly reduced the Debtors' inventory advance rates, thus resulting in the Debtors being in an overadvance position overnight.

12. Management has been actively managing the business and expense structure in response to its steadily declining liquidity position. In that connection, overall expenses have been reduced to better match current performance and the evolving retail environment, merchandising strategies have been revised to address current working capital constraints and

changing consumer needs, and the store base has been reevaluated to remove the least productive stores from operations. Despite these significant steps, management has concluded that in order to survive in this difficult retail environment, a revised debt structure, including a new revolving credit facility coupled with a new capital infusion, will be necessary in order to enable the Debtors to achieve a greater in-stock position in key merchandise categories and compete effectively. In that connection, beginning as early as December 2006 NWL Holdings, together with its direct and indirect subsidiaries, entered into an agreement (the "Initial Engagement Agreement") under which they engaged Financo, Inc. as their investment banker to assist in connection with a potential sale of the business. Despite the best commercially reasonable efforts of the Debtors and Financo leading up to the Petition Date, a sale transaction was not consummated. On October 28, 2008, the Debtors and Financo entered into a further engagement letter (the "Engagement Letter"), which amended, restated and replaced the Initial Engagement Agreement. However, in this extremely difficult credit market, the Debtors have thus far been unsuccessful in obtaining either the desired capital infusion, sale, or replacement credit facility to provide the necessary liquidity.

13. The Debtors therefore have commenced these chapter 11 cases in order to obtain the financial flexibility to pursue on an expedited basis a transaction to maximize value either through a potential sale of, or investment in, its business as a going concern or, if an investor or a purchaser of substantially all or a portion of its assets is not located, to conduct an orderly liquidation of any remaining assets through a going out of business sale. The Debtors will pursue their options in a quick and orderly manner and ensure that they preserve the value of their assets and maximize the available recovery to their stakeholders. The Debtors remain cautiously optimistic that with additional needed resources they could reap the benefits of

initiatives that have already reduced costs and created a foundation from which a going concern may be preserved. At the same time, however, the Debtors recognize that it is possible that the interests of their creditors will be best served through a wind down of their business through an orderly liquidation. While the Debtors are pursuing their options in chapter 11, it is imperative that they maintain employee, customer and other relationships to ensure that the value of their estates is maximized.

C. Pre-Petition Debt Structure

(i) Revolving Credit Facility

14. Pursuant to that certain Credit Agreement, dated as of August 26, 2005 (as same may have been amended, modified, or supplemented and in effect from time to time, the “Prepetition Credit Facility”) the Debtors, as borrowers, obtained a senior, secured revolving credit and letter of credit financing from General Electric Capital Corporation, as agent, letter of credit issuer and lender (“Agent”), and the other syndicate lenders thereto (collectively, the “Prepetition Lenders”).

15. The Prepetition Credit Facility consists of, among other things, a \$85 million revolving credit facility (the “Prepetition Revolver”), as well as a letter of credit sub-facility of \$15 million. The Prepetition Credit Facility had an initial two-year term ending on July 10, 2007, which date has since been extended to February 28, 2009 (pursuant to that certain Waiver and Amendment No. 6, dated as of May 6, 2008). Borrowings under the Prepetition Revolver bear interest at an annual rate equal to the sum of the product of a variable “Index Rate” plus the “Applicable Margin” (which margin rate varies whether Advances are Index Rate Loans or LIBOR Loans), as most recently announced by Agent from time to time. Currently, the Debtors are paying interest at the default rate (i.e., 2% greater than standard non-default interest rates

otherwise applicable under the Prepetition Credit Facility. As of the commencement of this chapter 11 case, approximately \$65,942,667.27 was outstanding under the Prepetition Credit Facility, plus \$813,354.00 in respect of outstanding letters of credit.

16. To secure repayment of the indebtedness under the Prepetition Credit Facility, the Debtors granted to the Agent, as collateral agent for the Prepetition Lenders, liens on and security interests in substantially all of their assets, including, without limitation, all inventory, accounts receivable, general intangibles, intellectual property, machinery, equipment, furniture, fixtures, etc. (collectively, the "Prepetition Collateral").

(ii) **Junior Term Loan Facility**

17. Prior to the Filing Date, the Debtors entered into a certain term credit facility (the "Term Loan Facility") pursuant to (A)) a certain Second Lien Credit Agreement, dated as of August 26, 2005 with HBK Investments, L.P., as lender (the "Term Lender"); and (B) all other agreements, documents, and instruments executed and/or delivered with, to, or in favor of the Term Lender, including, without limitation, the promissory notes, security agreements, UCC financing statements, and all other related agreements, documents, and instruments executed and/or delivered in connection therewith or related thereto (collectively, as it has been amended, modified, or supplemented and in effect from time to time, the "Term Loan Credit Agreement"). As of the Petition Date, the Debtors were indebted under the Term Loan Credit Agreement in the principal amount of \$15,000,000, plus interest (accrued and accruing), costs, expenses, fees (including attorneys' fees and legal expenses), other charges and other obligations (collectively the "Term Loan Debt").

18. To secure repayment of the Term Loan Debt, the Debtors granted to the Term Lender liens on and security interests in substantially all of their assets, including, without

limitation, all inventory, accounts receivable, general intangibles, intellectual property, machinery, equipment, furniture, fixtures, etc.

19. Prior to the Petition Date, the Prepetition Lenders, the Term Lender and the Debtors entered into a certain Intercreditor and Lien Subordination Agreement dated as of August 26, 2005 (as same may have been amended or modified, the "Intercreditor Agreement"). The Intercreditor Agreement, among other things, contains provisions governing the relative priorities of the respective liens and security interests of the Prepetition Lenders and the Term Lender in the Prepetition Collateral, and the respective rights of those parties in connection with the exercise of remedies with respect to such collateral. In general, and as more fully set forth therein, the Intercreditor Agreement provides that the liens and security interests of the Prepetition Lenders in the Prepetition Collateral (and in the proceeds thereof) shall be prior and superior to the liens and security interests of the Term Lender therein.

PART II

FIRST DAY PLEADINGS

20. An important (and in many respects critical) element of the success of these chapter 11 cases will be the entry of orders granting the relief requested in each of the First Day Pleadings. Generally, the First Day Pleadings are designed to facilitate: (a) the continuation of the Debtors' existing cash management systems and other business operations without interruption; (b) preservation of customer and vendor relationships; (c) maintenance of employee morale and confidence; and (d) establishment of certain other administrative procedures to promote a smooth transition into chapter 11. The relief requested in the First Day Pleadings is necessary to avoid immediate and irreparable harm to the Debtors, and consequently, Rule 6003

of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the extent applicable to any particular First Day Pleading, has been satisfied. The factual background in support of each First Day Pleading is provided below:

A. Motion of the Debtors for an Order Providing for the Joint Administration of Chapter 11 cases (the “Joint Administration Motion”)

21. In the Joint Administration Motion, the Debtors seek the joint administration of their chapter 11 cases for procedural purposes only. The Debtors are affiliates as defined in section 101(2)(A) and (B) of the Bankruptcy Code.

22. Joint administration of the Debtors’ cases will promote economical, efficient, and convenient administration of the Debtors’ estates because there will likely be numerous motions, applications, and other pleadings filed in this chapter 11 cases that will affect all Debtors.

23. The proposed joint administration order also will save time and money and avoid duplicative and potentially confusing filings by permitting counsel for all parties-in-interest to: (a) use a single caption on the numerous documents that will be served and filed herein; and (b) file the papers in one case rather than in multiple cases.

24. Furthermore, joint administration of the Debtors’ chapter 11 cases will permit the Clerk of the Court to use a single general docket for each of the Debtors’ cases and to combine notices to creditors and other parties-in-interest of the Debtors’ respective estates.

25. Allowing joint administration will significantly reduce the volume of pleadings that otherwise would be filed with the Clerk of this Court, render the completion of various administrative tasks less costly and minimize the number of unnecessary delays. The relief requested by the Joint Administration Motion will also simplify supervision of the administrative aspects of these cases by the Office of the United States Trustee.

26. Finally, joint administration will protect parties-in-interest by ensuring that parties in each of the Debtors' chapter 11 cases will be apprised of the various matters before the Court in these cases.

27. For the foregoing reasons, the Joint Administration Motion should be granted.

B. Debtors' Motion for an Order Appointing Epiq Bankruptcy Solutions, LLC as the Official Claims and Noticing Agent and to Provide Other Essential Services to the Estates (the "Epiq Retention Application")

28. In the Epiq Retention Application, the Debtors seek the appointment of Epiq ("Epiq") as the Debtors' notice, claims and balloting agent. As more fully set forth in the Affidavit of Daniel C. McElhinney attached to the Epiq Retention Application, Epiq and the Debtors have entered into a Standard Bankruptcy Services Agreement (the "Services Agreement"). Pursuant to the Services Agreement, Epiq will act as the notice, claims and balloting agent in these cases. As notice, claims and balloting agent, Epiq will provide comprehensive administrative-support services to the Court, the Debtors, and other parties in interest in these chapter 11 cases. These services include, but are not limited to: (a) maintaining the list of the Debtors' creditors; (b) serving required notices in these chapter 11 cases; (c) preparing related certificates or affidavits of service; (d) processing the receipt, docketing, maintenance, recordation and transmittal of proofs of claim in these chapter 11 cases; and (e) facilitating the Debtors' compliance with their reporting duties.

29. The specified assistance from Epiq will expedite service of required notices, streamline the claims administration process, and permit the Debtors to focus on their reorganization efforts. Accordingly, the Epiq Retention Application should be granted.

C. Debtors' Motion for an Order Extending the Time Within Which the Debtors Must File Their (A) Schedules of Assets and Liabilities, (B) Schedules of Executory Contracts and Unexpired Leases, and (C) Statements Of Financial Affairs (the "Schedule Extension Motion")

30. In the Schedule Extension Motion, the Debtors seek an additional 15 day extension of the deadline by which they must file their schedules of assets and liabilities, schedule of executory contracts and unexpired leases and statement of financial affairs (collectively, the "Schedules"). The Debtors have filed a list of creditors, which reflects that the total number of the Debtors' creditors far exceeds 1000. Accordingly, pursuant to the Local Rules, the Debtors' deadline to file the Schedules is automatically extended to 30 days from the Petition Date.

31. Given the size and complexity of the Debtors' business, a significant amount of information must be accumulated, reviewed and analyzed in order to properly prepare the Schedules. Due to the distractions associated with the accelerated sale process that will dominate the Debtors', and their retained professionals', time and energy during the first 30 days of these cases, it is unlikely that the Schedules will be completed within the first 30 days.

32. Thus, while the Debtors have initiated the major task of assembling the data necessary for the Schedules, they will not be able to complete this undertaking within 30 days from the Petition Date.

33. In light of the circumstances outlined above, the Court should grant the relief requested in the Schedule Extension Motion and authorize an additional 15 day extension of the deadline by which the Debtors must file their Schedules.

D. Debtors' Motion for Entry of an Order (I) Approving the Continued Use of Their (A) Cash Management System, (B) Existing Bank Accounts, and (C) Existing Business Forms and Checks; and (II) Extending Time to Come Into Compliance With the Requirements of Section 345 (B) of the Bankruptcy Code (the "Cash Management Motion")

34. In the Cash Management Motion, the Debtors seek authority to maintain existing bank accounts, to continue to use existing business forms, to continue to use certain existing cash management systems (the "Cash Management System"). The Cash Management System will provide an efficient means of moving funds through the Debtors' corporate structure as needed.

35. Prior to the Petition Date, the Debtors' Cash Management System operated in the manner described in the Cash Management Motion.

36. The Debtors seek authority to use the Cash Management System. Given the size and complexities of the Debtors' operations, as well as the need to preserve and enhance the value of their operations and assets, a successful chapter 11 case simply cannot be accomplished if there is substantial disruption in the Debtors' Cash Management System. Moreover, the Cash Management System includes the accounting controls necessary to enable the Debtors, their creditors, and this Court to accurately trace funds through the Cash Management System.

37. The United States Trustee for this region has established certain operating guidelines for debtors-in-possession in order to supervise the administration of chapter 11 cases. These guidelines require chapter 11 debtors to, among other things, close all existing bank accounts and open debtor-in-possession accounts at authorized depositories (or obtain a bond or deposit of securities from a non-authorized depository) and obtain checks for all such debtor-in-possession accounts that bear the designation "debtor-in-possession" and the bankruptcy case number.

38. To avoid substantial disruption to the normal operation of their business and to preserve a “business as usual” atmosphere with respect to cash management function, as part of its request to maintain its Cash Management System the Debtors hereby also request permission to continue to use their Bank Accounts.

39. As part of the requested relief, the Debtors also seek a waiver of the requirement to establish specific bank accounts for tax payments. The Debtors believe that tax obligations can be paid most efficiently out of the existing Bank Accounts, that the U.S. Trustee can adequately monitor the flow of funds into, among and out of the Bank Accounts, and that the creation of new debtor-in-possession accounts designated solely for tax obligations would be unnecessary and inefficient.

40. In the Cash Management Motion, the Debtors also request authorization to continue to use their Business Forms substantially as such forms exist immediately before the Petition Date, without reference to their status as debtors in possession and the corresponding bankruptcy case number; provided, however, that any checks ordered post petition shall contain the designation of “Debtor in Possession” as required by Rule 2015-2 of the Local Rules. Such authorization will prevent an unnecessary disruption to the Debtors’ business.

41. The Debtors also seek an extension of sixty (60) days of the time to comply with section 345(b) of the Bankruptcy Code permitting the Debtors to maintain their Bank Accounts without the need to post a bond or other security to the extent that, at any given time, funds are deposited in its Bank Accounts in excess of the limits of section 345.

42. For the foregoing reasons, the Court should grant the relief requested in the Cash Management Motion and authorize the Debtors’ continued use of their existing Cash Management System.

E. Debtors' Motion for an Order Authorizing Debtors' (I) Payment of Prepetition Wages, Salaries and Employee Benefits; (II) Reimbursement of Employee Business Expenses; and (III) Payment of Other Employee-Related Amounts (the "Employee Wage Motion")

43. In the Employee Wage Motion, the Debtors seek entry of an order (a) authorizing, but not directing, the Debtors to: (i) pay accrued pre-petition wages, salaries, employee benefits and other accrued compensation of Employees (as defined below), (ii) permit Employees to use accrued pre-petition vacation time, (iii) pay Employees' pre-petition reimbursable business expenses, (iv) make accrued pre-petition contributions to Employee benefit plans, and (v) continue certain Employee benefit plans post-petition; (b) authorizing, but not directing, the release of withheld taxes and Employee contributions; and (c) authorizing, but not directing, the payment of certain other Employee-related amounts.

44. As noted above, as of the Petition Date the Debtors employed 1,948 persons in the aggregate. Of the Debtors' 1,948 employees, 1,475 are employed on a full time basis; while 473 are employed part time. In addition, nearly all of the Debtors' store-level and distribution center employees are unionized (collectively, the "Employees"). The Employees perform a variety of critical functions for the Debtors' businesses, and the Employees' skills and their specialized knowledge and understanding of the Debtors' infrastructure and operations, as well as their relationships with customers, vendors, and other third-parties, are essential to the Debtors' continuing operations and to their chapter 11 strategy. The continued and uninterrupted service of the Employees is critical to any of the Debtors' restructuring alternatives.

45. To minimize the personal hardship that the Employees will suffer if pre-petition, employee-related obligations are not paid when due or as expected, and to maintain morale and enhance the Debtors' ability to retain Employees, the Debtors seek authority, in their sole discretion, to pay and honor certain pre-petition claims for, among other items, wages, salaries,

commissions and other compensation, other amounts withheld (e.g., garnishments, employee share of insurance premiums, 401(k) contributions), insurance benefits and all other employee benefits that the Debtors historically paid or honored in the ordinary course of business to Employees and to pay all costs incident to the foregoing. The Debtors also seek authority, in their discretion, to pay reimbursable business expenses of Employees.

46. In addition, the Debtors seek confirmation that they are permitted to pay any and all local, state, and federal withholding and payroll-related taxes relating to pre-petition periods.

(a) Pre-Petition Wages

47. In the ordinary course of its business, the Debtors issue payroll checks to their employees on a weekly basis. The Debtors standard pay period ends on Sunday, and is processed by the Debtors through Automatic Data Processing, Inc. (“ADP”). ADP calculates the amounts owed to each employee and delivers the employees’ payroll checks to the Debtors. The Debtors then distribute payroll checks to employees on the Friday following the end of a pay period. The aggregate monthly payroll to current employees is approximately \$4,100,000. This number varies based on, among other things, amounts due to hourly employees entitled to overtime and the amount of any manager/sales bonuses earned that month. The aggregate weekly payroll during the first pay period of the month is approximately \$950,000.00.

48. The Debtors believe that as of the Petition Date, less than \$950,000 in accrued pre-petition wages, salaries and bonuses was earned by current employees but unpaid, together with associated payroll and withholding taxes (collectively, the “Unpaid Compensation”). To the best of the Debtors’ knowledge, no employee is owed Unpaid Compensation in excess of the \$10,950 per employee priority claim limit imposed by section 507(a)(4) of the Bankruptcy Code.

The Debtors are not requesting and do not propose to pay any employee prepetition compensation above the \$10,950 limit pursuant to this Motion.

49. Items of Unpaid Compensation were due and owing on the Petition Date because,

inter alia:

- (i) the Chapter 11 Cases were filed in the midst of the Debtors' regular and customary salary and hourly wage payroll periods;
- (ii) some payroll checks issued to employees prior to the Petition Date may not have been presented for payment or cleared the banking system and therefore not honored and paid as of Petition Date; and
- (iii) employees have not yet been paid all of their salaries and wages for services previously performed on behalf of the Debtors.

50. Accordingly, the Debtors seek the authority, but not the requirement, to pay any Unpaid Compensation that is due and owing as of the Petition Date.

(b) Medical Benefits

51. The Debtors currently maintain and provide to their full-time employees an opportunity to participate in certain group health insurance plans. Specifically, the Debtors provide medical benefits to their employees under 4 separate health plans (collectively, the "Medical Benefits").

52. First, the Debtors maintain a plan, typically used by senior executives, which is managed by Oxford (the "Oxford Plan"). Second, the Debtors offer Union Employees a PPO plan (the "Union PPO"), which is administered by Local 298 (the "Local 298 Health Benefit Plan"). Third, the Debtors offer a company PPO plan (the "Company PPO"), which is managed by Horizon Blue Cross Blue Shield, and available to non-union, full-time employees. Fourth, the Debtors offer an ASO plan (the "ASO Plan"), which is managed by Empire Blue Cross Blue Shield, and available to full-time employees.

53. The Medical Benefits represent an integral component of each employee's employment, and without these benefits, the Debtors believe they would be unable to retain their personnel. Therefore, the Debtors seek authorization to pay any amounts relating to the Medical Benefits, including any claims in connection therewith, insofar as such claims or amounts due relate to the prepetition period.

54. In addition to the foregoing benefits, the Debtors provide a multitude of additional employee benefits to the Employees, including the following: a 401(k) plan for employees that have worked for the Debtors for at least 12 months; dental plan; workers' compensation benefits; life insurance benefits; and long term disability. The Debtors also periodically reimburse Employees for the usual and customary out-of-pocket business-related expenses.

55. The Debtors believe that if they do not pay these Employee obligations, some or all of the affected employees may suffer serious personal hardships, which in turn would cause them to seek other employment and/or no longer make their services available to the Debtors. Given the importance of the employees to the Debtors' operations, any significant loss of their services would severely hamper the operation and management of the Debtors' business and increase the costs to administer these Chapter 11 Cases.

56. The Employees are essential to the Debtors' operations. Without the continued and uninterrupted service of the Employees, the Debtors would be unable to continue operating and implement their restructuring plan. The continued performance of the Employees is necessary to sustain the Debtors' business operations, thus it is essential that the Debtors be authorized to make payments on account of pre-petition amounts due to such Employees.

Accordingly, the "necessity of payment" doctrine authorizes the Debtors to pay the amounts they seek pursuant to the Employee Wage Motion.

57. The Employees will be exposed to significant financial and health-related problems if the Debtors are not permitted to satisfy unpaid Employee obligations, particularly unpaid compensation, medical and dental benefits, and reimbursable expenses. Moreover, the Debtors believe that if they are unable to honor their Employee obligations, Employee morale and loyalty will be jeopardized at a time when Employee support is critical.

58. For all of the foregoing reasons, the Employee Wage Motion should be granted.

F. Motion of the Debtors for an Order (I) Authorizing the Debtors to Honor or Pay Certain Prepetition Obligations to their Customers in the Ordinary Course of Business and (II) Granting Certain Related Relief (the "Customer Programs Motion")

59. In the Customer Programs Motion, the Debtors seek entry of an order authorizing, but not requiring, the Debtors to honor certain pre-petition obligations to customers and to otherwise continue customer programs and practices in the ordinary course of business.

60. To support their sales efforts, the Debtors, in the ordinary course of their business, engage in marketing and sales practices that are designed to develop and sustain positive reputations for the Debtors' for its products in the marketplace and ensure customer satisfaction and loyalty. These customer-targeted practices (collectively, the "Customer Programs" or the "Customer Obligations") include, but are not limited to, the following:

- a. **Gift Cards.** In an effort to increase sales, the Debtors issue gift cards (the “Gift Cards”). Gift Cards are purchased for future use. The use of Gift Cards enhances the Debtors’ goodwill and customer loyalty. Prior to the Petition Date, the Debtors ceased selling Gift Cards. However, the Debtors maintain existing obligations in connection with Gift Cards previously sold.
- b. **Return Policies.** To accommodate their customers’ needs, and consistent with industry practices, the Debtors traditionally have maintained return, refund and exchange policies (the “Return Policies”) with respect to both cash and credit purchases. In a majority of transactions, the Debtors will issue Gift Cards in connection with a return. The Return Policies provide the Debtors’ customers with comfort that they will be able to return merchandise if, for example, the merchandise purchased is damaged or defective.
- c. **Credits.** The Debtors utilize various practices and procedures that are designed to attract new customers for the Debtors’ products and to enhance product loyalty among the Debtors’ existing customer base. The Debtors’ account structure allows for credits to a customer (collectively, the “Credits”), typically in the form of a Gift Card. Credits are given to customers for various reasons such as price adjustments, partial refunds or to compensate a customer for a product deficiency. As of the Petition Date, the Debtors may owe Credits to various customers on account of goods provided to customers pre-petition.
- d. **Warranty Programs.** The Debtors have existing obligations arising under warranty programs to replace goods sold prior to the Petition Date that are defective, nonconforming or otherwise unacceptable to the Debtors’ customers (collectively, the “Warranty Programs”). Prior to the Petition Date, the Debtors ceased entering into new Warranty Programs. However, the Debtors maintain obligations in connection with existing Warranty Programs.
- e. **Employee Discount.** Pursuant to the Debtors’ policies, each of the Debtors’ employees are provided with a discount two times a week on point of sale purchases made in the Debtors’ stores.
- f. **Debtors’ Coupons.** The Debtors, from time to time, offer discount coupons in the ordinary course to promote merchandise and increase store activity (collectively, the “Debtors’ Coupons”). The Debtors’ use of the Debtors’ Coupons enhances goodwill and customer loyalty.
- g. **Additional Customer Programs.** The Debtors also offer additional Customer Programs, including, but not limited to, a 15% one-time customer discount in connection with customers’ use of the Debtors’

private label credit card. These additional programs are designed to enhance product loyalty among the Debtors' existing customer base and to attract new customers.

61. The success and viability of the Debtors' business are dependent upon the loyalty and confidence of its customers. The continued support of this constituency is absolutely essential to the survival of the Debtors' business, the preservation of the value of their estate and the Debtors' ability to market the business for sale or investment. Customer relations, loyalty and support are extremely critical and value maximizing. By contrast, if the Debtors determine, in their sole discretion, to honor these pre-petition obligations, it will require minimal expenditure of estate funds and will assist the Debtors in preserving key customer relationships and enhance the Debtors' overall value.

62. Accordingly, to preserve the value of the estates, the Debtors request authorization, in the Debtors' sole discretion, to continue honoring and/or paying all Customer Obligations without interruption or modification. In addition, to provide necessary assurances to the Debtors' customers on a going-forward basis, the Debtors request authority, in their discretion, to continue honoring or paying all obligations to customers that arise from and after the Petition Date in the ordinary course of the Debtors' business as appropriate under the circumstances.

63. For all the foregoing reasons, the Customer Programs Motion should be granted.

G. Debtors' Motion for Interim and Final Orders (I) Prohibiting Utilities From Altering, Refusing Or Discontinuing Services To, Or Discriminating Against, The Debtors; (II) Determining That The Utilities Are Adequately Assured Of Future Payment; (III) Establishing Procedures For Determining Requests For Additional Assurance; And (IV) Permitting Utility Companies To Opt Out Of The Procedures Established Herein (the "Utilities Motion")

64. In the Utilities Motion, the Debtors seek entry of an order: (i) prohibiting the utility companies currently providing services, or that will provide services, to the Debtors

(collectively, the “Utility Companies” and each, individually, a “Utility Company”) from altering, refusing or discontinuing services to, or discriminating against, the Debtors, pending entry of a final order granting the relief sought herein (the “Final Order”); (ii) determining that the Utility Companies have received adequate assurance of payment for future utility services, pending entry of the Final Order; (iii) establishing certain procedures for determining requests for additional assurance; (iv) permitting Utility Companies to opt out of the procedures established herein; and (v) scheduling a final hearing on the Motion (the “Final Hearing”) within 25 days of the Petition Date.

65. In the ordinary course of business, the Debtors currently use electric, natural gas, heat, water, sewer, telecommunications and other services of the same general type or nature provided by approximately 70 Utility Companies. The Utility Companies provide services to the Debtors through approximately 405 accounts (including agents, divisions, affiliates and subsidiaries). A list of the Debtors’ Utility Companies is set forth on Exhibit “A” to the Utilities Motion. The Debtors’ aggregate average monthly cost for utility services is approximately \$800,000, exclusive of utility related amounts that are an embedded component of rents.

66. The Debtors have a long and established payment history with most or all of the Utility Providers indicating generally consistent payment for utility service. As of the Petition Date, however, the Debtors may have had (a) pre-Petition Date accounts payable to certain Utility Providers, (b) outstanding checks issued to certain Utility Providers in payment for pre-Petition Date charges for utility services that had not cleared the Debtors’ bank account prior to the Petition Date, or (c) liabilities for pre-Petition Date utility services for which the Debtors had not yet been billed.

67. It is critical that the Utility Services provided by all of the Utility Providers to the Debtors continue uninterrupted.

68. The Debtors intend to pay all postpetition obligations to the Utility Providers in a timely manner. In the Utilities Motion, the Debtors propose to provide all Utility Companies (excluding the De Minimis Providers, as defined in the Utilities Motion) a deposit in an amount equal to the Debtors' calculation of the cost of two weeks' worth of utility service, based on invoices from the fourth quarter of 2007, as adequate assurance, provided that such Utility Company is not currently paid in advance for its services or holding a deposit equal to or greater than the Adequate Assurance Deposit.

69. In addition, the Utilities Motion sets forth a detailed Adequate Assurance Procedure, by which Utility Companies can request Additional Assurance or opt out of the procedures altogether.

70. For the foregoing reasons, the Utilities Motion should be granted.

H. Motion of the Debtors for an Order (I) Authorizing the Debtors to Pay Certain Prepetition Taxes and (II) Granting Certain Other Relief (the "Tax Motion")

71. In the Tax Motion, the Debtors request entry of an order (a) authorizing, but not requiring, the Debtors to remit and pay sales, use, and such other taxes as the Debtors, in their discretion, deem necessary, as well as customs duties, fees, licenses, and other similar charges and assessments; and (b) authorizing financial institutions to receive, process, honor, and pay all checks issued and electronic payment requests made relating to the foregoing.

72. Prior to the Petition Date, the Debtors, had met their obligations with respect to Taxes consistent with the payment dates in underlying state and local laws. Nevertheless, the Debtors seek the relief requested in the event and to the extent that any Taxes that accrued pre-

petition were not in fact paid or processed pre-petition, or were paid in an amount that was less than is actually owed, or in the event that any payments made pre-petition were rejected, lost, or otherwise not received in full. Further, there may be Taxes incurred or collected from sales and services provided pre-petition that will come due shortly after the filing.

73. A listing of the Taxing Authorities and the estimated pre-petition amounts due and owing each such authority (aggregating approximately \$1,448,297.28) is annexed as Exhibit “A” to the Tax Motion.

74. In the Tax Motion, the Debtors submit that the sales and use taxes constitute so-called “trust fund” taxes that are required to be collected from third parties and held in trust for payment to the Taxing Authorities. Furthermore, many federal, state and local taxing authorities impose personal liability on the officers and directors of entities responsible for collecting the sales and use taxes to the extent that such taxes are not paid or are collected but not remitted. Thus, if such pre-petition sales and use taxes remain unpaid, the Debtors’ officers and directors may be subject to lawsuits on account of such nonpayment during the pendency of these Chapter 11 Cases. Such lawsuits or proceedings obviously would constitute a significant distraction for the Debtors’ officers and directors at a time when they should be focused on the Debtors’ efforts to restructure. In all cases, the Debtors’ failure to pay the Taxes could have a material adverse impact on their ability to operate in the ordinary course of business.

75. For the foregoing reasons, the Tax Motion should be granted.

I. Debtors’ Motion for an Order Confirming the Administrative Expense Priority Status of the Debtors’ Undisputed Obligations to Suppliers for the Postpetition Delivery of Goods and Provision of Services (the “Administrative Expense Motion”)

76. In the Administrative Expenses Motion, the Debtors seek the issuance and entry of an order (a) confirming the administrative expense priority status of the Debtors’ undisputed

obligations to suppliers for the postpetition delivery of goods and provision of services and (b) authorizing the Debtors to satisfy such obligations in the ordinary course of their business.

77. The relief requested in the Administrative Expense Motion will help ensure the uninterrupted supply of high quality materials and supplies and access to critical business services, all of which are fundamental to the Debtors' continuing operations and ability to pursue their chapter 11 strategy. Absent such relief, the Debtors may be required to expend substantial time and resources reissuing the Outstanding Orders or seeking replacement Suppliers without any assurances that essential goods and services will be available in the short term to avoid a substantial business disruption. Any such loss of access to critical goods and services — even on a temporary basis — could immediately undermine the Debtors' ability to fill its customer orders on a timely basis, resulting in potentially irreparable damage to customer confidence in the Debtors during this critical early stage of the Debtors' chapter 11 cases. Accordingly, customers may seek to fill its orders elsewhere or avoid doing business with the Debtors, thereby undermining the Debtors' ability to implement its strategy for these chapter 11 cases and preserve value for the benefit of creditors.

78. Moreover, the Debtors believe that obligations arising out of the postpetition delivery of goods and provision of services to the Debtors are expenses incurred for the benefit of the Debtors' estate and assist in preserving the value of the Debtors' business. As such, these costs are accorded administrative expense priority status under the standards contained in section 503(b)(1)(A) of the Bankruptcy Code.

79. Accordingly, the relief requested in the Administrative Expense Motion merely confirms the treatment of such postpetition obligations under the Bankruptcy Code, providing

necessary assurances of payment to the Debtors' Suppliers and ensuring the Debtors' ongoing and uninterrupted receipt of essential goods and services.

80. For the foregoing reasons, the Administrative Expense Motion should be granted.

J. Motion Of The Debtors For Entry Of An Order (I) Authorizing The Payment Of Certain Prepetition Shipping Charges and (II) Granting Certain Related Relief (the "Prepetition Shipping Charges Motion")

81. In the Prepetition Shipping Charges Motion, the Debtors seek the issuance and entry of an order authorizing the Debtors to pay, in the ordinary course of business, the prepetition claims of Shippers, as defined below.

82. In the ordinary course of their business, the Debtors rely on United Carrier, LLC and D'Elia Express, Inc. (the "Shippers") to transport merchandise to the Debtors' distribution centers, from the Debtors' distribution facility to the Debtors' Stores, and between the Debtors' Stores. The services of the Shippers are critical to the Debtors' operations. Without such services, the Debtors will be unable to replenish merchandise in the Stores and insure that merchandise is located in optimal Stores within the Debtors' chain.

83. As of the Petition Date, the Debtors estimate that the aggregate unpaid prepetition amount owed to the Shippers is approximately \$30,000.00. It is unlikely that the Shippers will provide further services to the Debtors unless they receive payment on account of the Debtors' prepetition obligations. The Shippers' employees are well-trained and experienced in the business of delivering and transporting the Debtors' merchandise. The Debtors do not believe that they could replace the Shippers on an expedited basis so as to avoid disruption of the flow of merchandise, nor do they believe it would be prudent to hire replacement shipping companies and risk a disruption in the flow of goods and damage to merchandise during the transporting and delivery process with a less experienced shipping company.

84. For the foregoing reasons, the Prepetition Shipping Charges Motion should be granted.

K. Motion for Emergency Order (1) Authorizing Incurrence of Secured Indebtedness With Priority Over All Other Secured Indebtedness and With Administrative Superpriority, (2) Granting Security Interests, (3) Providing for Adequate Protection, (4) Approving Agreements Relating to the Foregoing and (5) Granting Other Relief (the “DIP Financing Motion”)

85. The Debtors have determined that a post-petition credit facility that permits it to obtain new funds is necessary for the Debtors to continue to operate their business in chapter 11 and administer these chapter 11 estates. The absence of such a facility would cause the Debtors to incur additional operating losses and severely, if not irreparably, damage their business and reorganization prospects, and otherwise preclude the Debtors from maintaining the value of their assets for the benefit of their creditors.

86. Prior to the Petition Date, the Debtors considered their potential sources of financing, recognizing that virtually all of their assets are subject to senior security interests in favor of the Agent, as agent for the Lenders. The Debtors conducted negotiations with the Lenders and other commercial lenders who are known to make loans to retail businesses in chapter 11 bankruptcies. Based on those efforts, the Debtors ultimately concluded that the terms offered by the Lenders were the only viable alternative available given the time available to the Debtors, particularly in light of the current circumstances facing the commercial credit market, all of which have been well-publicized over the past two months.

87. Accordingly, prior to the Petition Date, the Debtors engaged in good faith, extensive, arm’s length negotiations with the Lenders regarding debtor-in-possession financing. These negotiations culminated in an agreement to provide post-petition financing on the terms and conditions set forth in the DIP Financing Motion.

88. The Debtors are unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code in an amount sufficient for it to maintain ongoing operations. Therefore, without the interim financing requested in the DIP Financing Motion, the Debtors' objective of prosecuting these chapter 11 cases and restructuring their business as a going concern for a period long enough to sell the business (or a substantial component thereof), while at the same time maintaining the value of their assets for the benefit of their creditors and employees, will fail without a fair opportunity to achieve the rehabilitative purposes of chapter 11.

89. A comprehensive description of the terms and provisions of the DIP Financing Facility appears in the DIP Financing Motion; however, a summary of the DIP Financing Facility follows below:

Lenders: General Electric Capital Corporation, as agent, L/C issuer and lender; Wells Fargo Retail Finance, LLC, as syndication agent and lender; and the other financial institutions party thereto.

Credit Facility: A senior secured priming revolving credit facility in the maximum available amount of \$7,000,000, inclusive of a letter of credit sublimit of \$1,000,000, pursuant to which loans will be limited to the amounts and categories set forth in the Budget, subject to certain permissible line item and gross budgetary deviations and weekly borrowing base restrictions.

Purpose: The DIP Facility will be used to pay related transaction fees and expenses and to finance working capital and general corporate purposes of the Debtors and for the payment of administrative expenses arising in the Debtors' chapter 11 cases, in each case in a manner consistent with the DIP Agreement and in accordance with the Budget. The DIP Agreement also provides that the debtors and the DIP Agent may agree on a supplemental or amended budget(s) during the course of the chapter 11 cases, which amended or supplemental budget(s) shall be filed with the Court once approved by the DIP Agent.

Fees/ Expenses: The fees and expenses to be incurred by the Debtors under the DIP Agreement are set forth in a certain Fee Letter annexed hereto as

Exhibit D and incorporated herein. A summary of the various fees is set forth below:

- (i) Closing Fee: \$175,000; with 50% paid on acceptance of the commitment and 50% paid on closing.
- (ii) Administration Fee: \$250,000.
- (iv) Agent/Lender Professional Fees: As billed from time to time, estimated at approximately \$350,000.

Interest Rate:

The DIP Facility will bear an interest rate at the Index Rate (as defined below) plus the Applicable Index Margin (as defined below). Upon an Event of Default, the interest rates applicable to the Loans and the Letter of Credit Fee (each as defined in the DIP Agreement) shall be increased by two percentage points (2.0%) per annum above the rates of interest or the rate of such Fee (as defined in the DIP Agreement) otherwise applicable hereunder (the "Default Rate"), and all other outstanding DIP Obligations due and payable shall bear interest at the Default Rate applicable to such DIP Obligations.

The "Index Rate" means, for any day, a floating rate equal to the highest of (i) 4.00% per annum, (ii) the rate publicly quoted from time to time by The Wall Street Journal as the "base rate on corporate loans posted by at least 75% of the nation's 30 largest banks" (or, if The Wall Street Journal ceases quoting a base rate of the type described, the highest per annum rate of interest published by the Federal Reserve Board in Federal Reserve statistical release H.15 (519) entitled "Selected Interest Rates" as the Bank prime loan rate or its equivalent), (iii) the Federal Funds Rate (as defined in the DIP Agreement) plus 50 basis points per annum and (iv) the sum of (x) LIBOR Rate, for an Interest Period of one month two (2) Business Days prior to such day (each as defined in the DIP Agreement), plus (y) the excess of 8.00% over the Applicable Index Margin, in each instance, as of such day. Any change in the Index Rate due to a change in any of the foregoing shall be effective on the effective date of such change in the "bank prime loan" rate, the Federal Funds Rate, or LIBOR Rate (as defined in the DIP Agreement) for an interest period of one month. If no LIBOR Rate exists, such rate will be the rate of interest per annum, as determined by the DIP Agent (rounded upwards, if necessary, to the nearest 1/100 of 1%) at which deposits of Dollars (as defined in the DIP Agreement) in immediately available funds are offered at 11:00 A.M. (London, England time) two (2) Business Days prior to the applicable day by major financial institutions reasonably

satisfactory to the DIP Agent in the London interbank market for such interest period for the applicable principal amount on such date of determination.

The “Applicable Index Margin” means the per annum interest rate margin from time to time in effect equal to 6.5% and payable in addition to the Index Rate applicable to the Revolving Loan (as defined in the DIP Agreement), as determined by reference to Section 1.2(a) of the DIP Agreement.

Security:

In order to secure the prompt payment and performance in full of the DIP Obligations, DIP Agent and the DIP Lenders shall be granted valid, binding, enforceable and perfected priming liens in and to all real property (except that, with respect to leasehold interests, such liens shall extend only to the proceeds thereof) and personal property assets of the Debtors, including as described in the Loan Agreement and below (the “DIP Collateral”) including, without limitation, the following:

All inventory, accounts, equipment, general intangibles, investment property, chattel paper, deposit accounts, rights to payment under letters of credit (whether or not written), insurance claims, tort claims, and goods now owned or in which the Debtors have any interest (and without regard to whether acquired prior or subsequent to the Petition Date) or hereafter acquired or in which the Debtors obtain an interest; all present and future real property and proceeds of leasehold interests in which the Debtors have an interest (and without regard to whether acquired prior or subsequent to the Petition Date); and the products and proceeds thereof; provided, however, the DIP Lenders’ postpetition liens and security interests shall not extend to any actions and claims arising under chapter 5 of the Bankruptcy Code until entry of the Final Order.

The DIP Liens to be created and granted to the DIP Agent and the DIP Lenders as security for the DIP Obligations, as provided above, are created pursuant to Bankruptcy Code sections 364(c)(2) and 364(c)(3). With the exception of (a) the Carve Out and (b) Permitted Prior Liens, the DIP Liens to be created and granted to the DIP Agent and the DIP Lenders, as provided above, are first, prior, perfected, and superior to any security, mortgage, or collateral interest or lien or claim to the DIP Collateral. The DIP Liens securing the DIP Obligations shall not be subject to section 551 of the Bankruptcy Code.

The DIP Obligations shall be an allowed administrative expense claim (the "DIP Superpriority Claim") with priority under Bankruptcy Code section 364(c)(1) and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising, of any kind or nature whatsoever including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 330, or 331 (except as otherwise provided in the Interim Order, with respect to the Carve Out), 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 726 and 1114, subject only to the Carve Out.

Term: All obligations under the DIP Facility, accrued or otherwise, will be due and payable in full on the earliest to occur of (i) January 31, 2009; (ii) the occurrence and continuance of an Event of Default (as defined in Section 6.1 of the DIP Agreement) and delivery of a Termination Notice; (iii) the sale of all or substantially all of the Debtors' assets, or (iv) the effective date of a plan of reorganization related to the Debtors and their assets.

Events of Default: In addition to other usual and customary events of default for facilities of this type, the following will constitute events of default under the DIP Facility: (i) the filing of a motion by Debtors seeking approval of a disclosure statement and a plan, or the entry of an order confirming a plan, that does not require repayment in full in cash of all DIP Obligations and Prepetition Obligations on the effective date (or as soon as practicable thereafter) of such plan; (ii) conversion of the Debtors' chapter 11 cases to cases under chapter 7, or the appointment of a trustee or examiner with expanded powers, (iii) the entry of an order granting relief from stay to any other creditor which could have a material adverse effect on the Debtors; (iv) the entry of an order which stays, modifies, or reverses any Final Order or which otherwise materially adversely affects, as determined by the DIP Agent in its reasonable discretion, the effectiveness of either the Interim or Final Order without the express written consent of the DIP Agent; (v) the failure to obtain entry of the Final Order within 35 days after the Petition Date; and (vi) the Bankruptcy Court shall fail to have entered an order approving the bidding procedures set forth in the Sale Motion (as defined in the DIP Agreement) on or before November 17, 2008, or to enter a sale order respecting the Sale Motion on or before November 25, 2008 (or such later dates agreed to in writing by the DIP Agent).

Remedies Upon Default: The Interim Order provides that immediately upon the occurrence and during the continuation of an Event of Default, (i) the DIP Agent may, and at the request of the Requisite Lenders (as defined in the DIP Agreement) shall, declare (1) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (2) the termination, reduction or restriction of any commitment to extend credit to the Debtors to the extent any such commitment remains, and (3) the termination of the DIP Agreement and any other DIP Document as to any future liability or obligation of the DIP Agent and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations; (ii) the DIP Agent may revoke the Debtors' right, if any, under the Interim Order and/or the other DIP Documents to use Cash Collateral; (iii) the DIP Agent may invoke the right to charge interest at the default rate under the DIP Documents; and (iv) the DIP Agent may collect and apply proceeds of the DIP Collateral pursuant to section 6.5 of the DIP Agreement and the Debtor shall have an affirmative duty to continue to remit proceeds of DIP Collateral (including Cash Collateral) to the DIP Agent. The DIP Agent shall provide five (5) business days' prior notice (the "Remedies Notice Period") of its intent to exercise remedies (other than those set forth above in this paragraph) under this Interim Order and the DIP Documents to (i) the Debtors, (ii) any Statutory Committee, and (iii) the United States Trustee (the "U.S. Trustee"). The Interim Order further provides that unless the Court determines during the Remedies Notice Period that an Event of Default has not occurred and/or is not continuing, the automatic stay, as to all of the DIP Lenders and the Prepetition Lenders shall automatically terminate at the end of the Remedies Notice Period without further notice or order, at which time, the DIP Agent and the Prepetition Agent may exercise all rights and remedies set forth in the Interim Order, in the DIP Agreement, the DIP Documents, the Prepetition Credit Agreement and the Prepetition Credit Documents, and as otherwise available at law without further order of or application or motion to the Court, and without restriction or restraint by any stay.

Waivers: The Debtors have agreed, as a condition to the DIP Lenders' making the DIP Financing available in order to administer the chapter 11 cases, to waive upon the entry of the Final Order (a) any claims to surcharge the DIP Collateral under section 506(c) of the Bankruptcy Code, excluding, however, any such claims for matters provided for in the Budget and incurred prior to the occurrence of an Event of Default and termination of the DIP Facility but not paid by the Borrower (subject to DIP Lenders' rights to object to any such claims), and (b) any right pursuant to sections 364(c) or 364(d) of the Bankruptcy Code or otherwise to grant any lien of

equal or greater priority than the lien securing the obligations, or to approve a claim of equal or greater priority than the obligations, or to seek use of Prepetition Lenders' cash collateral except as expressly set forth in this DIP Agreement or any Interim or Final Order(s), or otherwise agreed to by the Prepetition Lenders.

Sale Timeline:

The Debtors have agreed with the DIP Lenders that they shall effectuate either a sale or liquidation of the Debtors' business on or before November 26, 2008. They have also agreed to implement the following schedule with respect to such disposition transaction:

November 12, 2008, the Debtors shall have filed a motion with the Court seeking approval of (i) bidding procedures relating to the sale process and (ii) approving the sale motion;

November 17, 2008, the Bankruptcy Court shall enter an order approving the Bidding Procedures;

November 24, 2008, Debtors shall have completed an auction of all eligible offers with respect to the Debtors' assets as described in the Sale Motion;

November 25, 2008, a hearing on the Sale Motion shall be conducted by the Bankruptcy Court; and

November 26, 2008, the sale as approved at the Sale Hearing shall be consummated pursuant to the terms of the applicable governing/approved sale transaction agreement.

Prof. Fee Carveout:

The DIP Facility provides for a "Carve Out" from the DIP Collateral, the Prepetition Collateral, and the DIP Superpriority Claims for (i) statutory fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6); and (ii) after the occurrence of an Event of Default under the DIP Documents and following delivery of a Carve Out Trigger Notice, the following expenses, but only to the extent that there are not sufficient, unencumbered funds in the Debtors' estates to pay such amounts at the time payment is required to be made: an amount (the "Case Professionals Carve Out") equal to the sum of (a) the allowed and unpaid professional fees and disbursements for any Case Professional (as defined below) incurred after the delivery of a Carve Out Trigger Notice in an aggregate amount not in excess of \$750,000, plus (b) all unpaid professional fees and disbursements of such Case Professionals incurred prior to the delivery of a Carve Out Trigger Notice to the extent allowed or later allowed and payable by order of the Court (which order has not been vacated or stayed, unless the stay has been vacated) under Sections 328, 330, 331 or 363 of the Bankruptcy Code and any interim compensation procedures order, but solely to the extent that the same constitute Budgeted Professional Fees. "Case Professionals" shall mean any

professional retained by the Debtors and any Statutory Committee pursuant to a final order of the Court (which order has not been vacated or stayed, unless the stay has been vacated) under Sections 327, 328, 363 or 1103(a) of the Bankruptcy Code.

Third Party
Investigation
Rights/Period:

A Statutory Committee, a successor trustee and any other party in interest with requisite standing other than the Debtors, to seek to object to or to challenge the findings, Debtors' stipulations, or any other stipulations contained in the Interim Order, including, but not limited to, those in relation to: (a) the validity, extent, priority, or perfection of the mortgage, security interests, and liens of the Prepetition Agent with respect to the Prepetition Collateral; or (b) the validity, allowability, priority, fully-secured status, or amount of the Prepetition Obligations. A party, including the Committee, if appointed, must commence an adversary proceeding or contested matter, as required by the applicable Bankruptcy Rules, to challenge, including, without limitation, any claim against the Agent or the Prepetition Lenders in the nature of a setoff, counterclaim or defense to the Prepetition Obligations, or must file a motion seeking standing within the earlier of (i) with respect to the Committee, sixty (60) calendar days from the selection of counsel to the Committee, and (ii) with respect to other parties in interest with requisite standing other than the Debtors or the Committee, seventy-five (75) calendar days following the date of entry of the Interim Order.

90. The Debtors submit that the proposed DIP Facility has been negotiated in good faith and at arms length, with all parties represented by counsel, and is fair reasonable under the circumstances of the cases. Indeed, the terms and conditions of the proposed DIP Financing will avoid certain disputes and litigation over collateral values, use of cash collateral and the need to segregate and isolate Prepetition Collateral from postpetition collateral and their proceeds, all of which would be harmful, if not devastating to the Debtors' efforts aimed at achieving maximum asset values herein and an orderly administration of these estates. Additionally, the proposed DIP Financing will provide the Debtors with limited time and funds required in order to effectively market their assets for sale or other disposition in the manner contemplated by the

Debtors' Sale Motion filed contemporaneously herewith, as they strive to preserve the business as a going concern, or alternatively, prepare the business for an orderly liquidation in order to maximize realizable proceeds for the benefit of all stakeholders herein.

91. The Debtors also submit that, other than the DIP Facility, there are no viable financing alternatives available to it under the circumstances. In that regard, prior to the Petition Date, the Debtors and their advisors contacted several well-known alternative sources of postpetition financing, but no viable alternative financing was forthcoming. Each of the entities approached was a sophisticated financial institution with more than adequate financial resources to offer debtor-in-possession financing to the Debtors. However, for a number of reasons, including the size of the financing required, the nature and state of the Debtors' business operations, the immediacy of the Debtors' financing needs, the liens of the Prepetition Lenders and the Second Lien Lenders in the Prepetition Collateral, none of the institutions contacted were willing or available to provide financing to the Debtors in the time frame required to address the Debtors' urgent liquidity needs

92. Under the foregoing circumstances, the DIP Financing Motion should be granted.

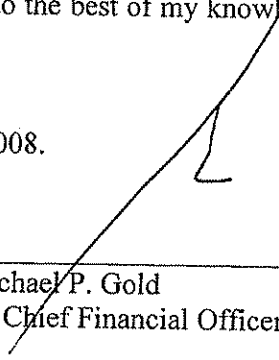
PART III

CONCLUSION

93. Accordingly, for the reasons stated herein and in each of the First Day Pleadings, the relief sought therein is in the best interests of the Debtors, their creditors and estates; and therefore, on behalf of the Debtors, I respectfully request that the First Day Pleadings be granted.

I declare under penalty of perjury that, to the best of my knowledge, and after reasonable inquiry, the foregoing is true and correct.

Executed this 10 day of November 2008.



Michael P. Gold
As Chief Financial Officer of NWL Holdings, Inc.