



## **JURISDICTION**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are sections 105(a), 345 and 503(b)(1) of the Bankruptcy Code and Rules 2015-2(a) and (b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

## **GENERAL BACKGROUND**

2. On the date hereof (the “Petition Date”), the Debtors each commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. As of the date hereof, no request for appointment of a chapter 11 trustee or examiner has been made, and no official committee has been appointed.

4. Information regarding the Debtors’ history and business operations, their capital structure and primary secured indebtedness, and the events leading up to the commencement of these chapter 11 cases can be found in the Gilner Declaration, which is incorporated herein by reference.

## **RELIEF REQUESTED**

5. By this Motion, the Debtors seek entry of an order (i) authorizing the continued use of their existing cash management system, (ii) authorizing the continued use of their existing bank accounts and existing checks and business forms, (iii) authorizing their deposit practices and waiving the requirements of section 345(b) of the Bankruptcy Code in connection therewith on an interim basis, and (iv) granting administrative expense status to

postpetition intercompany claims pursuant to section 503(b)(1) of the Bankruptcy Code. In connection with this relief, the Debtors respectfully request a waiver of certain of the operating guidelines established by the Office of the United States Trustee for the District of Delaware that require the Debtors to close all prepetition bank accounts, and open new accounts designated as debtor-in-possession accounts.

**I. Request for Authority to Continue Using Existing Cash Management System and to Provide Protection to Cash Management Banks**

6. The Debtors maintain a cash management and disbursement system (the “Cash Management System”) in the ordinary course of their operations. In order to lessen the disruption caused by the bankruptcy filings and maximize the value of their estates in these chapter 11 proceedings, it is vital to the Debtors that they maintain their system of managing cash.

7. Cash Receipts. All of the Debtors’ lockbox accounts and most of the Debtors’ customer wires come in to the cash dominion account, held by Bank of America (account number ending in 5792) (the “Cash Dominion Account”). The Debtors’ credit card transaction account is swept to the Cash Dominion Account at the end of each day. Once funds from the Debtors’ lockboxes, customer wires and credit card transactions are “available” in the Cash Dominion Account, typically within two days of receipt, the funds in the Cash Dominion Account are automatically swept and applied against the Debtors’ line of credit balance.

8. Borrowings. On a daily basis, The Debtors calculate and submit their borrowing base. If the Debtors have availability (i.e., if the Debtors’ borrowing base will allow for it), and the Debtors need funds, the Debtors request a draw. Any draw requested and received is moved into the Debtors’ operating account (account number ending in 3979) (the “Operating Account”).

9. Wires Out. When the Debtors need to send funds via wire, the Debtors submit an online request and the wire undergoes an approval process. Any amounts less than \$10,000 can be approved by either the Senior Budget and Accounting Analyst or the Director of Accounting;<sup>2</sup> anything higher has to be approved by the Vice President of Finance. Once the wire is approved, the funds are taken out of the Operating Account and transferred to the recipient on the same day.

10. Automatic Clearing House Payments - Lang Initiated. When the Debtors need to issue an Automatic Clearing House Payment (“ACH”), the Debtors submit an online request and the ACH payment undergoes an approval process. Either the Senior Budget and Accounting Analyst or the Director of Accounting can approve ACH payments in any amount. Once approved and submitted, the funds are taken out of the Operating Account on the same day, but transferred to the recipient the following day.

11. Automatic Clearing House Payments - Vendor Initiated. Four of the Debtors’ vendors are set up to deduct funds directly from the Debtors via ACH. Those vendors are: Delta Dental, E-Flex, United States Customs and Paychex. Vendor initiated ACHs are taken out of the Debtors’ Controlled Disbursements Accounts (as defined below), which are swept against the Operating Account at the end of each day.

12. Checks. The Debtors issue checks from their controlled disbursements accounts, of which there are three: (1) Lang disbursement account (account number ending in 0842), (2) Avalanche disbursement account (account number ending in 8223) and (3) Turner disbursement account (account number ending in 8231) (collectively, the “Controlled Disbursement Accounts”). When the checks clear, they are charged against the relevant

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<sup>2</sup> The current Director of Accounting is expected to terminate their employment with the Debtors shortly after the Petition Date.

Controlled Disbursement Account. At the end of the day, each Controlled Disbursement Account is swept against the Operating Account.

13. Store Cash Receipts. Each store has their own local bank account into which the store managers can deposit cash and checks. The Debtors have a store operating account at Town Bank (account number ending in 3731) that is used to fund The Lang Store, Ltd. employee payroll. Each week, the Debtors initiate an ACH payment (through Bank of America's CashPro website) to transfer funds from each local bank into the Operating Account. For payroll weeks, the transfer includes a credit to the store operating account to ensure sufficient funds are available to satisfy payroll.

14. A schematic setting forth the Debtors' Cash Management System, as described above, is attached hereto as Exhibit A and a list of accounts comprising the Cash Management System is attached hereto as Exhibit B.

15. The Debtors maintain current and accurate accounting records of daily cash transactions and submit that maintenance of this Cash Management System will prevent undue disruption to the Debtors' business operations while protecting the Debtors' cash for the benefit of the estates.

16. The Debtors seek authority to continue utilizing their current Cash Management System, as described above. It is critical that the Debtors be able to consolidate management of cash and centrally coordinate transfers of funds in order to efficiently and effectively operate their large and complex business operations. Substantially disrupting their current cash management procedures would impair the Debtors' ability to optimize their business performance and to successfully prosecute these chapter 11 cases.

17. The Cash Management System utilizes the Bank Accounts to effectively and efficiently collect, transfer and disburse funds as needed in the Debtors' general business operations. The Cash Management System provides significant benefits to the Debtors, including the ability to: (a) closely track, and thus control, all corporate funds; (b) ensure cash availability; and (c) reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balance and presentment information. Indeed, a disruption in the Cash Management System could cause delays in the collection and disbursement of funds, thus impeding the Debtors' ability to carry out their normal business operations.

18. The Cash Management System allows each of the operating Debtors to manage their cash flow needs and includes the necessary accounting controls to enable the Debtors, as well as their creditors and this Court, to trace funds through the system and ensure that all transactions are adequately documented and readily ascertainable. The Debtors will continue to maintain detailed records reflecting all transfers of funds.

19. Therefore, it is both essential and in the best interests of the Debtors' respective estates and creditors that the Cash Management System be maintained. Furthermore, the Debtors' chapter 11 cases will be facilitated by preserving the "business as usual" atmosphere and avoiding the distractions that would inevitably be associated with a substantial disruption in the Cash Management System. Accordingly, the Debtors respectfully request that the Court authorize the continued use of the Cash Management System.

20. This Court has the authority to grant the requested relief pursuant to its equitable powers under section 105(a) of the Bankruptcy Code. Section 105(a) provides, in relevant part, that a "court may issue any order, process, or judgment that is necessary or

appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). The relief requested herein is both necessary and appropriate to allow the Debtors to successfully prosecute these chapter 11 cases, to optimize their postpetition business performances and to maximize the value of the Debtors’ estates.

21. Bankruptcy courts routinely grant chapter 11 debtors authority to continue utilizing existing cash management systems and treat requests for such authority as a relatively “simple matter.” See In re Baldwin-United Corp., 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). This is particularly true where, as here, the chapter 11 cases involve affiliated Debtors with complex financial affairs. See, e.g., In re The Charter Co., 778 F.2d 617 (11th Cir. 1985). Courts in this circuit have recognized that allowing a debtor to maintain its existing cash management system is often appropriate. See, e.g., In re Genesis Health Ventures, Inc., 402 F.3d 416, 424 (3d Cir. 2005); In re Kindred Healthcare, Inc., 2003 WL 22327933, at \*1 (Bankr. D. Del. Oct. 9, 2003).

22. Allowing debtors to utilize their prepetition cash management systems is entirely consistent with applicable provisions of the Bankruptcy Code. This Court has recognized that an integrated cash management system “allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash.” See In re Columbia Gas Sys., Inc., 136 B.R. 930, 934 (Bankr. D. Del. 1992), aff’d in part and rev’d in part, 997 F.2d 1039 (3d. Cir. 1993). The Third Circuit has agreed, emphasizing the “huge administrative burden” and economic inefficiency of requiring the debtors to maintain all accounts separately. In re Columbia Gas, 997 F.2d at 1061; see also, In re Southmark Corp., 49 F.3d 1111, 1114 (5th Cir. 1995) (maintaining existing cash

management system allows debtor “to administer more efficiently and effectively its financial operations and assets”).

23. The Debtors also request that no bank participating in the Cash Management System (collectively, the “Cash Management Banks”) that honors a prepetition check or other item drawn on any account that is the subject of this Motion (a) at the direction of the Debtors, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as a result of an innocent mistake made despite implementation of reasonable item handling procedures, be deemed to be liable to the Debtors or to their estates on account of such prepetition check or other item being honored after the Petition Date. The Debtors believe that such flexibility accorded the Cash Management Banks is necessary in order to induce the Cash Management Banks to continue providing cash management services without additional credit exposure.

24. The Debtors request that the Court authorize the payment of any costs or expenses associated with the maintenance of the Cash Management System. The Debtors further request the authority to implement ordinary course changes to their Cash Management System. The Debtors may conclude that changes in the Cash Management System are beneficial to their business and therefore seek authority to make such changes without further order of the Court. In addition, the Debtors request authority to open and close bank accounts as may be appropriate to avoid unnecessary fees and costs.

## **II. Request for Authority to Maintain Existing Bank Accounts and Continue to Use Existing Forms**

25. The United States Trustee for Region 3, who administers bankruptcy cases filed in the District of Delaware, has issued certain chapter 11 operating guidelines pursuant to 28 U.S.C. § 586. These guidelines require that chapter 11 debtors, among other things: (a) close

all existing bank accounts upon filing of their petitions and open new “debtor-in-possession” accounts in certain financial institutions designated as authorized depositories by the U.S.

Trustee; (b) establish one debtor-in-possession account for all estate monies required for the payment of taxes; and (c) maintain a separate debtor-in-possession account for cash collateral.

26. The Debtors seek a waiver of the U.S. Trustee requirement that their bank accounts be closed and that new postpetition bank accounts be opened. If enforced in these cases, such requirements would cause enormous disruption in the Debtors’ businesses and would impair the Debtors’ chapter 11 efforts. As described in detail above, the Debtors have a large number of bank accounts which comprise an established cash management system that the Debtors need to maintain in order to ensure smooth collections and disbursements in the ordinary course of their businesses. Therefore, to avoid delays in paying debts incurred postpetition, and to ensure as smooth a transition into chapter 11 as possible, the Debtors should be permitted to continue to maintain the existing bank accounts and, if necessary, to open new accounts and close existing accounts in the normal course of business operations. Otherwise, transferring the bank accounts will be disruptive, time consuming and expensive.

27. Accordingly, the Debtors request that this Court waive the strict enforcement of the requirement that the Debtors open new bank accounts. The Debtors further request that the Bank Accounts be deemed debtor-in-possession accounts and that the Debtors be authorized to maintain and continue using these accounts in the same manner and with the same account numbers, styles and document forms as those employed during the prepetition period.

28. In other cases, this Court has waived the strict enforcement of bank account closing requirements and replaced them with an alternative procedure that provides the same protection. See, e.g., In re Indalex Holdings Finance, Inc., Case No. 09-10982 (PJW)

(Bankr. D. Del. Mar. 23, 2009); In re Buffets Holdings, Inc., Case No. 08-10141 (MFW) (Bankr. D. Del. Jan. 23, 2008) In re Delta Financial Corporation, Case No. 07-11880 (CSS) (Bankr. D. Del. Dec. 19, 2007); In re Prorythm, Inc., Case No. 07-11861 (KJC) (Bankr. D. Del. Dec. 13, 2007); In re Quaker Fabric Corporation, Case No. 07-1146 (KG) (Bankr. D. Del. Aug. 20, 2007).

29. The Debtors represent that if the relief requested herein is granted, they will implement appropriate mechanisms to ensure that no payments will be made on any debts incurred by them prior to the Petition Date, other than those authorized by this Court. To prevent the possible inadvertent payment of prepetition claims, except those otherwise authorized by the Court, the Debtors will work closely with the Cash Management Banks to ensure appropriate procedures are in place to prevent checks issued prepetition from being honored absent this Court's approval.

30. The Debtors additionally use pre-printed checks, forms and stationary on occasion. The Debtors, therefore, request that they be authorized to continue to use the pre-printed checks and other business forms existing immediately before the Petition Date without reference to the Debtors' status as debtors in possession. Once the pre-printed checks have been exhausted, if the Debtors order new checks, such checks will include the designation "DIP".

31. In other cases, this Court has allowed debtors to use their prepetition checks, forms and stationary without the "debtor-in-possession" label, at least until the debtors' existing supply of checks were depleted. See, e.g., In re Indalex Holdings Finance, Inc., Case No. 09-10982 (PJW) (Bankr. D. Del. Mar. 23, 2009); In re Delta Financial Corporation, Case No. 07-11880 (CSS) (Bankr. D. Del. Dec. 19, 2007); In re Prorythm, Inc., Case No. 07-11861 (KJC) (Bankr. D. Del. Dec. 13, 2007); In re Quaker Fabric Corporation, Case No. 07-1146 (KG)

(Bankr. D. Del. Aug. 20, 2007); In re HomeBanc Mortgage Corporation, Case No. 07-11079 (KJC) (Bankr. D. Del. Aug. 14, 2007).

32. The Debtors should therefore be authorized to use their existing checks and other business forms. To require the Debtors to replace all of their existing checks and other business forms would be unduly burdensome and costly, particularly when appropriate care can be taken to assure the proper usage of the existing stock of checks and business forms.

**III. Request that the Court Waive the Investment and Deposit Requirements of 11 U.S.C. § 345(b) on an Interim Basis**

33. The Debtors are requesting that the Court waive the requirements of section 345(b) of the Bankruptcy Code on an interim basis and permit them to maintain their deposit practices in accordance with their existing practices, until such time as the Debtors obtain this Court's approval to deviate from the guidelines imposed under section 345(b) of the Bankruptcy Code on a final basis.

34. Section 345(a) of the Bankruptcy Code authorizes deposits or investments of money of a bankruptcy estate, such as cash, in a manner that will "yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment." 11 U.S.C. § 345(a). For deposits or investments that are not "insured or guaranteed by the United States or by a department agent or instrumentality of the United States or backed by the full faith and credit of the United States," section 345(b) of the Bankruptcy Code provides that the estate must require from the entity with which the money is deposited or invested a bond in favor of the United States secured by the undertaking of an adequate corporate surety. See 11 U.S.C. § 345(b).

35. A court may, however, relieve a debtor in possession of the restrictions imposed by section 345(b) of the Bankruptcy Code for "cause." See 11 U.S.C. § 345(b).

Consistent with section 345(b) of the Bankruptcy Code, Local Rule 2015-2(b) provides that no waiver of “section 345 shall be granted by the Court without notice and an opportunity for hearing in accordance with these Local Rules.” Del. Bankr. L.R. 2015-2(b). Nevertheless, Local Rule 2015-2(b) further provides that “if a motion for such waiver is filed on the first day of a chapter 11 case in which there are more than 200 creditors, the Court may grant an interim waiver until a hearing on the debtors’ motion can be held.” Id.

36. As this Motion is being filed on the first day of the Debtors’ chapter 11 cases and the Debtors have in excess of two hundred (200) creditors, the Debtors request that the Court enter an order waiving, on an interim basis, the requirements of section 345(b) of the Bankruptcy Code for sixty (60) days, without prejudice to the Debtors’ ability to seek a further interim or final waiver. Moreover, the Debtors believe that several of their bank accounts are maintained with financial institutions that have executed the Uniform Deposit Agreement required by the Office of the United States Trustee for compliance with the requirements of section 345(b) of the Bankruptcy Code. However, the Debtors require additional time to ensure that all of the bank accounts are in compliance or to come into compliance with such requirements or to seek a further waiver of the requirements of section 345(b) of the Bankruptcy Code.

37. Given the complexity of the Debtors’ Cash Management System and the relative security of such system, the Debtors submit that cause exists to grant an interim sixty (60) day waiver of the requirements of section 345(b) of the Bankruptcy Code. This Court previously has granted similar relief on numerous occasions. See, e.g., In re Indalex Holdings Finance, Inc., Case No. 09-10982 (PJW) (Bankr. D. Del. Mar. 23, 2009); In re American Home Mortgage Holdings, Inc., Case No. 07-11047 (CSS) (Bankr. D. Del. Aug. 7, 2007) (sixty-day

extension); In re ResMAE Mortgage Corp., Case No. 07-10177 (KJC) (Bankr. D. Del. Feb. 13, 2007) (same); In re HomeBanc Mortgage Corporation, Case No. 07-11079 (KJC) (Bankr. D. Del. Aug. 14, 2007) (same).

**IV. Request for Grant of Administrative Expense  
Status for Postpetition Intercompany Claims**

38. The Debtors request that, pursuant to section 503(b)(1) of the Bankruptcy Code, all intercompany claims against a Debtor by another Debtor arising after the Petition Date as a result of intercompany transactions through the Cash Management System (collectively, the “Intercompany Claims”) be accorded administrative expense priority status, which shall be junior and subordinated in right of payment only to the superpriority administrative claims granted to the postpetition lenders, or to the Debtors’ prepetition secured lenders in connection with the use of cash collateral, grant of adequate protection or any debtor-in-possession financing facility. Transfers among the Debtors represent extensions of intercompany credit. According administrative expense status to Intercompany Claims will ensure that each individual Debtor utilizing funds flowing through the Cash Management System will continue to bear ultimate repayment responsibility for such borrowings. See, e.g., In re Indalex Holdings Finance, Inc., Case No. 09-10982 (PJW) (Bankr. D. Del. Mar. 23, 2009); In re American Home Mortgage Holdings, Inc., Case No. 07-11047 (CSS) (Bankr. D. Del. Aug. 7, 2007); In re New Century TRS Holdings, Inc., Case No. 07-10416 (KJC) (Bankr. D. Del. Apr. 3, 2007); In re FLYi, Inc., Case No. 05-20011 (MFW) (Bankr. D. Del. Nov. 7, 2005).

**NOTICE**

39. The Debtors will provide notice of this Motion to: (i) the Office of the United States Trustee; (ii) the Debtors’ thirty (30) largest unsecured creditors on a consolidated basis; (iii) the Debtors’ prepetition secured lenders; and (iv) the Debtors’ banks. Notice of this

Motion and any order entered with respect thereto will be served in accordance with Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

**CONCLUSION**

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto, granting the Motion and such other and further relief as is just and proper.

Dated: Wilmington, Delaware  
July 16, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ David R. Hurst

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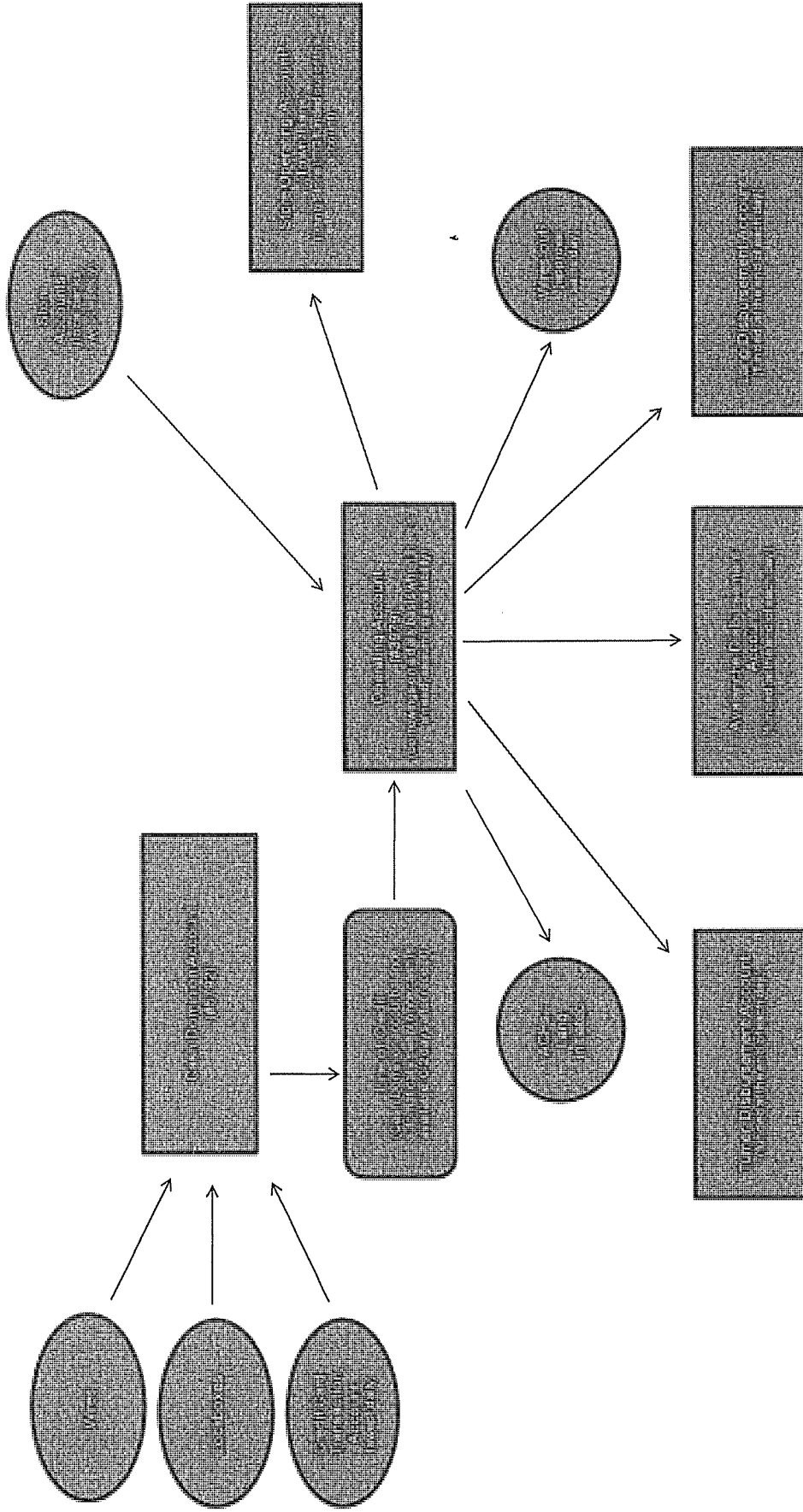
Michael R. Nestor (No. 3526)  
David R. Hurst (No. 3743)  
Patrick A. Jackson (No. 4976)  
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*Proposed Counsel for the Debtors and  
Debtors in Possession*

**EXHIBIT A**

**Cash Management Diagram**

# Cash Management Cycle



**Notes:**

1. Each store has a local bank account that the store manager deposits cash and checks into.
2. Company submits a wire request online (M. Kisting and J. Brandenburg have authorization up to 10K, anything greater must go through M. Garvey). Once approved, funds are pulled from Operating Account and transferred to the recipient on the same day.
3. Company funds Lang Store LTD payroll out of this account. Each week, an ACH is initiated to transfer funds out of each local store account to the BofA operating account. For payroll weeks, the transfer includes a credit to the Store Operating Account to ensure sufficient funds are available to cover payroll.
4. All accounts above other than the Store Operating Account (Town Bank) and the Store Accounts (misc banks) are Bank of America accounts.

**EXHIBIT B**

**Bank Account Listing**

# Bank Account Detail

Account Name	Account #	Bank
Cash Dominion Account	8666625792	Bank of America
Lang Companies Operating Account	5800443979	Bank of America
Credit Card Transaction Account	5800443987	Bank of America
Turner Disbursement Account	5590098231	Bank of America
Avalanche Disbursement Account	5590098223	Bank of America
Lang Companies Disbursement Account	5590070842	Bank of America
Store Operating Account	103731	Town Bank
Door County Store	2223134616	Associated Bank
Johnson Creek Store	143837	Premier Bank
Delafield Store	104235	Town Bank
WR Store	16004566	Wrenthan Co-Operative Bank
Lang Factory Store	610178785	National City

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

In re:	)	
	)	Chapter 11
	)	
LANG HOLDINGS, INC.,	)	Case No. 09- <u>12543</u> ( )
a Delaware corporation, <u>et al.</u> , <sup>1</sup>	)	
	)	(Joint Administration Pending)
Debtors.	)	
	)	

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**ORDER (I) APPROVING CONTINUED USE OF CASH MANAGEMENT SYSTEM,  
(II) AUTHORIZING USE OF PREPETITION BANK ACCOUNTS AND EXISTING  
CHECKS AND BUSINESS FORMS, (III) WAIVING THE REQUIREMENTS OF  
11 U.S.C. § 345(b) ON AN INTERIM BASIS; AND (IV) GRANTING ADMINISTRATIVE  
EXPENSE STATUS TO POSTPETITION INTERCOMPANY CLAIMS**

Upon consideration of the Motion<sup>2</sup> of the above-captioned Debtors for entry of an order (i) authorizing and approving the Debtors' continued use of their existing cash management system, (ii) authorizing and approving the Debtors to continue using prepetition bank accounts and existing checks and business forms, (iii) waiving the requirements of section 345(b) of the Bankruptcy Code on an interim basis with respect to the Debtors' deposit and investment practices, and (iv) granting administrative expense status to postpetition intercompany claims; and upon consideration of the Gilner Declaration and the entire record of these chapter 11 cases; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided under the circumstances; and it appearing that the relief requested in the Motion is in the best interests of the Debtors' estates,

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Lang Holdings, Inc. (9551); Turner Acquisition, Inc. (2115); Avalanche Publishing Acquisition, Inc. (3038); The Lang Companies, LLC (9182); Avalanche Publishing, Inc. (9793); and The Lang Store, Ltd. (2398). The mailing address of each of the Debtors is 514 Wells Street, Delafield, Wisconsin 53018.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

their creditors and other parties in interest; and after due deliberation, and good and sufficient cause appearing therefor, it is hereby:

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED.
2. The Debtors are authorized to continue to use their Cash Management System.
3. The Debtors are authorized, in the reasonable exercise of their business judgment, to (i) designate, maintain and continue to use, with the same account numbers, all of their Bank Accounts in existence on the Petition Date, including, without limitation, those Bank Accounts identified in Exhibit A to the Motion, (ii) use their present forms and other documents related to the Bank Accounts; (iii) treat such Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; and (iv) preserve the reporting and accounting mechanisms used by the Debtors in respect of the Bank Accounts.
4. Subject to, and to the extent not inconsistent with, any order of the court related to the usage of cash collateral or approving any debtor-in-possession financing facility, the Cash Management Banks are hereby authorized to (i) continue to service and administer all such accounts as accounts of the relevant Debtor as debtor in possession without interruption and in the usual and ordinary course, and to receive, process, honor and pay any and all checks and drafts drawn on, or electronic transfer requests made on, said account after the Petition Date by the holders or makers thereof, as the case may be; and (ii) enter into deposit account control agreements with the collateral agent under any debtor-in-possession financing facility; provided, however, that any check drawn or issued by the Debtors before the Petition Date may be honored by any bank only if specifically authorized by order of this Court.

5. Except for those checks that may be honored and paid to comply with any order(s) of this Court authorizing payment of certain prepetition claims, no checks or drafts issued on the bank accounts before the Petition Date but presented for payment after the Petition Date shall be honored or paid.

6. Notwithstanding any other provision of this Order, no Cash Management Bank that honors a prepetition check or other item drawn on any account that is the subject of this Order (a) at the direction of the Debtors, (b) in good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of reasonable item handling procedures, shall be deemed to be liable to the Debtors or their estates or otherwise in violation of this Order.

7. Nothing contained herein shall prevent the Debtors from opening any new bank accounts or closing any Bank Accounts as they may deem necessary and appropriate; provided, however, that the Debtors shall promptly notify the Office of the United States Trustee for the District of Delaware and counsel to any statutory committee appointed in these chapter 11 cases, of an account closing or an account opening.

8. Subject to the consent of the lenders under the postpetition secured financing facility, the Debtors and the Cash Management Banks may, without further order of this Court, agree to and implement changes to the Cash Management System and procedures in the ordinary course of business.

9. Each Debtor is authorized to continue to use its existing checks without alteration and without the designation "Debtor-in-Possession" imprinted upon them; provided, however, that following the depletion of the Debtors' business form stock, the Debtors will obtain new check stock reflecting their status as debtors in possession.

10. Effective *nunc pro tunc* to the Petition Date, the Cash Management Banks shall be and hereby are authorized and directed to receive, process, honor and pay any and all prepetition and postpetition checks drawn on and electronic transfers authorized for payment by the Court.

11. The Debtors shall maintain records in accordance with their normal and customary practices reflecting all transfers of funds under the terms and conditions provided by the existing agreements with the institutions participating in the Cash Management System. In connection with the ongoing utilization of the Cash Management System, the Debtors shall continue to maintain records with respect to all transfers of cash so that all transactions may be ascertained, traced and recorded properly on the applicable accounts.

12. The Debtors are authorized to continue to deposit funds in accordance with their established deposit practices in effect as of the commencement of these cases. To the extent such deposit practices are not consistent with the requirements of section 345(b) of the Bankruptcy Code or of the U.S. Trustee Operating Guidelines for Chapter 11 Cases, such requirements are waived for sixty (60) days, on an interim basis only, without prejudice to the Debtors' right to seek a further interim waiver.

13. The Debtors are authorized, from and after the Petition Date, to continue to engage in intercompany transactions. All Intercompany Claims held by one Debtor against another Debtor arising from postpetition intercompany transfers shall be entitled to administrative expense priority pursuant to section 503(b)(1) of the Bankruptcy Code junior and subordinate in right of payment to the superpriority administrative expense claims granted to the postpetition lenders, or to the Debtors' prepetition secured lenders in connection with the use of cash collateral, grant of adequate protection or any debtor-in-possession financing facility. In

connection therewith, the Debtors shall continue to maintain current records with respect to all transfers of cash so that all transactions, including intercompany transactions, may be readily ascertained, traced and recorded properly on applicable intercompany accounts.

14. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

15. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall constitute, nor is it intended to constitute, the assumption or adoption of any contract or agreement under Section 365 of the Bankruptcy Code.

16. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

17. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: Wilmington, Delaware  
July \_\_, 2009

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United States Bankruptcy Judge