

ORIGINAL

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

In re:

BLITZ U.S.A., Inc., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 11-13063 (PJW)
)
) (Joint Administration Requested)
)
) Re: Docket No. 5

**ORDER AUTHORIZING THE DEBTORS TO
(A) PAY CERTAIN PREPETITION WAGES AND REIMBURSABLE
EMPLOYEE EXPENSES, (B) PAY AND HONOR EMPLOYEE MEDICAL AND
OTHER BENEFITS AND (C) CONTINUE EMPLOYEE BENEFITS PROGRAMS**

Upon the motion (the "**Motion**")² of Blitz U.S.A., Inc. ("**Blitz**") and certain of its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**") for entry of an order (the "**Order**") authorizing the Debtors to: (a) pay prepetition wages, salaries and other compensation, taxes, withholdings and related costs and reimbursable expenses, (b) pay and honor obligations relating to employee medical, insurance and other benefits programs, and (c) continue their employee medical, insurance and other benefits programs on a postpetition basis; and upon the Declaration of Rocky Flick, President and Chief Executive Officer of Blitz U.S.A., Inc. in Support of the Debtors' Chapter 11 Petitions and First Day Motions (the "**First Day Declaration**"); and the Court having found that: (i) the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (ii) venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. § 1408; (iii) the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; (iv) notice of the Motion was

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: LAM 2011 Holdings, LLC (8742); Blitz Acquisition Holdings, Inc. (8825); Blitz Acquisition, LLC (8979); Blitz RE Holdings, LLC (9071); Blitz U.S.A., Inc. (8104); and F3 Brands LLC (2604). The location of the Debtors' corporate headquarters and the Debtors' service address is: 404 26th Ave. NW Miami, OK 74354.

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



adequate and appropriate under the circumstances; and (v) no other or further notice need be provided; and the Court having reviewed the Motion and having heard statements in support of the Motion at a hearing held before the Court (the “*Hearing*”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and the Court having found that relief requested in the Motion is necessary to prevent immediate and irreparable harm; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefore, it is hereby ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized to pay and honor all prepetition obligations associated with the Employee Obligations and to continue the Employee Benefit Programs in the ordinary course of business to the extent requested in the Motion; *provided, however*, that, the Debtors may not pay (a) any Employee more than \$11,725 on account of Unpaid Compensation; (b) Temporary Employee more than \$11,725 on account of Temporary Employee Compensation; or (c) Independent Contractor more than \$11,725 on account of Independent Contract Compensation; provided, further, that the aggregate amount of prepetition obligations paid pursuant to the relief granted by this Order shall not exceed \$300,000.00 absent further order of the Court.
3. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors’ stated policies and prepetition practices.

4. The Debtors are authorized to continue to honor their obligations, including any prepetition obligations, to Employees and applicable third-parties for Reimbursable Expenses, including those through the Corporate Credit Cards.

5. The Debtors are authorized to honor the Employee Benefit Programs, including, without limitation, the: (a) Health Care Plan (and related Stop Loss Insurance); (b) the Flexible Spending Plan; (c) the Workers Compensation Program (and related Workers Compensation Insurance); (d) Paid Vacation; (e) Leaves of Absence; (f) Short-Term Leave; (g) the 401(k) Plan; (h) Life Insurance; (i) AD&D Insurance Coverage; (j) Short-Term Disability Coverage; and (k) the Employee Assistance Program. The Debtors are to make any necessary contributions to such programs and pay any unpaid premium, claim, or amount owed as of the Petition Date with respect thereto, including the Stop Loss Insurance and Workers Compensation Insurance.

6. Pursuant to Section 362(d) of the Bankruptcy Code, (a) Employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers Compensation Program and the Debtors are authorized to pay all prepetition amounts relating thereto in the ordinary course of business and (b) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (a) are waived. This modification of the Automatic Stay pertains solely to claims under the Workers Compensation Program.

7. The Debtors are authorized to pay all processing and administrative fees associated with and all costs and expenses incidental to payment of the Employee Obligations.

8. To the extent that any of the payments authorized to be made pursuant to this Order are of the kinds described in sections 507(a)(4) or 507(a)(5) of the Bankruptcy Code,

payments to any individual Employee shall not exceed the applicable caps set forth in such sections.

9. Nothing herein shall be deemed to authorize the payment of any amounts that may be subject to section 503(c) of the Bankruptcy Code.

10. In accordance with this Order and any other order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the prepetition or postpetition obligations the Debtors are authorized to pay pursuant to this Order is authorized to honor checks presented for payment and all fund transfer requests made by the Debtors related to the Employee Obligations to the extent that sufficient funds are on deposit in such accounts.

11. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Employee Obligations authorized to be paid by this Order.

12. Nothing contained herein is intended or should be construed to create and administrative priority claim on account of Employee Obligations.

13. Nothing contained in the Motion or this Order shall be deemed or construed as an admission to the validity of priority of any claim against the Debtors or any approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

14. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion or otherwise deemed waived.


15. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied by the contents of the Motion.

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

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

18. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Nov. 10, 2011
Wilmington, Delaware



THE HONORABLE PETER J. WALSH
UNITED STATES BANKRUPTCY JUDGE