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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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| In re | : Chapter 11 |
| | : |
| PACIFICCO INC., et al., | : Case No. 23-[_____] (____) |
| | : |
| Debtors.¹ | : (Joint Administration Requested) |
| | : |
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**MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING DEBTORS TO MAINTAIN AND ADMINISTER THEIR
EXISTING CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (II) GRANTING RELATED RELIEF**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

PacificCo Inc. and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), respectfully move and represent as follows in support of this motion (the “**Motion**”):

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Catalina Marketing Corporation (9007); PacificCo Inc. (1563); PacificCo Intermediate Corp. (8394); PacificCo Acquisition Corp. (4852); Catalina Marketing Procurement, LLC (9333); Catalina Marketing Technology Solutions, Inc. (8728); Modiv Media, LLC (3507); Cellfire LLC (5599); Catalina Marketing Worldwide, LLC (9687); Catalina-Pacific Media, L.L.C. (3931); CMJ Investments L.L.C. (0561); Supermarkets Online, Inc. (6998); Supermarkets Online Holdings, Inc. (1736); Catalina Marketing Loyalty Holdings, Inc. (3746); and Catalina Digital Holdings, LLC (3488). The Debtors’ principal offices are located at 200 Carillon Parkway, Suite 200, St. Petersburg, FL 33716.



Background

1. On the date hereof (the “**Petition Date**”), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (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. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

2. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

3. Before the Petition Date, the Debtors, with the support of their secured lenders, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of PacificCo Inc. and Its Affiliated Debtors* (the “**Prepackaged Plan**”), through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of PacificCo Inc. and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under that certain *Restructuring Support Agreement*, dated as of March 28, 2023, by and among the Debtors and the lenders party thereto (as amended from time to time and including all exhibits thereto, the “**RSA**”), the Debtors are seeking to emerge from chapter 11 on an expedited timeframe. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Debtors’ vendors, suppliers, and customers (the “**Customers**”), will be unimpaired.

4. Consistent with their obligations under the RSA and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider*

(A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballot, and (C) Confirmation of Prepackaged Plan; (II) Establishing a Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statements of Financial Affairs and Schedules of Assets and Liabilities; (V) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VI) Granting Related Relief.(the “**Solicitation Motion**”), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors’ other “first day” pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors’ business during this expedited timeline.

5. Additional information regarding the Debtors’ business, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of Michael Huffmaster Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York*, sworn to on the date hereof, and the *Declaration of Robert A. Del Genio in Support of Debtors’ Chapter 11 Petitions and First Day Relief*, sworn to on the date hereof (together, the “**First Day Declarations**”), which have been filed contemporaneously herewith and are incorporated by reference herein.²

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declarations.

Jurisdiction

6. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

7. No party in interest will be prejudiced by the relief requested by this Motion because the customers are unimpaired under the Prepackaged Plan and will be paid in full. Thus, the relief requested herein seeks to alter only the timing, not the amount or priority of such payments.

Relief Requested

8. By this Motion, pursuant to sections 105(a), 362(d), and 363(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, the Debtors request (a) authority to maintain and administer, in the ordinary course of business and consistent with past practice, customer-related programs, promotions, and practices, and pay and otherwise honor their obligations to customers relating thereto, whether arising prior to or after the Petition Date, as necessary and appropriate in the Debtors' business judgment and (b) related relief.

9. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**") and, pending a final hearing on the relief requested herein, on a final basis annexed hereto as **Exhibit B** (the "**Proposed Final Order**") and, together with the Proposed Interim Order, the "**Proposed Orders**").

Debtors' Customer Programs

10. The Debtors' businesses depend upon the loyalty of their customers. As explained in the First Day Declarations, one of the Debtors' primary lines of business is the development and deployment of targeted marketing campaigns (the "**Campaigns**") to drive

product sales, typically by generating coupons at a consumer's point of sale. The Debtors' primary customers in connection with the Campaigns are the owners and distributors of consumer packaged goods (the "**CPGs**") and retailers of consumer goods seeking to drive sales of their private label products or, in some cases, consumer packaged goods that are sold in their stores (in their capacity as such, the "**Retailers**" and together with the CPGs, the "**Customers**"). The CPG's include non-durable goods such as cosmetics, household products, non-prescription drugs, packaged foods, and beverages, which make up the vast majority of the products that are sold at the Retailers' stores. The manufacturers and distributors that manufacture these types of products encompass a wide range of companies and brands that include both CPGs with global reach as well as less established (or emerging) CPGs.

11. Catalina's approximately 59 Retailers contract with Catalina to design and execute Campaigns to drive not only sales of their own private label products as well as CPG brands, but also overall sales by targeting Shoppers identified as more likely to purchase a variety of products beyond those that may be the focus of the Campaign.

12. Separately, Catalina contracts with the CPGs to execute highly targeted marketing campaigns (the "**Campaigns**") designed to drive product sales and build brand loyalty effectively and efficiently by leveraging Catalina's Shopper Intelligence Platform to deliver highly personalized promotional materials to Shoppers at the point of sale. At "checkout," such promotional materials, which include coupons, rebates, product advertising and other incentives, are "triggered" either by the unique combination of items purchased by a Shopper (the "**Basket**"), or if a Shopper uses a Loyalty Card, by utilizing particular Shopper information in concert with a Shopper's Basket. Promotional materials are instantaneously delivered to Shoppers in the form of

coupons and personalized circulars printed by the Networked Printers at checkout as well as coupons and incentives that are directly “loaded” onto Loyalty Cards.

13. Catalina delivers promotional content in two ways: (i) in-store promotions and (ii) distributing promotional materials and/or placing ads through various digital channels. Digital promotions take the form of digital content, offers and incentives delivered via personalized digital circulars, online, connected television, digital out-of-home, mobile devices, and digital wallets. The wide reach and on-demand nature of Catalina’s content delivery system allows Catalina to design and execute highly customized Campaigns that can scale from national to regional, long-term to short-term, on an as-needed basis. Catalina’s access to real-time purchase data at the Retailers’ stores allows it to measure the effectiveness of a particular Campaign in driving product sales.

14. Catalina has developed much of its online advertising Campaigns for Retailers and CPGs through digital promotions fueled by the data the Company obtains from its in-store products. Historically, Catalina utilized coupons as a means for promoting discounts—more recently, Catalina has developed omnichannel capabilities in which the Company produces data-driven marketing through services such as personalized advertisement banners on websites, e-mail campaigns, and targeted advertisements for particular consumers on smart televisions. Catalina’s algorithms informed by its aggregate data accurately promote products for consumers in the digital sphere similarly to the promotions included in coupons delivered at brick-and-mortar Retailers.

15. For 38 years, the Debtors have been trusted suppliers of personalized digital media to retailers throughout the United States. To develop and maintain positive customer relationships and to maximize customer loyalty, in the ordinary course of business, the Debtors

provide certain incentives, discounts, and other accommodation to Customers, consisting of: (i) free additional make good prints, (ii) rebates, and (iii) advanced payment campaigns (collectively, the “**Customer Program Obligations**”). Without the ability to honor their prepetition commitments to customers under the Customer Program Obligations, and continue the Customer Program Obligations in the ordinary course of business, the Debtors risk (i) a significant reduction in their market share, (ii) losing the trust, loyalty, and goodwill of their customer base, and (iii) the loss of valuable and continuing customer referrals that Debtors largely rely upon, as a subscription reliant company, all of which would irreparably damage the reputation and value of Debtors’ company.

A. Free Additional Make Good Prints

16. In certain instances, a Campaign will suffer from execution issues that prevent the full realization of the Campaign’s objectives. In these circumstances, to maintain customer goodwill, the Debtors may apply a “make good” policy to compensate the Customer (the “**Make Good Program**”). In the vast majority of circumstances, the Debtors will respond to Campaign execution issues by (i) re-running the Campaign at no charge to the Customer, or (ii) if re-running the Campaign will no longer be effective, implementing, at no charge, a new Campaign for the Customer. In limited circumstances where a Campaign execution issue results in a Customer incurring significant out-of-pocket costs, the Debtors may reimburse the Customer for such costs.

17. As of the Petition Date, the Debtors believe that they owe Customers campaign services valued at approximately \$95,000 on account of the Make Good Program, all or some of which may become due during the interim period before a final hearing on this motion (the “**Interim Period**”), depending on when the customers choose to run such programs.

B. Customer Rebates

18. The Debtors' rebate program (the "**Rebate Program**") is designed to entice Customers to enter into agreements for large-scale Campaigns. Under the Rebate Program, the Debtors and a Customer contractually agree that if the Customer spends in excess of a set threshold, such Customer will be entitled to a rebate based on a percentage of Customer spend beyond the threshold. In circumstances where the Rebate Program is triggered, the Debtors will typically remit to the Customer a cash rebate payment within ninety (90) days of the obligation being incurred. The Rebate Program is an important means for the Debtors to increase Customer spending as well as build Customer goodwill. The Rebate Program is limited in scope and, as of the Petition Date, the Debtors estimate that they owe approximately \$30,000 as a result of prepetition obligations incurred under the Rebate Program.

C. Advanced Payment Campaigns

19. In addition to the foregoing campaign services that the Debtors owe their Customers in connection with the other Customer Programs, the Debtors owe campaign services to certain Customers that pay for Campaigns in advance (the "**Advanced Payment Campaign Obligations**"). In the ordinary course of their businesses, the Debtors collect advanced payments from many of their Customers, which allows the Debtors to pay Campaign set-up expenses and maintain appropriate amounts of liquidity. These advanced payments are treated as deferred revenue with associated expenses accrued and recorded in the same period the revenue is earned. The Debtors latest estimate of the deferred value associated with the Advanced Payment Campaign Obligations is approximately \$2.2 million. Accordingly, while no payments are expected to be made during the Interim Period, the Debtors request authority to continue to honor the Advanced Payment Campaign Obligations in the ordinary course.

Relief Requested Should be Granted

A. Maintaining and Honoring Customer Programs is Warranted Under Sections 363(b) and 105(a) of the Bankruptcy Code

20. The Court may grant the relief requested herein pursuant to sections 363 and 105(a) of the Bankruptcy Code.

21. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to Section 363(b) of the Bankruptcy Code. 11 U.S.C. § 363(b)(1). Section 363(b) of the Bankruptcy Code provides, in relevant part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Under section 363(b) of the Bankruptcy Code, a court may authorize a debtor to pay certain prepetition claims if a sound business purpose exists for doing so. *See In re Windstream Holdings Inc.*, 614 B.R. 441, 456 (S.D.N.Y. 2020) (citing *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (finding that there must be a sound business justification to justify payment of prepetition wages)); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 of the Bankruptcy Code to allow contractor to pay prepetition claims of suppliers). The business judgment rule—a common formulation of the “sound business purpose” requirement—is satisfied where “the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *See, e.g., Off. Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993). Moreover, if “the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos-Related Litigants*

v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted). Courts in this District consistently have declined to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence, and have upheld a board's decisions as long as such decisions are attributable to any "rational business purpose." *Integrated*, 147 B.R. at 656 (quoting *CRTF Corp. v. Federated Dep't Stores*, 683 F. Supp. 422, 436 (S.D.N.Y. 1988)).

22. The Court may also authorize the payment of prepetition claims in appropriate circumstances under section 105(a) of the Bankruptcy Code and the doctrine of necessity when such payment is essential to the continued operation of a debtor's business. *See, e.g., Windstream*, 614 B.R. at 456-57; *In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *In re Fin. News Network Inc.*, 134 B.R. 732, 735-36 (Bankr. S.D.N.Y. 1991); *In re CoServ, L.L.C.*, 273 B.R. at 487, 497 (Bank. N.D. Tex. 2002)("[I]t is only logical that the bankruptcy court be able to use § 105(a) of the Bankruptcy Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate."); *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides a statutory basis for the payment of prepetition claims under doctrine of necessity and noting that the bankruptcy court has "power to authorize payment of pre-petition claims when such payment is necessary for the debtor's survival during chapter 11").

23. The continuation of the Customer Programs on an uninterrupted basis is critical to maintaining Customers' support and loyalty. The revenue earned by keeping the Customer Programs in place will more than offset any operational and administrative costs associated with maintaining them and honoring the Customer Program Obligations. Further, because the Customers are unimpaired under the Prepackaged Plan, the relief requested herein

seeks to alter only the timing, not the amount or priority of such payments, and no party in interest will be prejudiced as a result.

B. Continuing the Customer Programs and Honoring the Customer Obligations is in the Best Interests of the Debtors' Businesses and Estates

24. The ability to continue administering the Customer Programs without interruption is absolutely critical to the Debtors' valuable Customer relationships and goodwill, which will inure to the benefit of all of the Debtors' stakeholders. If the Debtors are unable to continue the Customer Programs postpetition or honor obligations thereunder, the Debtors risk alienating certain Customer constituencies, which may then form relationships with the Debtors' competitors, and could suffer corresponding losses in Customer loyalty and goodwill that will harm their prospects for maximizing recoveries to their creditors.

25. The Customer Programs also are essential strategies for attracting new Customers and increasing sale volumes among existing Customers. Failure to continue the Customer Programs and offer even basic programs such as the Make Good Program will place the Debtors at a significant – and potentially insurmountable – competitive disadvantage in the marketplace, amplifying the negative effect of Customer uncertainty that may arise from these chapter 11 filings. Such uncertainty could erode the Debtors' hard-earned reputation, which, in turn, could adversely impact their ability to successfully administer their chapter 11 cases and maximize recoveries to their creditors. The relief requested herein will pay dividends with respect to their businesses, both in terms of profitability and the engendering of goodwill, especially at this critical time following the filing of these chapter 11 cases. Accordingly, the Debtors have shown cause sufficient to warrant the authority to continue administering the Customer Programs and to honor any Customer Obligations relating thereto.

C. Applicable Financial Institutions Should Be Authorized to Receive, Process, Honor, and Pay Checks Issued and Transfers Requested to Pay Any Obligations Outstanding With Respect to the Customer Programs

26. The Debtors further request that this Court authorize applicable financial institutions (the “**Banks**”) to receive, process, honor, and pay any and all checks issued, or to be issued, and electronic funds transfers requested, or to be requested by or on behalf of the Debtors relating to the Customer Programs, to the extent that sufficient funds are on deposit and standing in the Debtors’ credit in the applicable bank accounts to cover such payment. The Debtors represent that these checks are drawn on identifiable disbursement accounts and can be readily identified as relating directly to the authorized payment of Customer Programs. Accordingly, the Debtors believe that checks other than those relating to authorized payments will not be honored inadvertently. Any such financial institution may rely on the representations of such Debtors as to which checks are issued or wire transfers are made (or, as applicable, requested to be issued or made) and authorized to be paid in accordance with this Motion without any duty of further inquiry. The Debtors also seek authority, but not direction, to issue new postpetition checks or effect new postpetition electronic funds transfers in replacement of any checks or funds transfer requests on account of Customer Programs dishonored or rejected as a result of the commencement of the Debtors’ chapter 11 cases.

Bankruptcy Rule 6003(b) Has Been Satisfied

27. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may issue an order granting “a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition” prior to 21 days after the Petition Date. Fed. R. Bankr. P. 6003(b). As explained herein, the Debtors would suffer immediate and irreparable harm if the relief sought herein is not promptly granted. Accordingly,

the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003(b) is satisfied.

Request for Bankruptcy Rule 6004(a) and (h) Waivers

28. To implement the foregoing successfully, the Debtors seek waivers of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declarations, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Reservation of Rights

29. Nothing contained herein is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors or any liens satisfied pursuant to this Motion, (b) an agreement or obligation to pay any claims, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim, or (e) an approval, assumption, or rejection of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Notice

30. Notice of this Motion will be provided to (a) the Office of the United States Trustee for Region 2, One Bowling Green, Suite 534, New York, New York 10004 (Attn: Brian Masumoto (brian.masumoto@usdoj.gov); Tara Tiantian (tara.tiantian@usdoj.gov); and Daniel

Rudewicz (daniel.rudewicz@usdoj.gov)); (b) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (c) the Internal Revenue Service; (d) Wachtell, Lipton, Rosen & Katz (Attn: Joshua A. Feltman (jafeltman@wlrk.com) and Mitchell S. Levy (mslevy@wlrk.com)), as counsel to Mudrick Capital Management, LP; (e) the Customers, (f) the Banks; (g) Brown Rudnick LLP, One Financial Center, Boston, Massachusetts 02111 (Attn: Steven B. Levine, Esq. (slevine@brownrudnick.com) and Tia C. Wallach, Esq. (twallach@brownrudnick.com)), as counsel to GLAS USA LLC and GLAS Americas LLC, the respective administrative and collateral agents under the Super Priority Credit Agreement and Subordinated Credit Agreement; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the “**Notice Parties**”).

31. The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

WHEREFORE the Debtors respectfully request entry of the Proposed Interim Order and, following the Final Hearing (if one is required), the Proposed Final Order, in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: March 28, 2023
New York, New York

/s/ Gary T. Holtzer _____
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Gary T. Holtzer
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*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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| In re | : | Chapter 11 |
| | : | |
| PACIFICCO INC, et al., | : | Case No. 23- [_____] () |
| | : | |
| Debtors.¹ | : | (Joint Administration Requested) |
| | : | |
| ----- | x | |

**INTERIM ORDER (I) AUTHORIZING DEBTORS TO MAINTAIN AND ADMINISTER
THEIR EXISTING CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (II) GRANTING RELATED RELIEF**

Upon the motion, dated March 28, 2023 (the “**Motion**”)² of PacificCo Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 362(d), and 363(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, for entry of an interim order (i) authorizing the Debtors to, in the ordinary course of business and consistent with past practice, maintain and administer customer-related programs, promotions, and practices, and pay and otherwise honor their obligations to customers relating thereto, whether arising prior to or after the Petition Date, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and §1334, and the *Amended Standing Order of Reference M-431*, dated January 31,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Catalina Marketing Corporation (9007); PacificCo Inc. (1563); PacificCo Intermediate Corp. (8394); PacificCo Acquisition Corp. (4852); Catalina Marketing Procurement, LLC (9333); Catalina Marketing Technology Solutions, Inc. (8728); Modiv Media, LLC (3507); Cellfire LLC (5599); Catalina Marketing Worldwide, LLC (9687); Catalina-Pacific Media, L.L.C. (3931); CMJ Investments, L.L.C. (0561); Supermarkets Online, Inc. (6998); Supermarkets Online Holdings, Inc. (1736); Catalina Marketing Loyalty Holdings, Inc. (3746); and Catalina Digital Holdings, LLC (3488). The Debtors’ principal offices are located at 200 Carillon Parkway, Suite 200, St. Petersburg, FL 33716.

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

2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion on an interim basis (the “**Hearing**”); and upon the First Day Declarations and the record of the Hearing; and all objections to the relief requested in the Motion on an interim basis, if any, having been withdrawn, resolved, or overruled; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 363(b) and 105(a) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, to (a) maintain and administer their Customer Programs in the ordinary course of business and consistent with past practice, (b) honor any prepetition obligations arising under the Make Good Program and the Advanced Payment Campaign Obligations in the ordinary course, and (c) pay any prepetition obligations owed with respect thereto, in an aggregate amount not to exceed \$30,000, without further application to the court.

3. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the “**Final Hearing**”).

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Customer Programs are authorized to (a) receive, process, honor, and pay all checks presented for payment and to honor all funds transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, electronic funds or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, electronic funds or automated clearing house transfers are dated before, on, or after the Petition Date, without any duty to inquire otherwise.

5. The Debtors are further authorized, but not directed, to issue new postpetition checks, or effect new electronic funds or automated clearing house transfers, and to replace any prepetition checks or electronic fund or automated clearing house transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors’ chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Interim Order.

6. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors’ or any appropriate party in interest’s rights to dispute the amount of, basis for, or validity of any

claim against the Debtors, (c) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (d) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

7. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

8. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

9. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

10. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

11. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on _____, 2023, at _____ (Prevailing Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, and served by no later than **4:00 p.m. (Prevailing Eastern Time) on _____, 2023** on (i) proposed attorneys for the Debtors: (i) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), Kevin Bostel, Esq. (kevin.bostel@weil.com), and Rachael Foust, Esq. (rachael.foust@weil.com); and (ii) the Office of the United States Trustee for Region 2, One Bowling Green, Suite 534, New York, New York 10004 (Attn: Brian Masumoto (brian.masumoto@usdoj.gov); Tara Tiantian (tara.tiantian@usdoj.gov); and Daniel Rudewicz (daniel.rudewicz@usdoj.gov)).

12. The Debtors are authorized to take all actions necessary or appropriate to effectuate the relief granted in this Interim Order.

13. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: _____, 2023
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

| | | |
|-------------------------------|---|---------------------------------|
| ----- | x | |
| | : | |
| In re | : | Chapter 11 |
| | : | |
| PACIFICCO INC, et al., | : | Case No. 23- [_____] () |
| | : | |
| Debtors.¹ | : | (Jointly Administered) |
| | : | |
| ----- | x | |

**FINAL ORDER (I) AUTHORIZING DEBTORS TO MAINTAIN AND ADMINISTER
THEIR EXISTING CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (II) GRANTING RELATED RELIEF**

Upon the motion, dated March 28, 2023 (the “**Motion**”)² of PacificCo Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 362(d), and 363(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, for entry of an order (i) authorizing the Debtors to, in the ordinary course of business and consistent with past practice, maintain and administer customer-related programs, promotions, and practices, and pay and otherwise honor their obligations to customers relating thereto, whether arising prior to or after the Petition Date, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and §1334, and the *Amended Standing Order of Reference M-431*, dated January

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Catalina Marketing Corporation (9007); PacificCo Inc. (1563); PacificCo Intermediate Corp. (8394); PacificCo Acquisition Corp. (4852); Catalina Marketing Procurement, LLC (9333); Catalina Marketing Technology Solutions, Inc. (8728); Modiv Media, LLC (3507); Cellfire LLC (5599); Catalina Marketing Worldwide, LLC (9687); Catalina-Pacific Media, L.L.C. (3931); CMJ Investments, L.L.C. (0561); Supermarkets Online, Inc. (6998); Supermarkets Online Holdings, Inc. (1736); Catalina Marketing Loyalty Holdings, Inc. (3746); and Catalina Digital Holdings, LLC (3488). The Debtors’ principal offices are located at 200 Carillon Parkway, Suite 200, St. Petersburg, FL 33716.

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

31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion on an interim (the “**Interim Hearing**”) and final basis (the “**Final Hearing**”); and this Court having entered an order granting the relief requested in the Motion on an interim basis; and upon the First Day Declarations, the record of the Interim Hearing, the Final Hearing, and all of the proceedings had before this Court; and all objections to the relief requested in the Motion on a final basis, if any, having been withdrawn, resolved, or overruled; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 363(b) and 105(a) and 507(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, to (a) maintain and administer their Customer Programs in the ordinary course of business and consistent with past practice and (b) honor and pay any Customer Programs Obligations (without regard to whether such Customer Services Obligations accrued or arose before or after the Petition Date).

3. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Customer Programs are authorized to (a) receive, process, honor, and pay all checks presented for payment and to honor all funds transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, electronic funds or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, electronic funds or automated clearing house transfers are dated before, on, or after the Petition Date, without any duty to inquire otherwise.

4. The Debtors are further authorized, but not directed, to issue new postpetition checks, or effect new electronic funds or automated clearing house transfers, and to replace any prepetition checks or electronic fund or automated clearing house transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Final Order.

5. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (d) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

6. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

7. Notice of the Motion is adequate under Bankruptcy Rule 6004(a).

8. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are authorized to take all actions necessary or appropriate to effectuate the relief granted in this Final Order.

10. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Final Order.

Dated: _____, 2023
New York, New York

UNITED STATES BANKRUPTCY JUDGE