

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

Case No. 09-02140 (HB) (Joint Administration)

**CONSENT ORDER APPROVING
ADEQUATE PROTECTION CASH PAYMENTS AND RELATED MATTERS**

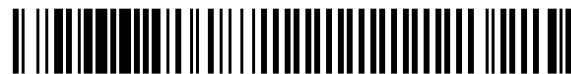
The relief set forth on the following pages, for a total of 6 pages including this page, is hereby **ORDERED**.

**FILED BY THE COURT
05/01/2009**



Entered: 05/04/2009

US Bankruptcy Court Judge
District of South Carolina



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In re:	§	Case No. 09-02140 (HB)
	§	
BI-LO, LLC et al.,	§	Chapter 11
	§	
Debtors.¹	§	(Joint Administration)
	§	

**CONSENT ORDER APPROVING
ADEQUATE PROTECTION CASH PAYMENTS AND RELATED MATTERS**

This matter comes before the Court on (i) the *Cross-Motion for Adequate Protection and Reservation of Rights with Respect to Debtors' Motion for Interim and Final Orders (a) Approving Senior Secured Superpriority Post-Petition Financing, (b) Authorizing Use of Cash Collateral, (c) Granting Liens and Providing Superpriority Administrative Expense Status, (d) Granting Adequate Protection, (e) Modifying Automatic Stay and (f) Scheduling a Final Hearing* [Dkt # 99, the "Adequate Protection Motion"], filed by the ad hoc committee of term lenders (the "Ad Hoc Committee") under that certain \$260,000,000 Credit Agreement (the "Credit Agreement"), dated as of March 26, 2007, among, inter alia, BI-LO Holding, LLC, BI-LO, LLC (the "Borrower" or "BI-LO), and the lenders from time to time party thereto (the "Term Lenders"), (ii) the *Response to the Term Lenders' Cross-Motion for Adequate Protection* [Dkt # 185] filed by the Debtors, (iii) the *ABL Agent's Limited Objection to the Ad Hoc Committee of Term Lenders' Cross-Motion for Adequate Protection* [Dkt # 289], (iv) the *Supplement to*

¹ The Debtors and the last four digits of their respective tax identification numbers are: BI-LO, LLC (0130); BI-LO Holding, LLC (5011); BG Cards, LLC (4159); ARP Ballentine LLC (6936); ARP James Island LLC (9163); ARP Moonville LLC (0930); ARP Chickamauga LLC (9515); ARP Morganton LLC (4010); ARP Hartsville LLC (7906); and ARP Winston Salem LLC (2540).

Debtors' Response to the Term Lenders' Cross-Motion for Adequate Protection [Dkt # 463], (v) the *Consolidated Reply to Responses to its Cross Motion for Adequate Protection* [Dkt # 435] filed by the Ad Hoc Committee, (vi) the *Statement of the Official Committee of Unsecured Creditors in Support of, inter alia, the Ad Hoc Committee of Term Lenders' Cross-Motion for Adequate Protection* [Dkt # 448, the "Creditors' Committee's Statement"] filed by the Official Committee of Unsecured Creditors (the "Creditors' Committee"), and (vii) the *Motion to Use Cash Collateral and Grant Adequate Protection* [Dkt #7, the "Cash Collateral Motion"] filed by the Debtors. As announced in open court at the hearing held in connection with this matter on April 22, 2009, the Debtors and the Term Lenders have agreed, with the concurrence of the Creditors' Committee, and the Court has approved, as follows:

1. The Debtors' *Motion for Valuation of the Term Lenders' Collateral for and During the Pre-Confirmation Stage of the Case* [Dkt # 386] is continued from its scheduled May 6, 2009 hearing date, subject to rescheduling at a future time.

2. As adequate protection of the Term Lenders' interest in cash collateral and other property of the estate, in addition to the measures of adequate protection provided in the *Final Order (a) Approving Senior Secured Superpriority Postpetition Financing, (b) Authorizing Use of Cash Collateral, (c) Granting Liens and Providing Superpriority Administrative Expense Status, (d) Granting Adequate Protection and (e) Modifying Automatic Stay* [Dkt # 406], the Debtors agree to make the following adequate protection payments to the Bank of New York Mellon, as agent for the Term Lenders (the "Prepetition Term Agent"):

- (a) On May 1, 2009, the Debtors will make an adequate protection payment in the amount of \$2,450,000 for the period from March 23, 2009 through May 31, 2009;
and

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- (b) On June 1, 2009, and on the first business day of each successive month until further order of this Court, the Debtors will make a monthly adequate protection payment in the amount of \$1,450,000.

Each of the payments referenced herein shall be made by wire transfer in immediately available funds. The parties shall not request modification of the timing or amount of the \$2,450,000 payment in paragraph 2(a) or the June 1, 2009 payment in paragraph 2(b), but from and after June 2, 2009, nothing herein shall prevent (a) the Debtors, (b) the Prepetition Term Agent and/or the Term Lenders, or the Creditors' Committee from requesting that this Court determine whether to continue or to modify the form or amount of adequate protection provided for in this paragraph. The character of such adequate protection payments (whether as principal payments or as interest and fees, costs, and charges) will be the subject of further agreement of the parties or further order of this Court.

3. The Debtors commit to negotiate with the Creditors' Committee regarding a program with respect to claims under § 503(b)(9) of the Bankruptcy Code (a "503(b)(9) Program") proposed in paragraph 1 of the Creditors Committee's Statement. If the parties are able to complete such negotiations and to reach an agreement in time for the Debtors to file a motion for approval of such program and to reasonably request an emergency hearing on it for May 6, 2009, the Debtors will do so (or else promptly thereafter). The Term Lenders agree not to object to a 503(b)(9) Program, the terms of which are substantially similar to the program proposed in paragraph 1 of the Creditors' Committee Statement if the payments to be made under such 503(b)(9) Program are reasonable.

4. The Adequate Protection Motion is hereby resolved by agreement, and the Cash Collateral Motion is moot.

**CONSENT ORDER APPROVING
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5. The Court retains jurisdiction with respect to all matters arising from or related to this Order.

AND IT IS SO ORDERED.

Dated as of April 22, 2009
Columbia, South Carolina

AGREED TO BY:

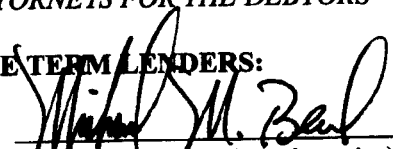
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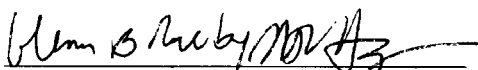
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**CONSENT ORDER APPROVING
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District/Off: 0420-7
Case: 09-02140-hb

User: smithj
Form ID: pdf01

Date Created: 5/4/2009
Total: 6

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