

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

Eastern Outfitters, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No.: 17-10243 (LSS)

(Joint Administration Requested)

Related to Docket No. 16

**INTERIM ORDER AUTHORIZING PAYMENT OF CERTAIN
PREPETITION SHIPPING, DELIVERY, AND CUSTOMS CHARGES**

Upon the motion (the "Motion")² of Eastern Outfitters, LLC and its chapter 11 affiliates, the debtors and debtors in possession (the "Debtors") in the above-captioned jointly administered chapter 11 cases (the "Cases"), for entry of an order, pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (i) authorizing, but not directing, the Debtors to pay certain prepetition claims for shipping, freight forwarding, consolidating, and customs duties (the "Transporter Claims"), (ii) authorizing banks and financial institutions (the "Banks") to receive, process, honor, and pay all checks and electronic funds transfers related thereto, and (iii) granting related relief; and it appearing that the Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and it appearing that the Motion is a core matter pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the

¹ The Debtors and the last four digits of their respective federal taxpayer identification numbers, where applicable, are as follows: Eastern Outfitters, LLC (9164); Subortis Retail Financing, LLC (9065); Eastern Mountain Sports, LLC (9553); Subortis IP Holdings, LLC; Bob's Stores, LLC (4389); and Bob's/EMS Gift Card, LLC (9618). The Debtors' executive headquarters are located at 160 Corporate Court, Meriden, CT 06450.

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



United States Constitution; and it appearing that venue of these Cases and of the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Motion has been given under the circumstances, and that no other or further notice need be given; and after a hearing on the Motion, and it appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, 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, as set forth herein.
2. The Debtors are authorized, but not directed, to pay the prepetition Transporter Claims in the ordinary course of the Debtors' business up to an aggregate amount of \$1,500,000 as the Debtors, in their business judgment, determine is necessary and appropriate.
3. If any party accepts payment from the Debtors on account of its Transporter Claim and thereafter does not continue to provide services to the Debtors on the Historical Trade Terms, then the Debtors are authorized, in their discretion and without further order of the Court, (a) to declare that any payments made on account of such Transporter Claims be deemed to have been in payment of any then-outstanding (or subsequently accruing) undisputed postpetition claims of such party and (b) to recover any payment made to such party on account of its Transporter Claim to the extent such payment exceeded the undisputed postpetition claims of such party; provided, however, that upon recovery of any such payments by the Debtors, the applicable portion of the Transporter Claim shall be reinstated as a prepetition claim in the amount recovered by the Debtors. For the avoidance of doubt, the Debtors may not exercise the remedies provided for herein without further approval by the Court.

4. Subject to the terms of this Court's Order approving Debtors' continued use of their cash management system, the Banks are authorized, when requested by the Debtors, in the Debtors' discretion, to honor and process checks or electronic fund transfers drawn on the Debtors' bank accounts to pay prepetition obligations authorized to be paid hereunder, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make such payments. The Banks may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Interim Order, and Banks shall not be liable to any party on account of: (a) following the Debtors' instructions or representations as to any order of this Court; (b) the honoring of any prepetition check or other item drawn on any account that is the subject of this Interim Order in a good faith belief that the Court has authorized such prepetition check or item to be honored; and (c) an innocent mistake made despite implementation of reasonable item handling procedures.

5. The Debtors shall be and hereby are authorized to issue in their sole discretion new post-petition checks or effect new post-petition fund transfers to pay the Transporter Claims to replace any prepetition check or fund transfer requests that may be dishonored or rejected.

6. Nothing in this Order, nor as a result of any payment made pursuant to this Order, (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors and their estates, (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority, or amount of any claim against the Debtors and their estates, (c) shall be construed as a promise to pay a claim, or (d) is intended or shall be deemed to provide that any lien (contractual, common law, statutory, or otherwise)

securing a claim that is paid pursuant to this Order constitutes a valid enforceable lien, and the Debtors reserve all rights to contest the extent, validity, perfection, or possible avoidance of any such liens, and to recoup for the Debtors' estates any amounts paid on account of the Transporter Claims to the extent the validity or perfection of such liens are later successfully contested or such liens are later avoided.

7. Bankruptcy Rule 6003(b) has been satisfied.

8. The final hearing (the "Final Hearing") on the Motion shall be held on March 6, 2017, at 2:00 p.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time), on February 27, 2017, and shall be served on the: (i) the Debtors, 160 Corporate Court, Meriden, CT 06450, Attn: Spencer Ware, Chief Restructuring Officer; (ii) proposed counsel to the Debtors, Bracewell LLP, 1251 Avenue of Americas, New York, NY 10020-1104, Fax: (212) 508-6101, Attn: Jennifer Feldsher, Robert G. Burns and David M. Riley and CityPlace I, 34th Floor, 185 Asylum Street, Hartford Connecticut, 06103, Fax: (800) 404-3970; Attn: Mark E. Dendinger and Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Fax: (302) 652-3117; Attn: Norman L. Pernick, Marion M. Quirk, Katharina Earle; (iii) counsel to the Stalking Horse Bidder, Greenberg Traurig, LLP, 200 Park Avenue, New York, NY 10166, Fax: (212) 801-6400; Attn: Nancy Mitchell (iv) counsel to the prepetition first lien lender, PNC Bank, National Association, Blank Rome LLP, 130 N. 18th St., Philadelphia, PA 19103, Fax: (215) 832-5507, Attn: Regina S. Kelbon and Gregory F. Vizza (v) counsel to any statutory committee appointed in these Cases; and (v) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801.

9. If objections are timely filed and served as set forth herein, the Court will consider such objection at the Final Hearing. Alternatively, if no objections are timely filed, the Debtors, after the Objection Deadline, are permitted to submit to the Court a final order on certification of counsel.

10. Notwithstanding anything to the contrary contained herein, any payment made or to be made, and authorization contained in this Order shall be subject to the requirements imposed on the Debtors under any approved debtor in possession financing facility, any order regarding the Debtors' postpetition financing or use of cash collateral, and any budget in connection therewith.

11. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon its entry; (b) the Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this order; and (c) the Debtors are authorized and empowered, and may in their discretion and without further delay, take any action necessary or appropriate to implement this Order.

12. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware
February 8, 2017



THE HONORABLE LAURIE SELBER SILVERSTEIN