

**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. 18

INTERIM ORDER (I) APPROVING THE DEBTORS' PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (II) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES, (III) APPROVING THE DEBTORS' PROPOSED PROCEDURES FOR RESOLVING ADEQUATE ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF

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 interim order (this "Interim Order"), pursuant to sections 105(a) and 366 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 9013-1 of the Local Rules of Bankruptcy Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), (i) approving the Proposed Adequate Assurance of payment for future utility services, (ii) prohibiting Utility Companies from altering, refusing, or discontinuing services, (iii) approving the Debtors' proposed procedures for resolving Adequate Assurance Requests, and (iv) granting related relief; and upon consideration of the First Day Declaration and the entire record of these Cases; and it

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.



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 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 on an interim basis as set forth herein.
2. 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.

3. The Debtors shall serve a copy of the Motion and this Interim Order on each Utility Company listed on the Utility Services List no later than two business days after the date this Interim Order is entered.

4. 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.

5. The Debtors are authorized to pay on a timely basis and in accordance with their prepetition practices all undisputed invoices for post-petition Utility Services provided by the Utility Companies to the Debtors.

6. No later than twenty days after the date this Interim Order is entered, the Debtors shall cause the Adequate Assurance Deposit to be deposited into a segregated account and held during the pendency of these Cases. Upon the effective date of a chapter 11 plan in these Cases, the Debtors may close the Adequate Assurance Deposit account without the need for any notice to, or action, order, or approval of, this Court.

7. The Adequate Assurance Deposit shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

8. The following Adequate Assurance Procedures are hereby approved on an interim basis:

- a) Any Utility Company that objects to the Proposed Adequate Assurance must serve an Adequate Assurance Request on (a) the Debtors, 160 Corporate Court, Meriden, CT 06450, Attn: Spencer M. Ware, Chief Restructuring Officer; (b) proposed counsel to the Debtors, Bracewell LLP, 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: Katharina Earle; (iii) counsel to the anticipated DIP Lenders, 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; and (v) counsel to any statutory committee appointed in these Cases (collectively, the "Notice Parties").
- b) Any Adequate Assurance Request must be served on the Notice Parties and must: (i) be made in writing; (ii) identify the location for which Utility Services are provided; and (iii) explain why the Utility Company believes the Adequate Assurance Deposit is not sufficient adequate assurance of future payment.
- c) The Debtors are authorized to resolve, in their sole discretion, any Adequate Assurance Request by mutual agreement with a Utility Company and without further order of the Court and, in connection with any such agreement, in their sole discretion, provide a Utility Company with alternative adequate assurance of payment, including cash deposits, prepayments, or other forms of security, without further order of the Court, if the Debtors believe such alternative assurance is reasonable. Without the need for any notice to, or action, order, or approval of, the Court, the Debtors may reduce the amount of the Adequate Assurance Deposit by any amount allocated to a particular Utility Company to the extent consistent with any alternative adequate assurance arrangements mutually agreed to by the Debtors and the affected Utility Company.
- d) If the Debtors are unable to consensually resolve an Adequate Assurance Request by mutual agreement within 30 days of receipt of the Adequate Assurance Request, the Debtors will seek a hearing with the Court (the "Determination Hearing") to determine the appropriate amount of adequate assurance required with respect to such Adequate Assurance Request. Pending resolution of such Adequate Assurance Request at the Determination Hearing, the Utility Company shall be prohibited from altering, refusing, or discontinuing services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Adequate Assurance Deposit.

9. The Utility Companies are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

10. The Debtors are authorized, in their sole discretion, to add or remove any Utility Company from the Utility Services List, and the Debtors shall add to or subtract from the Adequate Assurance Deposit an amount equal to two weeks of the Debtors' average cost for each subsequently-added or removed Utility Company as soon as practicable; provided, that for any Utility Company that is removed from the Utility Services List, the Debtors will have paid such Utility Company in full for any outstanding post-petition Utility Services amounts before reducing the Adequate Assurance Deposit. For Utility Companies that are added to the Utility Services List, the Debtors will serve a copy of this Interim Order, including the Adequate Assurance Procedures, on such subsequently added Utility Company within three business days of being added. Any Utility Company subsequently added to the Utility Services List shall be bound by the Adequate Assurance Procedures, provided that any subsequently added Utility Company must serve, on the Notice Parties, any Adequate Assurance Request.

11. The relief granted herein is for all Utility Companies providing Utility Services to the Debtors and is not limited to those parties or entities listed on the Utility Services List, provided however, that this Interim Order shall be binding on any Utility Companies listed on any amended Utility Services List filed with the Court as of the date of service of the notice of the amended Utility Services List.

12. Nothing contained in the Motion or this Interim Order, nor the Debtors' service of the Motion upon the Utility Services List, shall constitute an admission or concession that each such entity is a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

13. Nothing in this Interim Order, nor as a result of any payment or deposit made pursuant to this Interim 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, or (c) shall be construed as a promise to pay a claim.

14. Bankruptcy Rule 6003(b) has been satisfied to the extent applicable.

15. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Interim 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 Interim 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 Interim Order.

16. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

17. In addition to the deposit, Debtors agree to notify Waste Management of the rejection of each lease and further specifically file a notice of rejection for each location served by Waste Management.

Dated: Wilmington, Delaware
February 8, 2017



THE HONORABLE LAURIE SELBER SILVERSTEIN