

IT IS ORDERED as set forth below:



Date: March 8, 2018

Susan D. Barrett

Susan D. Barrett
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

In re:)	Chapter 11
)	
FIBRANT, LLC, et al.,¹)	Case No. 18-10274
)	
Debtors.)	Jointly Administered
)	

**ORDER (A) AUTHORIZING PAYMENT OF PRE-PETITION WAGES,
PAYROLL TAXES, CERTAIN EMPLOYEE BENEFITS AND RELATED
EXPENSES, AND OTHER COMPENSATION TO EMPLOYEES, AND (B)
SCHEDULING FINAL HEARINGS ON PAYMENT OF EMPLOYEE
OBLIGATIONS AND PERFORMANCE BONUS PROGRAM**

This matter is before the Court on the *Emergency Motion to Authorize Payment of Pre-Petition Wages, Payroll Taxes, Certain Employee Benefits and Related Expenses, and Other Compensation to Employees* (the "Motion") of Fibrant, LLC and its affiliated debtors-in-

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Fibrant, LLC (6694); Evergreen Nylon Recycling, LLC (7625); Fibrant Center South, LLC (8270); and Georgia Monomers Company, LLC (0042).



possession (collectively, the “Debtors”). All capitalized terms used but not defined herein shall have the meanings given to them in the Motion.

The Court has considered the Motion, the *Declaration of David Leach in Support of First-Day Motions and Applications*, and the matters reflected in the record of the hearings held on the Motion on March 1, 2018 and March 7, 2018. It appears that the Court has jurisdiction over this proceeding; that this is a core proceeding; that notice of the Motion has been provided to: (a) the Office of the United States Trustee for the Southern District of Georgia; (b) the holders of the 20 largest unsecured claims against the Debtors on a consolidated basis; (c) the agent to lenders that previously asserted a blanket lien on Fibrant’s assets; (d) the Internal Revenue Service; (e) the United States Attorney’s Office for the Southern District of Georgia; (f) the Office of the Georgia Attorney General; (g) the Georgia Department of Revenue; (h) the United States Environmental Protection Agency, (i) the Georgia Environmental Protection Division; (j) parties receiving the “first-day” motions filed by the Debtors; (k) Koninklijke DSM, N.V. and DSM Coating Resins, Inc.; (l) ChemicalInvest Holding, B.V.; and (m) any other party that has requested notice pursuant to Bankruptcy Rule 2002; that no further notice is necessary; that the relief sought in the Motion is in the best interests of the Debtors, their estates, and their creditors; and that good and sufficient cause exists for such relief.

Accordingly, it is hereby ORDERED as follows:

1. The Motion (Docket No. 10) is GRANTED in part, and CONTINUED in part, as set forth in this Order.
2. Except for obligations associated with the Performance Bonus Plan, the Debtors are authorized, but not directed, to honor and pay the Employee Obligations, subject to (and capped at), with respect to each employee, an amount equal to the statutory limitation of \$12,850 set forth

in 11 U.S.C. §§ 507(a)(4) and 507(a)(5). The Debtors are authorized to exceed the \$12,850 cap only under the following circumstance: If the Debtors' obligation to pay an Employee the value of his or her unused PTO becomes due and payable prior to April 13, 2018, the Debtors are authorized to pay the amount that exceeds the \$12,850 cap, so long as the amount that exceeds the \$12,850 cap is less than the value of the compensation and benefits that would be payable to such Employee from such Employee's scheduled separation date through April 13, 2018 (assuming that such Employee were to be actively employed on such dates). The Employee Obligations that the Debtors are authorized to pay are described in the Motion and include the following Employee Obligations: (i) wages, salaries and other compensation; (ii) payroll and unemployment taxes; (iii) vacation, sick leave and holiday programs; (iv) 401(k) plan obligations; (v) expense reimbursements; (vi) health and welfare benefits (including vision, FSA and HSA benefits); (vii) other benefit programs (including safety glasses, car allowance, and leased vehicles); and (viii) outplacement and COBRA assistance. Retention or performance bonus benefits are not authorized by this Order.

3. A hearing on the Motion, solely to the extent it seeks authority to pay Employee Obligations in excess of the limitations set forth in paragraph 2 of this Order, is scheduled for **April 13, 2018 at 10:00 a.m.** before the Honorable Susan Barrett, United States Bankruptcy Judge, at The United States Bankruptcy Courthouse, 600 James Brown Blvd, Plaza Bldg., Augusta, Georgia 30901.

4. A hearing on the Motion, solely to the extent it requests approval of the Performance Bonus Plan, is scheduled for **April 24, 2018 at 10:00 a.m.** before the Honorable Susan Barrett, United States Bankruptcy Judge, at The United States Bankruptcy Courthouse, 600 James Brown Blvd, Plaza Bldg., Augusta, Georgia 30901.

5. Except as set forth herein, the Debtors are authorized (but not directed) to make payments consistent with their practices, programs, and policies with respect to the Employees, as such practices, programs, and policies were in effect as of the Petition Date.

6. The Debtors' banks are authorized and directed to honor any check or draft representing an Employee Obligation that may be presented for payment and to make other transfers necessary to implement these transactions, provided that sufficient funds are available in the applicable accounts to make the payments and transfers. The Debtors are further authorized to pay any cost or penalty incurred by their Employees in the event that a check issued by the Debtors for payment of the Employee Obligations is inadvertently not honored because of the filing of the Debtors' bankruptcy cases.

7. The banks and other financial institutions that process, honor, and pay any and all checks on account of Employee Obligations shall rely on the representations of the Debtors as to which checks are issued and authorized to be paid in accordance with this Order without any duty of further inquiry and without liability for following the Debtors' instructions.

8. Neither this Order, nor the Debtors' payment of any amounts authorized by this Order, shall: (i) result in any assumption of any executory contract by the Debtors; (ii) result in a commitment to continue any plan, program, or policy of the Debtors; or (iii) impose any administrative, pre-petition, or post-petition liabilities upon the Debtors.

9. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

10. To the extent the fourteen-day stay of Bankruptcy Rule 6004(h) may be construed to apply to the subject matter of this Order, such stay is hereby waived.

11. Counsel for the Debtors are directed to serve a copy of this Order on: (a) the Office of the United States Trustee for the Southern District of Georgia; (b) the holders of the 20 largest unsecured claims against the Debtors on a consolidated basis; (c) the agent to lenders that previously asserted a blanket lien on Fibrant's assets; (d) the Internal Revenue Service; (e) the United States Attorney's Office for the Southern District of Georgia; (f) the Office of the Georgia Attorney General; (g) the Georgia Department of Revenue; (h) the United States Environmental Protection Agency, (i) the Georgia Environmental Protection Division; (j) parties receiving the "first-day" motions filed by the Debtors; (k) Koninklijke DSM, N.V. and DSM Coating Resins, Inc.; (l) ChemicalInvest Holding, B.V.; and (m) any other party that has requested notice pursuant to Bankruptcy Rule 2002, within three days of the entry of this Order and to file a certificate of service with the Clerk of the Court.

END OF DOCUMENT

Prepared and presented by:

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