

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
FUHU, INC., <i>et al.</i> , ¹) Case No. 15-12465 (CSS)
)
Debtors.) (Joint Administration Requested)

Re: Docket No. 12

**INTERIM ORDER GRANTING DEBTORS' MOTION
FOR AUTHORITY TO MAINTAIN CASH-MANAGEMENT SYSTEM,
AUTHORITY TO USE EXISTING BANK ACCOUNTS AND BUSINESS FORMS, AND
WAIVER OF REQUIREMENT OF SECTION 345(B) OF THE BANKRUPTCY CODE**

Upon consideration of the motion (the "Motion")² filed by the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases seeking entry of an Order under sections 105, 345, 363, 364, 1107, and 1108 of title 11 of the United States Code (the "Bankruptcy Code") authorizing the (i) maintenance of existing bank accounts including the authority to pay routine prepetition banking fees owed to financial institutions, (ii) continued use of the Debtors' existing cash management systems, bank accounts, forms, and checks for the Debtors, and (iii) continued performance of intercompany transactions and provision of administrative priority to postpetition intercompany receivables; and upon the First Day Declaration; and it appearing that the relief requested is in the best interests of the Debtors'

¹ The Debtors, together with the last four digits of each Debtor's tax identification number, are: Fuhu, Inc. (7896); and FuHu Holdings, Inc. (9761). The location of the Debtors' headquarters and service address is 909 N. Sepulveda Blvd., Suite 540, El Segundo, CA 90245.

² Unless otherwise noted, capitalized terms used herein shall have the meanings ascribed to them in the Motion.



estates, their creditors and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M) and (O); and due and adequate notice of the Motion having been given under the circumstances; and after due deliberation and cause appearing therefor; it is hereby

ORDERED that the Motion is GRANTED, as set forth herein; and it is further

ORDERED that the Debtors are authorized, but not directed, in the reasonable exercise of their business judgment, (i) to designate, maintain and continue to use, with the same account numbers, all of the bank accounts in existence on the Petition Date, including, without limitation, those accounts identified on Exhibit A to the Motion (the “Bank Accounts”); (ii) treat the Bank Accounts for all purposes as debtor in possession accounts; and (iii) use all existing paper check stock and related forms without reference to the Debtors’ status as debtors in possession until such supply is depleted, after which the Debtors will order new check stock, deposit slips and related forms with the “debtor in possession” reference; and it is further

ORDERED that the banks set forth on Exhibit A to the Motion and any other bank (collectively, the “Banks”) at which any Bank Account is or may be maintained are hereby authorized to continue to service and administer such Bank Account as an account of the Debtors as debtors in possession without interruption and in the usual and ordinary course of business, and to receive, process, honor and pay any and all checks and drafts drawn on the Bank Account after the Petition Date by the holders or makers thereof, as the case may be; *provided, however*, that any check that the Debtors advise any Bank to have been drawn or issued by the Debtors

before the Petition Date may be honored by any Bank only if specifically authorized by order of this Court; and it is further

ORDERED that (i) certain existing arrangements between the Debtors and the Banks with respect to the Bank Accounts and with respect to the transfers to and from the Bank Accounts shall continue to govern the postpetition cash management relationship between the Debtors and each of the Banks; (ii) the Debtors and each of the Banks may, without further order of this Court, agree to and implement changes to the Cash Management Systems and procedures in the ordinary course of business, including, without limitation, the opening and closing of bank accounts with notice to the United States Trustee; and (iii) in the course of providing cash management services to the Debtors, each Bank is authorized, without further order of this Court, to continue to deduct from the appropriate accounts of the Debtors, the Bank's customary fees and expenses associated with the nature of the deposit and cash management services rendered to the Debtors; and is further

ORDERED that no later than the close of business on the fifth (5th) business day following entry of this Order, the Debtors shall make reasonable efforts to provide to the Banks a list (the "Prepetition Check List") of applicable checks that have not been honored prior to the Petition Date (the "Prepetition Checks"), designate whether or not such Prepetition Checks should be honored pursuant to any orders entered by the Court, and that a Bank's reasonable reliance on the Prepetition Check List in connection with its honoring or dishonoring of a Prepetition Check, as the case may be, shall not constitute a violation of this Order. Specifically, the Debtors agree (a) to send the Banks the list of all Prepetition Checks by at least check number and amount; (b) to circle or highlight the Prepetition Checks on that list for which they

have Court approval to pay and want the Banks to honor; and (c) the Banks shall promptly honor each such circled or highlighted Prepetition Check after the later of (i) receipt of the list of checks from the Debtors, or (ii) presentment to the Banks of any particular Prepetition Check highlighted or circled on that list; and it is further

ORDERED that each Bank that maintains a disbursement account of any of the Debtors shall implement reasonable handling procedures designed to effectuate the terms of this Order, and no Bank that implements such handling procedures and then honors a prepetition check or other item drawn on any account that is the subject of this Order either (i) at the direction of the Debtors to honor such prepetition check or item, (ii) in good faith belief that the Court has authorized such prepetition check or item to be honored, or (iii) as a result of an innocent mistake made despite implementation of such handling procedures, shall be deemed in violation of this Order; and it is further

ORDERED that the Debtors may continue to fund their businesses and operations through the Bank Accounts, including without limitation, to the Debtors' affiliates that are not in chapter 11 consistent with the respective budgets attached to each of the Financing Orders and the terms and conditions of such Financing Orders; and it is further

ORDERED that the Debtors shall maintain detailed records reflecting all transfers of funds under the terms and conditions provided for by the existing agreements with the institutions participating in the Debtors' Cash Management Systems and the Financing Orders. In connection with the ongoing utilization of their Cash Management Systems, the Debtors shall continue to maintain detailed records with respect to all transfers of cash so that all transactions

may be readily ascertained, traced and recorded properly on the applicable accounts; and it is further;

ORDERED the Debtors are authorized to open any new Bank Accounts or close any existing Bank Accounts as it may deem necessary and appropriate in their sole discretion; provided, however, that the Debtors give notice within fifteen (15) days to the Office of the United States Trustee for the District of Delaware and any statutory committees appointed in these chapter 11 cases; provided, further, however that the Debtors shall open any such new Bank Account at banks that have executed a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, or at such banks that are willing to immediately execute such an agreement; and it is further

ORDERED that the Debtors are authorized to continue utilizing their Cash Management Systems to manage the Debtors' cash, in a manner consistent with the Debtors' prepetition practices; and it is further

ORDERED that, notwithstanding anything in this Order to the contrary, any payment or transfers to be made hereunder with respect to FuHu Taiwan (i) is approved on an interim basis in an amount not to exceed \$400,000 in the aggregate; provided that the payments authorized by, and any authorizations contained in, this Order are subject to the respective terms and requirements set forth in any order authorizing use of cash collateral and (ii) any payment with respect to the additional salary at the Chinese new year shall be subject to the entry of a supplemental Order by the Court at the Final Hearing (as defined below); and it is further

ORDERED that the Debtors are granted a thirty (30) day extension of time to comply with the investment and deposit requirements of section 345 of the Bankruptcy Code, which extension is without prejudice to the Debtors' ability to seek a final waiver of those requirements in connection with the Motion. The Debtors are permitted to maintain deposits in their accounts in accordance with their existing deposit practices, and it is further

ORDERED that the Debtors are authorized to deposit funds, in excess of amounts insured by the Federal Depository Insurance Corporation so long as such funds are deposited in a Bank Account with a bank that has a standing collateral agreements with the Office of the United States Trustee and that all other deposits shall be within the amounts insured by the Federal Depository Insurance Corporation; and it is further

ORDERED that, notwithstanding anything in this Order to the contrary, the authority and approvals granted by the terms of this Order to the Debtors, including with respect to the opening and closing of bank accounts and continuation of their Cash Management Systems, shall be in all respect subject to any requirements imposed on the Debtors under any approved cash collateral order; and it is further

ORDERED for banks at which the Debtors hold bank accounts that are party to a Uniform Depository agreement with the Office of the United States Trustee for the District of Delaware, within fifteen (15) days of the date of entry of this Order the Debtors shall (a) contact each bank, (b) provide the bank with each of the Debtors' employer identification numbers and (c) identify each of their bank accounts held at such banks as being held by a debtor in possession in a bankruptcy case, and provide the case number; and it is further

ORDERED that the Debtors shall cause a copy of this Order to be served on each bank at which a Bank Account is maintained within five (5) business days of the date hereof; and it is further

ORDERED that the Debtors shall maintain accurate and detailed records of all transfers, including intercompany transfers, so that all transactions shall be adequately and readily documented, ascertained, traced, recorded properly from the Debtors' books and records and distinguished between prepetition and postpetition transactions and any non-debtor disbursement transfers will be separately identified on the Monthly Operating Reports for purposes of quarterly fee calculations that the requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion; and it is further

ORDERED that the Debtors shall not be authorized by this Order to undertake any intercompany transactions that are not on the same terms as, or materially consistent with, the Debtors' operation of the business in the ordinary course prior to the Petition Date. All intercompany claims held by a Debtor or non-debtor affiliate against a Debtor arising from postpetition intercompany transfers shall be entitled to administrative expense priority in accordance with the Bankruptcy Code; and it is further

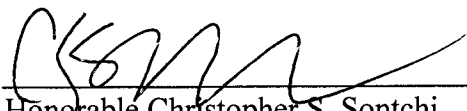
ORDERED that notwithstanding anything contained herein, despite the Debtors' use of a consolidated cash management system, the Debtors shall calculate their quarterly fees under 28 U.S.C. § 1930(a)(6) based on disbursements of each Debtor, regardless of which Debtor pays those disbursements; and it is further

ORDERED that the hearing (the "Final Hearing") to consider the balance of the relief requested in the Motion is scheduled for 12/30/15 at 10.0 a.m. (Eastern time) before the Court. On or before ~~12/9/15~~ 12/9/15, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Order and of the Final Hearing (the "Final Hearing Notice"), together with copies of this Order and the Motion, on (a) the parties having been given notice of the Motion, (b) any party which has filed prior to such date a request for notices with the Court, and (c) counsel to any statutory committee appointed in these chapter 11 cases. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed supplemental Order shall file written objections with the Clerk of Court no later than 12/23/15 at 4:00 p.m. (Eastern time), which objections shall be served so as to be received on or before such date by (a) proposed counsel to the Debtors, (i) Bryan Cave LLP, One Metropolitan Square, 211 North Broadway, St. Louis, MO 63102, Attn: Brian C. Walsh, Esq., and (ii) Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067, Attn: Jeffrey N. Pomerantz and 919 North Market Street, 17th Floor, Wilmington, DE 19801, Attn: Michael R. Seidl, (b) the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Linda Casey, Esq., (c) counsel to Obsidian Agency Services, Inc., as Agent, (i) Goldberg Kohn Ltd., 55 East Monroe, Suite 3300, Chicago, IL 60603, Attn: Jeremy M. Downs and Zachary J. Garrett, and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, P.O. Box 1347, Wilmington, DE 19899, Attn: Robert J. Dehney and Curtis S. Miller and (d) all parties entitled to notice pursuant to Bankruptcy Rule 2002.

ORDERED that the notice requirements under Bankruptcy Rule 6004(a) and the stay under Bankruptcy Rule 6004(h) are hereby waived, to the extent that they apply; and it is further

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

Dated: December 9, 2015



Honorable Christopher S. Sontchi
United States Bankruptcy Judge