

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

Re: Docket No. 7

INTERIM ORDER (A) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS AND (B) GRANTING RELATED RELIEF

Upon the motion (the "Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of an order (the "Order"), (a) authorizing the Debtors to pay Critical Vendor Claims up to the Critical Vendor Cap, and (b) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter 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 this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and

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



no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized, but not directed to pay the Critical Vendor Claims; *provided, that*, such payments shall not exceed, on an interim basis, \$325,000 in the aggregate pending a final hearing.
3. The Debtors are authorized, but not directed, in their sole discretion, to pay the Critical Vendor Claims, in whole or in part, upon such terms and in the manner provided in this Order; *provided that*, if any Critical Vendor accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with trade terms at least as favorable to the Debtors as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, product mix, availability, and other programs) in place 12 months prior to the Petition Date, or such other trade terms that are acceptable to the Debtors (collectively, the "Customary Trade Terms"), then: (a) the Debtors may then take any and all appropriate steps to cause such Critical Vendor to repay payments made to it on account of its prepetition claim to the extent that such payments exceed the postpetition amounts then owing to such Critical Vendor; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an

outstanding postpetition balance due from the Debtors to such party, the Debtors may seek to re-characterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding postpetition balance and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

4. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their sole discretion, the extent, perfection, priority, validity, or amounts of any claims held by any Critical Vendor. The Debtors do not concede that any claims satisfied pursuant to this Order are valid, and the Debtors expressly reserve all rights to contest the extent, validity, or perfection or seek the avoidance of all such liens or the priority of such claims.

5. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

7. Notwithstanding anything in this Order to the contrary, 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.

8. A hearing (the "Final Hearing") to consider the balance of the relief requested in the Motion is scheduled for 12/30/15 at 10:00a.m. (Eastern time) before the Court. On or before 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 final Order shall file written objections with the Clerk of Court no later than on 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.


9. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

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

Dated: December 9, 2015



Honorable Christopher S. Sontchi
United States Bankruptcy Judge