

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SFX ENTERTAINMENT, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10238 ()

(Joint Administration Requested)

**MOTION OF THE DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS
AUTHORIZING (A) THE DEBTORS TO PAY PREPETITION SALES, FRANCHISE
AND SIMILAR TAXES IN THE ORDINARY COURSE OF BUSINESS, AND
(B) BANKS AND FINANCIAL INSTITUTIONS TO HONOR AND
PROCESS CHECKS AND TRANSFERS RELATED THERETO**

The above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) hereby move the Court (the “**Motion**”), pursuant to sections 105(a), 363, 507(a), 541(d), 1107 and 1108 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”) and Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), for entry of interim and final orders authorizing, but not directing, (a) the Debtors to pay certain sales, franchise and similar taxes in the ordinary course of business and (b) banks and financial institutions to honor and process checks and transfers related to such payments. In support of this Motion, the Debtors respectfully state as follows:

¹ The Debtors in these Chapter 11 Cases, along with the last four (4) digits of each Debtor’s federal tax identification number, if applicable, are: 430R Acquisition LLC (7350); Beatport, LLC (1024); Core Productions LLC (3613); EZ Festivals, LLC (2693); Flavorus, Inc. (7119); ID&T/SFX Mysteryland LLC (6459); ID&T/SFX North America LLC (5154); ID&T/SFX Q-Dance LLC (6298); ID&T/SFX Sensation LLC (6460); ID&T/SFX TomorrowWorld LLC (7238); LETMA Acquisition LLC (0452); Made Event, LLC (1127); Michigan JJ Holdings LLC (n/a); SFX Acquisition, LLC (1063); SFX Brazil LLC (0047); SFX Canada Inc. (7070); SFX Development LLC (2102); SFX EDM Holdings Corporation (2460); SFX Entertainment, Inc. (0047); SFX Entertainment International, Inc. (2987); SFX Entertainment International II, Inc. (1998); SFX Intermediate Holdco II LLC (5954); SFX Managing Member Inc. (2428); SFX Marketing LLC (7734); SFX Platform & Sponsorship LLC (9234); SFX Technology Services, Inc. (0402); SFX/AB Live Event Canada, Inc. (6422); SFX/AB Live Event Intermediate Holdco LLC (8004); SFX/AB Live Event LLC (9703); SFX-94 LLC (5884); SFX-Disco Intermediate Holdco LLC (5441); SFX-Disco Operating LLC (5441); SFXE IP LLC (0047); SFX-EMC, Inc. (7765); SFX-Hudson LLC (0047); SFX-IDT N.A. Holding II LLC (4860); SFX-LIC Operating LLC (0950); SFX-IDT N.A. Holding LLC (2428); SFX-Nightlife Operating LLC (4673); SFX-Perryscope LLC (4724); SFX-React Operating LLC (0584); Spring Awakening, LLC (6390); SFXE Netherlands Holdings Cooperatief U.A. (6812); SFXE Netherlands Holdings B.V. (6898). The Debtors’ business address is 902 Broadway, 15th Floor, New York, NY 10010.



Status of the Case

1. On the date hereof (the “**Petition Date**”), the Debtors commenced these cases (the “**Chapter 11 Cases**”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

2. The Debtors have continued in possession of their properties and are operating and managing their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. No request has been made for the appointment of a trustee or examiner and a creditors’ committee has not yet been appointed in these Chapter 11 Cases.

Jurisdiction, Venue and Statutory Predicates

4. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is core within the meaning of 28 U.S.C. § 157(b)(2).

5. The statutory predicates for the relief requested herein are sections 105(a), 363, 507(a), 541(d), 1107 and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004(h).

Background

6. The Debtors along with their non-Debtor affiliates (collectively, “**SFX**”) are a leading producer of live events and digital entertainment content focused exclusively on electronic music culture. The Debtors commenced material operations in 2012 with the intent of acquiring and operating companies within the electronic dance music (“**EDM**”) industry, specifically those engaged in the promotion and production of live music events, festivals and digital offerings attractive to EDM fans in the United States and abroad. Over the next three years, the Debtors acquired a number of leading EDM brands, such as TomorrowWorld, Beatport, Mysteryland, Sensation and Electric Zoo, and expanded operations worldwide.

7. Today, the Debtors are actively engaged in the production and promotion of EDM festivals and events both domestically and abroad. In addition, Debtors manage large, event-driven nightclubs that serve as venues for performances by key electronic music talent. The Debtors also offer an online platform for EDM DJs, artists and fans to purchase, share and stream music components and to connect with each other.

8. The Debtors and their 120 non-Debtor subsidiaries operate a business that spans the globe, with operations in over 34 countries. The Debtors constitute substantially all of the domestic companies comprising SFX's business as well as select foreign subsidiaries. The Debtors have more than 325 employees and, together with the non-Debtor entities, have more than 625 employees.

9. The Debtors' capital structure is highly levered. In 2015, the Debtors began to face significant liquidity issues. While the Debtors attempted to enhance liquidity through a September 2015 financing and potential sales of non-strategic assets, the Debtors concluded that they needed to restructure their liabilities through a bankruptcy process.

10. Prior to the filing of these Chapter 11 Cases, the Debtors entered into a restructuring support agreement with holders of over 70% of their outstanding secured debt. The restructuring support agreement provides for a comprehensive restructuring of the Debtors' balance sheet. As part of that transaction, certain of the holders of the secured debt also agreed to provide the Debtors with \$115 million of debtor-in-possession financing to allow for the Debtors to prosecute these Chapter 11 Cases. The Debtors intend to use these Chapter 11 Cases to effect their balance sheet restructuring and implement operational improvements.

11. A detailed factual background of the Debtors' business and operations, as well as the events precipitating the commencement of these Chapter 11 Cases, is more fully set forth in the *Declaration of Michael Katzenstein in Support of the Debtors' Chapter 11 Petitions and*

Requests for First Day Relief (the “**First Day Declaration**”), filed contemporaneously herewith and incorporated herein by reference.

The Debtors’ Taxes

12. In connection with the normal operations of their business, the Debtors pay an assortment of sales, franchise and other taxes (collectively, the “**Taxes**”) to various federal, state and local taxing authorities (collectively, the “**Taxing Authorities**”) including, but not limited to, those Taxing Authorities listed on **Exhibit A** attached hereto.² These Taxes include, without limitation, the following:

A. Sales Tax

13. In the normal course of their business, certain of the Debtors incur state and local sales taxes in connection with the sale of various products and services to their customers (“**Sales Taxes**”). The Debtors collect and remit or otherwise pay Sales Taxes as needed to the applicable Taxing Authorities. In addition to the Sales Taxes owed but not yet paid as of the Petition Date, the Sales Taxes may also include amounts paid by checks sent prior to the Petition Date that have not cleared the Debtors’ bank accounts on the Petition Date. The Debtors estimate that they owe approximately \$115,000 in incurred and unpaid Sales Taxes as of the Petition Date.

B. Franchise Taxes

14. Certain of the Debtors pay franchise taxes (the “**Franchise Taxes**”) to various Taxing Authorities to maintain the right to operate their business in the applicable taxing jurisdiction. Franchise Taxes vary by jurisdiction and may be based on a flat fee, net operating income, gross receipts or capital employed. Certain states impose personal liability on officers of entities that fail to pay Franchise Taxes. In addition, certain jurisdictions, including Delaware,

² Inclusion of a Taxing Authority on **Exhibit A** does not constitute an acknowledgement by the Debtors that the Debtors owe any obligation to such authority or that such authority will be paid pursuant to any order entered on this Motion.

will refuse to qualify a company to do business in a state or issue certificates of good standing or other documents necessary to do business in such jurisdiction if Franchise Taxes have not been paid. The Debtors estimate that they owe approximately \$264,000 in incurred and unpaid Franchise Taxes as of the Petition Date.

15. Similarly, one Debtor, Flavorus, Inc., is subject to a business tax for the City of Los Angeles. The Debtors estimate that Flavorus owes approximately \$50,000 for this tax as of the Petition Date.

C. Commercial Rent Tax

16. For real property leased in New York, certain of the Debtors are subject to local commercial rent tax (the “**Commercial Rent Tax**”). The Commercial Rent Tax is billed directly to certain of the Debtors on a quarterly basis; the Debtors remit payment directly to the relevant government authority. The Debtors estimate that they owe approximately \$18,000 in incurred and unpaid Commercial Rent Tax as of the Petition Date.

D. NRA Withholding Tax

17. Certain of the Debtors engage the services of nonresident aliens. Pursuant to sections 1441, 1442 and 1443 of the Internal Revenue Code, the Debtors are required to withhold 30% on a payment of U.S. source income to nonresident aliens (the “**NRA Withholding Tax**”). The Debtors estimate that they owe approximately \$75,000 in incurred and unpaid NRA Withholding Tax as of the Petition Date. As further discussed below, the Debtors believe that such withheld funds, to the extent they remain in the Debtors’ possession, constitute funds held in trust, and therefore, are not property of the Debtors’ estates.

E. Goods and Services and Sales Tax

18. As of the Petition Date, one Debtor, SFX Canada Inc., is liable with a non-Debtor subsidiary for approximately \$470,000 that is owed to Canada Revenue Agency.

Relief Requested

19. By this Motion, the Debtors seek the authority, pursuant to sections 105(a), 363, 507(a) and 541(d) of the Bankruptcy Code, to pay prepetition Taxes owed to the Taxing Authorities, provided that the aggregate amount of such payment shall not exceed \$1,000,000. Of this amount, the Debtors are requesting authority to pay approximately \$750,000 prior to the hearing to authorize the relief requested herein on a final basis. In addition, the Debtors also seek authorization to honor all checks that remain uncashed prior to the Petition Date or that are otherwise returned by a Taxing Authority, as well as those Taxes subsequently determined upon audit to be owed for periods prior to the Petition Date.

20. To the extent any check issued or electronic transfer initiated prior to the Petition Date to satisfy any prepetition obligation on account of Taxes has not cleared the banks as of the Petition Date, the Debtors request the Court to authorize the banks, when requested by the Debtors, in their sole discretion, to receive, process, honor and pay such checks or electronic transfers, provided that there are sufficient funds available in the applicable accounts to make such payments. The Debtors also seek authorization to issue replacement checks, or to provide for other means of payment to the Taxing Authorities, to the extent necessary to pay such outstanding Taxes owing for periods prior to the Petition Date, as well as those Taxes subsequently determined upon audit to be owed for periods prior to the Petition Date.³

21. For the reasons described below, the payment of prepetition Taxes will help the Debtors avoid serious disruption to their operations that would result from the failure to pay such Taxes, including the distraction and adverse effect on morale that could result from liability for nonpayment imposed upon the Debtors' directors and officers. Furthermore, nonpayment of

³ Because each of the checks or electronic transfers is readily identified as relating directly to an authorized payment of prepetition Taxes, the Debtors believe that checks and electronic transfers for payments that are not authorized will not be honored inadvertently.

these obligations may cause Taxing Authorities to take precipitous action, which could include filing liens, interfering with or withdrawing concessions, preventing the Debtors from conducting business in applicable jurisdictions and seeking to lift the automatic stay, all of which could disrupt the Debtors' day-to-day operations and impose significant costs on the Debtors' estates and destroy the going concern value of the Debtors' business.

Basis for Relief Requested

A. The Court Should Authorize the Debtors' Payment of Taxes

22. There are a number of bases for granting the relief requested in this Motion, including: (a) certain Taxes are not property of the estates; (b) governmental entities might sue the Debtors' directors and officers for certain unpaid Taxes, distracting them unnecessarily from the Debtors' efforts in these Chapter 11 Cases; (c) portions of the Taxes may be entitled to priority status pursuant to section 507(a)(8) of the Bankruptcy Code; (d) section 363 of the Bankruptcy Code gives the Debtors authority to remit payment on account of such Taxes in the ordinary course of business and (e) section 105 of the Bankruptcy Code and the Court's general equitable powers permit the Court to grant the relief sought.

23. Section 541(d) of the Bankruptcy Code provides, in relevant part, that "[p]roperty in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate under subsection (a)(1) or (a)(2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold." 11 U.S.C. § 541(d).

24. Certain of the Taxes may constitute so-called "trust fund" taxes to be collected from third parties and held in trust for payment to the Taxing Authorities. *See, e.g., EBS Pension LLC v. Edison Bros. Stores, Inc. (In re Edison Bros., Inc.)*, 243 B.R. 231, 235 (Bankr. D. Del. 2000) (noting that property held in trust, whether constructively or expressly, does not become

part of the estate when the debtor files its bankruptcy petition); *see also Shank v. Washington State Dep't of Revenue (In re Shank)*, 792 F.2d 829, 830 (9th Cir. 1986) (sales tax required by state law to be collected by sellers for their customers is a trust fund tax); *DeChiaro v. New York State Tax Comm'n*, 760 F.2d 432, 433-34 (2d Cir. 1985) (sales taxes are trust fund taxes); *Rosenow v. Illinois*, 715 F.2d 277, 282 (7th Cir. 1983) (use tax is a trust fund tax); *In re Hilaire*, 135 B.R. 186, 191-92 (D. Mass. 1991) (sales tax is a trust fund tax). To the extent these "trust fund" taxes are collected, they are not property of the Debtors' estates under section 541(d) of the Bankruptcy Code. *See Begier v. IRS*, 496 U.S. 53, 59 (1990); *see also In re Am. Int'l Airways, Inc.*, 70 B.R. 102, 103 (Bankr. E.D. Pa. 1987) (excise and withholding taxes are trust fund taxes), *aff'd*, 1987 U.S. Dist. LEXIS 16856 (E.D. Pa. May 12, 1987); *In re Tap, Inc.*, 52 B.R. 271, 278 (Bankr. D. Mass. 1985) (withholding taxes); 5 *Collier on Bankruptcy* ¶ 541.11[4], at 541-67 to 541-68 (16th ed. rev. 2011). The Debtors do not have any equitable interest in these Taxes. Thus, in an abundance of caution, the Debtors seek authorization to transfer such non-estate funds.

25. In states that have enacted laws providing that certain of the Taxes constitute trust fund taxes, officers and directors of the collecting debtor entity may be held personally liable for nonpayment of such Taxes. *See, e.g., Conway v. United States*, 647 F.3d 228 (5th Cir. 2011) (holding CEO personally liable for failure to ensure that company paid over to IRS prepetition excise taxes that were withheld from airline passengers); *John F. Olson, Director & Officer Liability: Indemnification and Insurance* § 3.21, at 3-20.27 (2008) ("some states hold corporate officers personally liable for any sales tax and penalty owed and not paid by the corporation, regardless of cause"). To the extent any accrued Taxes of the Debtors were unpaid as of the Petition Date, the Debtors' officers and directors may be subject to lawsuits in such jurisdictions during these Chapter 11 Cases. Such potential lawsuits would prove extremely distracting for

(a) the Debtors, (b) the named officers and directors whose attention to the Debtors' Chapter 11 Cases is required and (c) this Court, which might be asked to entertain various motions seeking injunctions with respect to the potential state court actions. Thus, it is in the best interest of the Debtors' estates to eliminate the possibility of the foregoing distraction.

26. It is also likely that some, if not all, of the Taxes are entitled to priority payment status pursuant to section 507(a)(8) of the Bankruptcy Code. *See* 11 U.S.C. § 507(a)(8)(A) (taxes measured on gross income); *id.* § 507(a)(8)(C) (debtor's liability in connection with "trust fund" taxes); *id.* § 507(a)(8)(E) (excise taxes).⁴ Under any chapter 11 plan, these priority Taxes must be paid in full and in regular cash installments over a five (5) year period from the date of the order for relief. *See id.* § 1129(a)(9)(C)(i)-(ii). Additionally, such Taxes must be paid in the order of priority no less favorable than the treatment given to the most favored general unsecured claims. *See id.* § 1129(a)(9)(C)(iii). Finally, any chapter 11 plan must provide the same treatment for those Taxes that constitute secured claims that, were they unsecured, would have been priority tax claims under section 507(a)(8) of the Bankruptcy Code. *See id.* § 1129(a)(9)(D). Thus, in most cases, the payment of the Taxes that are entitled to such priority in the ordinary course of the Debtors' business only affects the timing of the payment and does not prejudice the rights of other creditors of the Debtors.

27. Courts have also authorized debtors to pay the Taxes under section 363(b)(1) of the Bankruptcy Code, which provides that "the trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." Under this section, a court may authorize a debtor to pay certain prepetition claims. *See In re FV Steel &*

⁴ For bankruptcy purposes, a tax is characterized as "(a) [a]n involuntary pecuniary burden, regardless of name, laid upon the individual or property; (b) [i]mposed by, or under authority of the legislature; (c) [f]or the public purposes, including the purposes of defraying expenses of government or undertakings authorized by it; [and] (d) [u]nder the police or taxing power of the state." *LTV Steel Co., Inc. v. Shalala (In re Chateaugay Corp.)*, 53 F.3d 478, 498 (2d Cir. 1995) (citation omitted).

Wire Co., Case No. 04-22421 (Bankr. E.D. Wis. Feb. 26, 2004) (authorizing the continuation of customer programs and the payment of prepetition claims under section 363 of the Bankruptcy Code); *In re UAL Corp.*, Case No. 02-48191 (Bankr. N.D. Ill. Dec. 9, 2002) (authorizing payment of prepetition claims under section 363 of the Bankruptcy Code as an out-of-the-ordinary-course transaction). To use property in the ordinary course of business, “the debtor must articulate some business justification, other than the mere appeasement of major creditors.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989). As discussed herein, the Debtors’ failure to pay the Taxes could have a material adverse impact on their ability to operate in the ordinary course of business.

28. Finally, section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” *See* 11 U.S.C. § 105(a). The purpose of section 105(a) is “to assure the bankruptcy courts power to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction.” *See 2 Collier on Bankruptcy* ¶ 105.01, at 105-5 to 105-6 (16th ed. rev. 2011). Thus, section 105 essentially codifies the bankruptcy court’s inherent equitable powers. *See Mgmt. Tech. Corp. v. Pardo*, 56 B.R. 337, 339 (Bankr. D.N.J. 1985) (noting that the court’s equitable power is derived from section 105 of the Bankruptcy Code).

29. Numerous courts have used section 105’s equitable powers under the “necessity of payment doctrine” to authorize payment of a debtor’s prepetition obligations in order to preserve and maximize the value of the debtor’s estates. *See, e.g., Miltenberger v. Logansport, C. & S.W. Ry. Co.*, 106 U.S. 286, 311-12 (1882) (recognizing the existence of judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor); *see also In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (courts may authorize payment of prepetition claims when

there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); *Ionosphere Clubs*, 98 B.R. at 176-77 (citing *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 528 (1984)); *In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (holding necessity of payment doctrine permits “immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims shall have been paid”); *In re Just for Feet, Inc.*, 242 B.R. 821, 824-45 (D. Del. 1999) (noting that in the Third Circuit, debtors may pay prepetition claims that are essential to the continued operation of business); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (same).

30. For these reasons, authorizing the Debtors to pay, in their discretion, the prepetition Taxes will help the Debtors avoid serious disruption to their operations that would result from the nonpayment of such Taxes, including the distraction and adverse effect on morale that could result from liability for nonpayment imposed upon the Debtors’ directors and officers. Furthermore, nonpayment of these obligations may cause Taxing Authorities to take precipitous action, including, but not limited to, filing liens, preventing the Debtors from conducting business in applicable jurisdictions and seeking to lift the automatic stay, all of which could disrupt the Debtors’ day-to-day operations, impose significant costs on the Debtors’ estates and destroy the going concern value of the Debtors’ business.

**B. Cause Exists to Authorize and Direct the Debtors’
Financial Institutions to Honor Checks and Electronic Fund Transfers**

31. The Debtors further request that the Debtors’ banks be authorized, when requested by the Debtors, in their sole discretion, to process, honor and pay any and all checks or electronic fund transfers drawn on the Debtors’ bank accounts to pay all prepetition Taxes, whether those checks or electronic fund transfers were presented prior to or after the Petition

Date, and to make other transfers, provided that sufficient funds are available in the applicable account to make such payments. The Debtors represent that each of these checks and transfers can be readily identified as relating directly to the authorized payment of prepetition Taxes. Accordingly, checks and transfers, other than those relating to authorized payments, will not be honored inadvertently.

32. Nothing in this Motion should be construed as impairing the Debtors' right to contest the amount of any Taxes that may be owed to any Taxing Authority, and the Debtors expressly reserve all of their rights with respect thereto.

33. Based on the foregoing, the Debtors submit that the relief requested is necessary and appropriate, is in the best interests of their estates and creditors and should be granted in all respects.

Bankruptcy Rule 6003 Is Satisfied and Request for Waiver of Stay

34. The Debtors further submit that because the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein and in the First Day Declaration, Bankruptcy Rule 6003 has been satisfied and the relief requested herein should be granted.

35. Specifically, Bankruptcy Rule 6003 provides:

Except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting the following: . . . (b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition, but not a motion under Rule 4001

Fed. R. Bankr. P. 6003.

36. The Third Circuit Court of Appeals has interpreted the "immediate and irreparable harm" language in the context of preliminary injunctions. In that context, irreparable

harm has been interpreted as a continuing harm that cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation. *See, e.g., Norfolk S. Ry. Co. v. City of Pittsburgh*, 235 F. App'x 907, 910 (3d Cir. 2007) (citing *Glasco v. Hills*, 558 F.2d 179, 181 (3d Cir. 1977)). Further, the harm must be shown to be actual and imminent, not speculative or unsubstantiated. *See, e.g., Acierno v. New Castle Cty.*, 40 F.3d 645, 653-55 (3d Cir. 1994). As explained in more detail above, the Debtor's inability to pay Taxes in the ordinary course will result in immediate and irreparable harm to the Debtors' business.

37. The Debtors further seek a waiver of any stay of the effectiveness of an order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As set forth above, the relief requested herein is essential to prevent immediate and irreparable damage to the Debtors' operations, going concern value and their efforts to pursue a resolution to these Chapter 11 Cases.

38. Accordingly, the relief requested herein is appropriate under the circumstances and under Bankruptcy Rules 6003 and 6004(h).

Consent to Jurisdiction

39. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

Notice⁵

40. Notice of this Motion has been given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the United States Trustee for the District of Delaware; (b) the DIP Lenders; (c) the Ad Hoc Group; (d) Catalyst, as the Administrative Agent and Lender to the Debtors' prepetition Credit Agreement and Foreign Loan; (e) U.S. Bank National Association, as Indenture Trustee to the Indenture governing the 2019 Notes; (f) creditors holding the forty (40) largest unsecured claims as set forth in the consolidated list filed with the Debtors' petitions; (g) those parties requesting notice pursuant to Bankruptcy Rule 2002; (h) the Office of the United States Attorney General for the District of Delaware; (i) the Internal Revenue Service; (j) the Securities and Exchange Commission; and (k) each of the Taxing Authorities set forth in **Exhibit A**, attached hereto. As the Motion is seeking "first day" relief, within two business days of the hearing on the Motion, the Debtors will serve copies of the Motion and any order entered respecting the Motion in accordance with the Local Rules. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

41. No previous application for the relief sought herein has been made to this or any other court.

[Signature Page Follows]

⁵ Capitalized terms used in the Notice section but not otherwise defined in this Motion shall have the meanings ascribed to them in the First Day Declaration.

Conclusion

WHEREFORE, the Debtors respectfully request that this Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: February 1, 2016

GREENBERG TRAURIG, LLP

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*Proposed Counsel for the Debtors and
Debtors-in-Possession*

Exhibit A**Schedule of Prepetition Taxes**

Debtor	Type Of Tax	Taxing Authority
Beatport, LLC	Sales	Colorado Department of Revenue
ID&T/SFX Mysteryland LLC	Sales	New York State Department of Taxation
SFX-Disco Operating LLC	Sales	Florida Department of Revenue
SFX-Disco Operating LLC	Sales	Louisiana Department of Revenue
SFX-Disco Operating LLC	Sales	Missouri Department of Revenue
SFX-Disco Operating LLC	Sales	North Carolina Department of Revenue
SFX-Disco Operating LLC	Sales	City of New Orleans Department of Finance – Revenue Bureau
SFX-Disco Operating LLC	Sales	City of Philadelphia Department of Revenue
SFX-Disco Operating LLC	Sales	Tennessee Department of Revenue
SFX-Disco Operating LLC	Sales	Texas Comptroller of Public Accounts
SFX-LIC Operating LLC	Sales	Florida Department of Revenue
SFX Canada Inc.	Goods and Services and Sales	Canada Revenue Agency
SFX Entertainment, Inc.	Franchise	California Franchise Board
SFX Entertainment, Inc.	Franchise	Delaware Secretary of State
SFX Entertainment, Inc.	Franchise	District of Columbia Office of Tax and Revenue
SFX Entertainment, Inc.	Franchise	Georgia Department of Revenue
SFX Entertainment, Inc.	Franchise	Michigan Department of the Treasury
SFX Entertainment, Inc.	Franchise	New York Department of Taxation
SFX Entertainment, Inc.	Franchise	New York City Department of Finance
SFX Entertainment, Inc.	Franchise	Oregon Department of Revenue
SFX Entertainment, Inc.	Franchise	Texas Comptroller of Public Accounts
SFX Entertainment, Inc.	Franchise	Utah State Tax Commission
SFX Marketing LLC	Franchise	Commonwealth of Pennsylvania
SFX Marketing LLC	Franchise	City of Philadelphia Department of Revenue
SFX Entertainment, Inc.	Commercial Rent	New York City Department of Finance

Flavorus, Inc.	Other	City of Los Angeles Office of Finance
Beatport, LLC	NRA Withholding	Internal Revenue Service
SFX-Disco Operating, LLC	NRA Withholding	Internal Revenue Service
SFX-LIC Operating, LLC	NRA Withholding	Internal Revenue Service
SFX-React Operating, LLC	NRA Withholding	Internal Revenue Service

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SFX ENTERTAINMENT, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10238 ()

(Joint Administration Requested)

Ref. Docket No. _____

INTERIM ORDER AUTHORIZING (A) THE DEBTORS TO PAY PREPETITION SALES, FRANCHISE AND SIMILAR TAXES IN THE ORDINARY COURSE OF BUSINESS, AND (B) BANKS AND FINANCIAL INSTITUTIONS TO HONOR AND PROCESS CHECKS AND TRANSFERS RELATED THERETO

Upon the motion (the “**Motion**”)² filed by the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”), pursuant to sections 105(a), 363, 507(a), 541(d), 1107 and 1108 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”) and Bankruptcy Rules 6003 and 6004(h), seeking entry of interim and final orders authorizing, but not directing: (a) the Debtors to pay prepetition sales, franchise and similar taxes in the ordinary course of business and (b) banks and financial institutions to honor and process checks and transfers related to such payments; and upon the *Declaration of Michael*

¹ The Debtors in these Chapter 11 Cases, along with the last four (4) digits of each Debtor’s federal tax identification number, if applicable, are: 430R Acquisition LLC (7350); Beatport, LLC (1024); Core Productions LLC (3613); EZ Festivals, LLC (2693); Flavorus, Inc. (7119); ID&T/SFX Mysteryland LLC (6459); ID&T/SFX North America LLC (5154); ID&T/SFX Q-Dance LLC (6298); ID&T/SFX Sensation LLC (6460); ID&T/SFX TomorrowWorld LLC (7238); LETMA Acquisition LLC (0452); Made Event, LLC (1127); Michigan JJ Holdings LLC (n/a); SFX Acquisition, LLC (1063); SFX Brazil LLC (0047); SFX Canada Inc. (7070); SFX Development LLC (2102); SFX EDM Holdings Corporation (2460); SFX Entertainment, Inc. (0047); SFX Entertainment International, Inc. (2987); SFX Entertainment International II, Inc. (1998); SFX Intermediate Holdco II LLC (5954); SFX Managing Member Inc. (2428); SFX Marketing LLC (7734); SFX Platform & Sponsorship LLC (9234); SFX Technology Services, Inc. (0402); SFX/AB Live Event Canada, Inc. (6422); SFX/AB Live Event Intermediate Holdco LLC (8004); SFX/AB Live Event LLC (9703); SFX-94 LLC (5884); SFX-Disco Intermediate Holdco LLC (5441); SFX-Disco Operating LLC (5441); SFXE IP LLC (0047); SFX-EMC, Inc. (7765); SFX-Hudson LLC (0047); SFX-IDT N.A. Holding II LLC (4860); SFX-LIC Operating LLC (0950); SFX-IDT N.A. Holding LLC (2428); SFX-Nightlife Operating LLC (4673); SFX-Perryscope LLC (4724); SFX-React Operating LLC (0584); Spring Awakening, LLC (6390); SFXE Netherlands Holdings Coöperatief U.A. (6812); SFXE Netherlands Holdings B.V. (6898). The Debtors’ business address is 902 Broadway, 15th Floor, New York, NY 10010.

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

Katzenstein in Support of the Debtors' Chapter 11 Petitions and Requests for First Day Relief (the “**First Day Declaration**”); and upon the statements of counsel in support of the relief requested in the Motion at the hearing before the Court; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties-in-interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. For the reasons set forth on the record, the Motion is GRANTED as set forth herein.
2. The Debtors are authorized, but not directed, to pay all prepetition Taxes to the Taxing Authorities, provided that the aggregate amount of such payments shall not exceed \$1,000,000; *provided, however*, that prior to a final hearing to consider the relief requested in the Motion (the “**Final Hearing**”), the amount of prepetition Taxes paid to the Taxing Authorities shall not exceed the aggregate amount of \$750,000. In addition, the Debtors are also authorized to honor all checks that remained uncashed prior to the Petition Date or that are otherwise returned by a Taxing Authority, as well as all those Taxes subsequently determined upon audit to be owed for periods prior to the Petition Date.
3. All applicable banks shall be, and hereby are, authorized, when requested by the Debtors, in their sole discretion, to receive, process, honor and pay any and all checks or

electronic transfers drawn on the Debtors' accounts to pay the prepetition Taxes authorized by this Order, whether those checks were presented prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments.

4. The deadline by which objections to the Motion and the final order must be filed is _____, 2016 at __:___ __.m. (Prevailing Eastern Time). A Final Hearing, if required, on the Motion will be held on _____, 2016 at __:___ __.m. (Prevailing Eastern Time). If no objections are filed to the Motion, the Court may enter the final order without further notice or hearing.

5. Nothing in the Motion or this Order shall be construed as impairing the Debtors' right to contest the validity, priority or amount of any Taxes that may be due to any of the Taxing Authorities.

6. 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.

7. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

8. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

10. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: [____], 2016

HONORABLE [____]
UNITED STATES BANKRUPTCY JUDGE