

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 (MFW)

(Jointly Administered)

Ref. Docket Nos. 3, 50, 168

**FINAL ORDER (A) AUTHORIZING THE MAINTENANCE OF BANK
ACCOUNTS AND CONTINUED USE OF EXISTING BUSINESS FORMS
AND CHECKS, (B) AUTHORIZING THE CONTINUED USE OF CASH
MANAGEMENT SYSTEM, (C) WAIVING CERTAIN INVESTMENT AND
DEPOSIT GUIDELINES AND (D) GRANTING ADMINISTRATIVE
EXPENSE STATUS TO POSTPETITION INTERCOMPANY CLAIMS**

Upon the motion (the "Motion")² filed by the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") seeking entry of interim and final orders: (a) authorizing the maintenance of the Debtors' existing Bank Accounts and continued use of existing Business Forms and checks; (b) authorizing, but not directing, the use of existing Cash Management System; (c) waiving certain of the investment and deposit Guidelines promulgated by the Office of the United States Trustee; and (d) granting administrative expense status to postpetition intercompany claims; and upon the *Declaration of Michael Katzenstein in Support of the*

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 defined herein shall have the meanings ascribed to them in the Motion.



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 upon this Court previously entering an order approving the Motion on an interim basis [Dkt. No. 50]; 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 maintain and use their Cash Management System, as more fully set forth in the Motion.
3. The Debtors are authorized, but not directed, to maintain and use the existing Bank Accounts listed on Exhibit A to the Motion in the name and with the account numbers existing immediately prior to the Petition Date.
4. The requirement in the Guidelines that the Debtors establish a specific new bank account for tax payments is waived. The requirements provided in 11 U.S.C. § 345(b) are hereby waived as to the Bank Accounts for a period of thirty (30) days, except as otherwise provided in this Order and without prejudice to the Debtors' right to seek further waivers from the U.S. Trustee without further Order of this Court.

5. The Debtors are authorized, but not directed, to deposit funds in and withdraw funds from their Bank Accounts by all usual means, subject to the same access rights and limitations existing prior to the Petition Date, including, but not limited to, checks, wire transfers, automated clearinghouse transfers, electronic funds transfers and other debits and to treat the Bank Accounts for all purposes as debtor-in-possession accounts.

6. The Debtors that collect ticket and merchandise sale proceeds on behalf of third parties are authorized to continue to receive and remit ticketing and merchandise sale receipts on behalf of third parties in the ordinary course.

7. The Debtors are authorized to continue to use their checks, correspondence and Business Forms including, but not limited to, purchase orders, letterhead, envelopes, promotional materials, and other business forms, substantially in the forms existing immediately prior to the Petition Date, without reference to the Debtors' debtor-in-possession status, provided that the Debtors will add the "Debtor-in-Possession" designation to any new checks that they obtain or create postpetition.

8. The banks listed on Exhibit A to the Motion and any and all other financial institutions receiving or transferring funds from the Debtors are hereby authorized and directed to continue to service and administer the Bank Accounts of the relevant Debtor as a debtor-in-possession without interruption and in the usual and ordinary course, and to receive, process, honor and pay any and all checks, drafts, wires or ACH transfers drawn on the Bank Accounts by the holders or makers thereof, provided that nothing contained herein shall authorize any such bank to honor any check issued or dated prior to the date of the commencement of these Chapter 11 Cases, except as otherwise provided by further order of this Court. In no event shall any of the banks be required to honor overdrafts or to pay any check, wire or other debit against any of the Bank Accounts that is drawn against uncollected funds.

9. For banks at which the Debtors hold Bank Accounts that are not party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, the Debtors are authorized, but not directed, to use their good-faith efforts to attempt to cause the banks to execute a Uniform Depository Agreement in a form prescribed by the Office of the United States Trustee within fifteen (15) days of the date of this Order. The U.S. Trustee's rights to seek further relief from this Court on notice in the event that the aforementioned banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

10. The Debtors shall retain the authority to close or otherwise modify certain of their Bank Accounts and open new debtor-in-possession accounts, or otherwise make changes to their Cash Management System as they deem necessary to facilitate the Chapter 11 Cases and operations, or as may be necessary to comply with the requirements of any debtor-in-possession financing facility or cash collateral usage approved by this Court; *provided, however*, that the Debtors shall notify counsel to the official committee of unsecured creditors appointed in these Chapter 11 Cases (the "**Committee**"), counsel to the Debtors' DIP Lenders and counsel to the Ad Hoc Group prior to such closing or opening of Bank Accounts; *provided, further*, 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. In the event that the Debtors open any additional or close any current or additional Bank Accounts, such opening or closing shall be timely indicated on the Debtors' monthly operating reports or notice of such opening or closing shall otherwise be timely provided to the Office of the United States Trustee for the District of Delaware, counsel to the Committee and counsel to the Debtors' DIP Lenders and counsel to the Ad Hoc Group.

11. The Debtors are authorized, but not directed to, make and implement such modifications to the Cash Management System to facilitate and effectuate the terms of the Debtors' postpetition financing upon the entry of such financing order, including, but not limited to, the establishment of the DIP Collateral Deposit Priority Account.

12. Subject to section 553 of the Bankruptcy Code, all banks that maintain the Bank Accounts are prohibited from offsetting, affecting, freezing or otherwise impeding the Debtors' use of any funds in the Bank Accounts on account of, or by reason of, any claim (as defined in section 101(5) of the Bankruptcy Code) of any such bank against the Debtors that arose before the Petition Date, absent further order of this Court.

13. In connection with the ongoing utilization of the Cash Management System, the Debtors shall continue to maintain records with respect to all transfers of cash so that all transactions (including Intercompany Transactions) may be readily ascertained, traced, recorded properly and distinguished between prepetition and postpetition transactions.

14. Intercompany loans and other claims created through Intercompany Transactions are hereby granted administrative priority status pursuant to 11 U.S.C. § 507(a)(2); *provided, however*, that nothing herein shall limit or be construed to limit the Debtors' ability to reconcile amounts owed between and among any Debtors, including netting and setting off obligations arising from Intercompany Transactions, whether arising prepetition or postpetition, in the ordinary course of business, between a Debtor and another Debtor.

15. 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 the disbursements of each Debtor, regardless of which Debtor pays those disbursements; *provided, however*, that disbursements shall not include Intercompany Transactions between Debtor entities.

16. Debtors will maintain detailed records of all Intercompany Transactions so that all such transactions shall be adequately and promptly documented in and readily ascertainable from the Debtors' books and records. All intercompany claims shall be reconciled on at least a monthly basis.

17. Subject in all respects to paragraph 24 hereof, the Debtors are authorized, but not directed, to enter into Intercompany Transactions amongst themselves and with their non-Debtor affiliates in the ordinary course; *provided, however*, the maximum amount of intercompany loans and advances arising after entry of this Final Order (net of any amounts received by the Debtors from non-Debtor Subsidiaries and Affiliates after entry of this Final Order from such intercompany loans and advances) extended to non-Debtor Subsidiaries and Affiliates by the Debtors will not exceed \$4,600,000 in the aggregate. For the avoidance of doubt, the calculation of this cap will not take into account intercompany claims or advances: (a) existing as of entry of this Final Order; (b) that may arise as a result of payments made by the Debtors pursuant to other orders of this Court; and (c) arising from non-Debtor Subsidiaries and Affiliates paying amounts to third parties on behalf or for the account of the Debtors. The terms "Subsidiaries" and "Affiliates" shall have the meanings ascribed to them in the DIP Credit Agreement.

18. Subject in all respects to paragraph 24 hereof, the Debtors may exceed the cap set forth in paragraph 17 of this Final Order, if the Debtors provide written notice to the United States Trustee, counsel to the Committee, counsel to the Debtors' DIP Lenders, and counsel to the Ad Hoc Group (collectively, the "**Notice Parties**"), which may be provided by electronic mail, of the Debtors' intent to enter into an intercompany loan with, or to make an advance to, non-Debtor Subsidiaries and Affiliates that would result in an amount that exceeds the cap (the "**Proposed Transaction**"). The Notice Parties shall have through 5:00 p.m. prevailing Eastern Time on the second business day after receipt of such notice (the "**Review Period**") to review

the Proposed Transaction and to notify the Debtors in writing, which may be by electronic mail, of any issues (the “**Issues**”) with respect to such Proposed Transaction. If none of the Notice Parties notifies the Debtors of any Issues by the expiration of the Review Period, or if the Notice Parties consent to the Proposed Transaction before expiration of the Review Period, the Debtors shall be permitted to enter into the Proposed Transaction, subject to the terms of this Final Order. If any of the Notice Parties timely notifies the Debtors of the Issues with respect to the Proposed Transaction prior to the expiration of the Review Period, then the Debtors shall not enter into such Proposed Transaction without that Notice Party’s consent or without further order of this Court, which the Debtors and the Notice Parties shall seek to have heard at the next scheduling hearing or otherwise on an expedited basis.

19. The Debtors are authorized, but not directed, to pay or reimburse any bank fees, claims, costs, expenses or charges associated with the Bank Accounts and arising prior to and after the Petition Date, including, without limitation, (i) service charges or fees; (ii) checks deposited with the banks which have been dishonored or returned for insufficient funds; and (iii) any reimbursement or other payment obligations, such as overdrafts, arising under the terms of any prepetition agreement existing between the Debtors and each bank (collectively, the “**Bank Account Claims**” and the banks in which the Debtors maintain the Bank Accounts, the “**Banks**”). In the course of maintaining any of the Bank Accounts for the Debtors, the Banks are authorized, without further Order of this Court, to continue to deduct from the appropriate Bank Accounts, the Bank Account Claims incurred in connection with the Bank Accounts.

20. This Order shall apply to any and all Bank Accounts actually in, or linked to, the Cash Management System, even if such Bank Accounts do not appear on the list attached as **Exhibit A** to the Motion. Any and all accounts opened by the Debtors on or after the Petition Date at any Bank shall be deemed a Bank Account (as if it had been opened prior to the Petition

Date and listed on Exhibit A) and any and all Banks at which such accounts are opened shall similarly be subject to the rights and obligations of this Order.

21. All Banks with which any Debtor maintains Bank Accounts are authorized and directed to follow any instruction of any lender party to a blocked account or control agreement with respect to the disposition of any such accounts (and all deposits therein) maintained with such Bank following the exercise of any remedies of such lender party in accordance with the documents and orders evidencing any debtor-in-possession facility or cash collateral usage.

22. The Debtors are authorized to request the Banks, and the Banks are authorized to accept and honor all representations from the Debtors, as to which checks, drafts, wires or ACH transfers should be honored or dishonored whether the Banks believe the payment is or is not consistent with the order(s) of this Court and governing law, and whether such checks, drafts, wires or ACH transfers are dated or made prior to, on or subsequent to the Petition Date.

23. Notwithstanding any provision of this Order to the contrary, the Banks will not be liable to any party on account of (a) following the Debtors' instructions or representations as to any check or other item that may be honored or as to any order of this Court, (b) the honoring of any prepetition check or item in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

24. 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.

25. The Debtors shall sweep the Debtors' foreign Bank Accounts and all Bank Accounts held at banks that are not party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware to an amount equal to or less than that jurisdiction's depository insurance, when such Bank Account has an amount greater than \$25,000 over that respective country's depository insurance.

26. The Debtors shall sweep daily all amounts in each PayPal account in excess of \$3,000, except with respect to PayPal accounts jeff@clubtix.com and paypal@beatport.com the Debtors shall sweep daily all amounts in excess of \$25,000.

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

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

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

Dated: March 4, 2016



HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE