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**PROPOSED ATTORNEYS FOR DEBTOR**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re: § Chapter 11  
§  
TPP ACQUISITION, INC. d/b/a The § Case No. 16-33437-hdh-11  
Picture People, §  
§  
Debtor. §

**DEBTOR’S EMERGENCY MOTION FOR AN ORDER AUTHORIZING  
THE DEBTOR TO (I) PAY CERTAIN PRE-PETITION WAGES , OTHER  
COMPENSATION AND REIMBURSABLE EMPLOYEE EXPENSES,  
AND (II) CONTINUE EMPLOYEE BENEFITS PROGRAMS**

TPP Acquisition, Inc. d/b/a The Picture People (“TPP” or the “Debtor”), debtor-in-possession in the above-referenced chapter 11 case, files this *Debtor’s Emergency Motion for an Order Authorizing the Debtor to (I) Pay Certain Pre-Petition Wages, Other Compensation and Reimbursable Employee Expenses, and (II) Continue Employee Benefits Programs* (the “Motion”) and in support thereof, respectfully represents as follows:



### **Jurisdiction and Venue**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Background**

2. To preserve the value of its assets and restructure its financial affairs, on September [2], 2016 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") commencing the above captioned case (the "Chapter 11 Case"). The Debtor continues to manage and operate its business as a debtor-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. An official committee of unsecured creditors has yet to be appointed in this Chapter 11 Case. Further, no trustee or examiner has been requested or appointed in this Chapter 11 Case.

4. The Debtor has filed with the Court the *Statement of Background Information and Declaration of Stuart Noyes, Chief Restructuring Officer of TPP Acquisition, Inc. d/b/a The Picture People in Support of Debtor's Chapter 11 Petition and First-Day Motions* (the "Background Statement") which is incorporated by reference in this Motion.

5. As of August 31, 2016, the Debtor employs 108 salaried employees ("Salaried Employees") and 967 hourly employees ("Hourly Employees"). In addition, the Debtor currently employs two temporary employees (the "Temporary Employees") that provide services in connection with store closures and four independent contractors (the "Independent Contractors") and together with Salaried Employees and the Hourly Employees, the "Employees"). The Employees are responsible for the ongoing business operations of the Debtor.

The Employees' skills, knowledge and understanding with respect to the Debtor's operations are essential to the effective reorganization of the Debtor's financial affairs. Because of the seasonal nature of the Debtor's business, in the ordinary course of the Debtor's business, beginning in the last weeks of October and early November the Debtor anticipates that it will hire a substantial number of temporary seasonal employees to provide backup support at the Debtor's studio locations. The Debtor does not currently employ any temporary seasonal employees.

### **Relief Requested**

6. By this Motion, the Debtor seeks authority under Bankruptcy Code §§ 105(a), 363, 507(a)(4) and 507(a)(5) and Rule 6003 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to pay certain prepetition obligations owed to either its Employees and Independent Contractors or those who provide employee benefits, to honor and continue certain employee benefits (collectively, and as described herein, the "Employee Obligations")<sup>1</sup> and to authorize and direct financial institutions to receive, process, honor, and pay checks presented for payment and electronic payment requests relating to prepetition Employee Obligations. As more fully described below, Employee Obligations include amounts owed to or on behalf of the employees for wages, salaries, reimbursement of expenses, and other benefits as described below. Each of the Employee Obligations described herein have been included in the budget approved by Monroe Capital (the "DIP Lender") in connection with the Debtor's request for authority to enter into a debtor-in-possession financing agreement (the "DIP Financing") and is subject thereto, as well as to any budget approved by the DIP Lender (each, a "Budget").

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<sup>1</sup> The summary of the Debtors' various Employee Obligations provided herein is qualified entirely by the Debtors' official policies or other practices, programs or agreements, whether written or unwritten, evidencing an arrangement among the Debtors and their Employees (as defined herein) (each, an "Official Policy"). In the event of any inconsistency or ambiguity between the summary contained in the Motion and an Official Policy, the terms of such Official Policy shall govern.

### **A. Wage Obligations**

7. In the ordinary course of business, except for the Debtor's Employees in the New York market who are paid weekly,<sup>2</sup> the Debtor pays its Salaried Employees and Hourly Employees every two weeks on Friday. Each pay-period covers the two-week period ending on the Saturday preceding each Friday pay-day. The Debtor typically sends the payroll files to its payroll processor ExponentHR on the Wednesday preceding a pay day and transfers the required payroll amount to ExponentHR on the preceding Thursday. Each Friday pay-day, ExponentHR either direct deposits the Employee's paycheck into the Employee's account, pays them via pay card, or pays them via paper check.<sup>3</sup> The Debtor's aggregate gross August payroll (including payroll taxes, garnishments, and Reimbursable Expenses (defined below)), was approximately \$1,966,000.

8. The only prepetition wages and salaries owed to Employees are those that accrued during the period from Sunday, August 28, 2016 through the Petition Date. The Debtor estimates that total prepetition wages and salaries (excluding expense reimbursements and vacation time) earned by the Employees prior to the Petition Date that have accrued and remain unpaid (collectively, the "Wage Obligations") total approximately \$357,193 (including amounts withheld for payroll taxes, garnishments and net of health benefit deductions, 401(k) contributions, and other deductions (the "Deductions")).

9. ExponentHR also holds a deposit of approximately \$30,000 used to pay off-cycle checks (comprised primarily of checks for employees that are terminated and must be paid prior to the normal pay date).

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<sup>2</sup> The Debtor pre-funded the estimated post-petition New York Employee payroll with Exponent HR prior to the Petition Date in the amount of approximately \$20,000.

<sup>3</sup> The checks are issued from ExponentHR's account, which is funded with the Debtor's payroll transfer. Therefore, any delay in cashing a paper check does not affect the Debtor's payroll account.

10. By this Motion, the Debtor seeks authority to pay and honor the prepetition Wage Obligations and to continue to honor the Wage Obligations on a post-petition basis in the ordinary course of business.

**B. Reimbursable Business Expenses**

11. Prior to the Petition Date and in the ordinary course of business, the Debtor reimbursed certain Employees for certain business expenses incurred in the ordinary course of their employment. This includes expenses relating to, among other things, mileage reimbursements, cell phone reimbursements, and a variety of miscellaneous expenses (the “Reimbursable Expenses”).

12. All of the Reimbursable Expenses were incurred on the Debtor’s behalf in connection with employment by the Debtor and in reliance upon the understanding that such expenses would be reimbursed. As of the Petition Date, the total amount owed is estimated to be approximately \$23,237 of Reimbursable Expenses. Accordingly, the Debtor seeks to pay the Reimbursable Expenses in the ordinary course of business.

13. By this Motion, the Debtor seeks authority to pay and honor the prepetition Reimbursable Expense obligations and to continue to honor the Reimbursable Expense obligations on a post-petition basis in the ordinary course of business.

**C. Unpaid Payroll Taxes**

14. By law, employers are required to withhold amounts from employees’ wages that are related to federal, state, provincial, and local income taxes, including social security, Medicare taxes, and unemployment insurance, for remittance to the appropriate taxing authorities (collectively, the “Payroll Taxes”). The Debtor is not aware of any collected but

unremitted Payroll Taxes (collectively, the “Unremitted Payroll Taxes”); however, to the extent there are Unremitted Payroll Taxes, the Debtor requests authority to pay such amounts.

15. The Debtor does not believe it is in possession of any Unremitted Payroll Taxes except as noted above. The Payroll Taxes are held in trust for payment to third parties, and thus, do not constitute property of the Debtor’s estate. The Debtor, in an abundance of caution, seeks authority to remit the Unremitted Payroll Taxes, if any, and to continue collecting and remitting the Payroll Taxes in the ordinary course of business on a post-petition basis.

#### **D. Paid Time Off and Other Benefits**

16. Employees are provided with two sick days per year. Sick days may not be rolled over and are not eligible for cash payout. Additionally, all Employees that have been employed longer than ninety days begin accruing paid vacation time retroactive to their hire date (“PTO”). PTO is determined based on length of employment and is accrued incrementally over the course of the year each payroll period (based on the Employee’s hire date). Employees are permitted to roll over up to a maximum of five days (40 hours) more than an Employee’s total yearly allotted PTO. Employees are not permitted to cash-out PTO hours on demand; however, upon termination of employment, the Debtor’s practice has been to pay terminated employees for the unused accumulated PTO. The Debtor requests authority to permit its Employees to use accrued PTO and other leave, and subject to the Budget, the Debtor requests authority, but not direction, to pay accrued PTO to terminated Employees consistent with the Debtor’s past business practices.

#### **E. Employee Benefit Plans**

17. The Debtor maintains various employee benefit plans and policies for health care, dental, vision, disability, life, accidental death and dismemberment insurance, flexible

spending and 401(k) savings plan (collectively, and as discussed in more detail below, the “Employee Benefits”).

*i. Medical Insurance*

18. All full-time Employees (Employees that work over 30 hours per week)<sup>4</sup> that have been employed by the Debtor for over 60 days are eligible to receive medical, prescription drug, dental, and vision insurance coverage.

19. The Debtor provides its Employees with medical insurance and prescription drug coverage through a self-funded health plan (the “Medical Plan”) administered by Meritain Health (“Meritain”) with a \$50,000 per-occurrence stop-loss policy in place (the “Stop-Loss”) with Standard Security Life Insurance Company. The Debtor’s premium obligation under the Stop-Loss policy varies depending on the number of covered Employees; the August premium was \$39,668.51. The Medical Plan provides three coverage options to eligible Employees: Enhanced; Standard; and EPO (Exclusive Provider Organization). As of August 29, 2016, a total of 176 of the Debtor’s employees are covered under the Medical Plan.<sup>5</sup> The Employee portion of the cost of the Medical Plan is deducted each payroll period from the Employee’s total pay. Each month, the Debtor pays a monthly administration fee to Meritain based on the number of covered employees; the August administration fee for the administration of the Medical Plan was approximately \$10,098.

20. In addition to paying the administration fee, because the Medical Plan is self-funded, each week the Debtor pays for claims that have been incurred by the Employees under the Medical Plan. Because of the nature of a self-funded plan, it is impossible to predict the

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<sup>4</sup> Part-time Employees that are promoted to full-time status are eligible to begin receiving Health Benefits at the beginning of the next month after their promotion.

<sup>5</sup> There is one former employee that receives dental and vision coverage through COBRA. The Debtor’s obligation is limited to the payment of administrative fees for notices that are sent out and for the enrollment procedure.

amount of claims that the Debtor will be required to pay for any given week. Since the current Medical Plan was established in October 2015, the average weekly claims cost paid by the Debtor has been approximately \$20,000. The Debtor estimates that approximately sixty days' worth of unpaid prepetition claims under the Medical Plan have been incurred due to the lag time between the time a claim accrues and the time the claim is presented for payment to the Debtor.

*ii. Dental, Vision, Life, and Disability Coverage*

21. In addition to coverage under the Medical Plan, the Debtor also provides certain Employees with the option to enroll in dental and vision insurance, life insurance, accidental death and dismemberment insurance, long and short-term disability insurance through United Health Care (dental and vision) and AIG (basic and supplemental life & AD&D; long term disability; short term disability) (collectively, the "Supplemental Benefits" and together with the Medical Plan, the "Health Benefits"). The Debtor covers between 35-45% of the cost of the premium for dental coverage depending on the option selected by Employees. For Employees at the district manager level and higher the Debtor pays a premium for basic life insurance coverage (\$10,000). The total premium paid by the Debtor in connection with its share of Supplemental Benefits is approximately \$4,617.83 per month. The premium cost for all other Supplemental Benefit coverage is 100% Employee funded. The Debtor seeks authorization to keep current with the Debtor's obligations for payment of any required premium and to transfer the Employees' portion of all payments for Supplemental Benefits, including honoring any checks issued pre-petition but not cleared as of the Petition Date.

*iii. FSA Accounts*

22. In addition to providing the Health Benefits, certain of the Debtor's Employees also have flexible spending accounts for dependent and/or health care (the "FSA Accounts")

administered by Discovery Benefits. Each payroll period a pre-determined sum is deducted from the participating Employee's total pay and deposited in the Employee's designated flexible spending account.

23. Because the Health Benefits and FSA Accounts are vital to the Employees and because the vast majority of the funds constituting unpaid Health Benefits are held in trust for the Employees and are not property of the Debtor's estate, the Debtor seeks authority to remit all prepetition amounts owing for Health Benefits, and to continue providing the Health Benefits in the ordinary course of business on a post-petition basis.

*iv. 401(k) Plan*

24. All regular Employees that have been employed by the Debtor for over a year and that have worked over 1,000 hours are eligible to participate in a 401(k) plan (the "401(k) Plan") managed by Principal Life Insurance Co. Approximately 35 Employees participate in the 401(k) Plan. The Debtor does not provide matching funds or otherwise incur costs relating to the management of the 401(k) Plan. For participating Employees, 401(k) funds are deducted from the Employees' payroll and deposited in the 401(k) Plan.

25. The Debtor requests authority to continue offering Employees the ability to participate in the 401(k) Plan.

26. The failure to pay any Employee or to provide the Health Benefits or allow participation in the 401(k) Plan would have a very negative impact on Employee morale and result in a reduction in performance that would be detrimental to the Debtors' businesses. The Debtor does not believe that the total combined Wage Obligations, Reimbursable Expense obligations, and Health Benefits owed to any one employee exceeds \$12,850 earned within the 180 days prior to the Petition Date pursuant to Bankruptcy Code § 507(a)(4), and therefore, the

Employees would be entitled to be paid the Wage Obligations and other pre-petition Employee Benefits in any event. *See* 11 U.S.C. § 507(a)(4).

### **Basis for Relief Requested**

#### **A. Certain of the Employee Obligations are Entitled to Priority Treatment**

27. Pursuant to Bankruptcy Code §§ 507(a)(4) and (5), certain of the unpaid prepetition Employee Obligations — including Wage Obligations — are entitled to priority treatment in an amount up to \$12,850 for each individual Employee. To the extent such claims are afforded priority status, the Debtor is required to pay these claims in full to confirm a chapter 11 plan. *See* 11 U.S.C. § 1129(a)(9)(b) (requiring payment of certain allowed unsecured claims for (a) wages, salaries or commissions, including vacation, and sick leave pay earned by an individual, and (b) contributions to an employee benefit plan). As such, these claims would be entitled to payment in full under any plan. Therefore, authorizing the Debtor to make these payments at this time will affect only the timing of such payments.

#### **B. Payment of Certain of the Employee Wages and Benefits Is Required by Law**

28. The Debtor also seeks authority to pay amounts for Deductions and Payroll Taxes to be provided to the appropriate entities. These amounts principally represent Employee earnings that governments, Employees, and judicial authorities have designated for deduction from Employees' paychecks. Indeed, certain Deductions, including Employee contributions for Health Benefits, are not property of the Debtor's estate because they will be withheld from Employees' paychecks on another party's behalf. *See* 11 U.S.C. § 541(b). Further, federal and state laws require the Debtor and its officers to remit certain tax payments that have been withheld from Employees' paychecks. *See* 26 U.S.C. § 6672 and 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95-97 (3d Cir. 1994) (finding that state law

requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *DuCharmes & Co., Inc. v. State of Mich. (In re DuCharmes & Co.)*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because the Deductions and Payroll Taxes are not property of the Debtor's estate, the Debtor requests that this Court authorize it to remit all amounts relating to Deductions and Payroll Taxes.

**C. Ample Authority Exists to Authorize the Debtor to Honor Employee Obligations**

29. Courts generally acknowledge that it is appropriate to authorize the payment (or other special treatment) of prepetition obligations in appropriate circumstances. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. 174 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *see also Armstrong World Indus., Inc. v. James A. Phillips, Inc., (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers who were potential lien claimants). As set forth herein, in authorizing payments of certain prepetition obligations, courts have relied on several legal theories, based on Bankruptcy Code §§ 1107(a), 1108, 363(b), and 105(a).

30. Pursuant to Bankruptcy Code §§ 1107(a) and 1108, debtors in possession are fiduciaries "holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the fiduciary duties of any debtor in possession is the obligation to "protect and preserve the estate, including an operating business's going-concern value." *Id.* Some courts have noted that there are instances in which a debtor can fulfill this fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." *Id.* The *CoServ* court

specifically noted that the preplan satisfaction of prepetition claims would be a valid exercise of the debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate . . . ." *Id.*

31. Consistent with a debtor's fiduciary duties, courts have also authorized payment of prepetition obligations under Bankruptcy Code § 363(b) where a sound business purpose exists for doing so. *See, e.g., Ionosphere Clubs*, 98 B.R. at 175 (discussing prior order authorizing payment of prepetition wage claims pursuant to Bankruptcy Code § 363(b); relief appropriate where payment was needed to "preserve and protect its business and ultimately reorganize, retain its currently working employees and maintain positive employee morale."); *see also Armstrong*, 29 B.R. at 397 (relying on Bankruptcy Code § 363 to allow contractor to pay prepetition claims of suppliers who were potential lien claimants because the payments were necessary for general contractors to release funds owed to debtors).

32. Courts have also authorized payment of prepetition claims in appropriate circumstances pursuant to Bankruptcy Code § 105(a). Bankruptcy Code § 105(a), which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Under Bankruptcy Code § 105(a), courts may permit preplan payments of prepetition obligations when such payments are essential to the continued operation of the debtor's business and, in particular, where nonpayment of a prepetition obligation would trigger a withholding of goods or services essential to the debtor's business reorganization plan. *See In re UNR Indus.*, 143 B.R. 506, 520 (Bankr. N.D. Ill. 1992) (permitting the debtor to pay prepetition claims of suppliers or employees whose continued cooperation is essential to the debtors' successful reorganization); *Ionosphere Clubs*, 98 B.R. at

177 (finding that Bankruptcy Code § 105 empowers bankruptcy courts to authorize payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor); *In re Gulf Air, Inc.*, 112 B.R. 152 (Bankr. W.D. La. 1989) (authorizing payment of pre-petition amounts due, *inter alia*, for wages, benefits, health insurance premiums and per diem expenses under the “necessity of payment doctrine,” without regard to statutory priorities of Bankruptcy Code § 507).

33. Courts have repeatedly recognized the importance of employees to a debtor’s reorganization and the severe harm to employees that can arise if courts do not grant motions such as this one. *In re Braniff, Inc.*, 218 B.R. 628, 633 (Bankr. M.D. Fla. 1998) (approving payment of prepetition employee wage claims due to the vital role the employees play to the debtor’s reorganization). Similar relief to that requested herein has been granted by bankruptcy courts within this district. *See, e.g., In re Forest Park Medical Center at Southlake, LLC*, Case No. 16-40273 (Bankr. N.D. Tex. Jan. 25, 2016, docket no. 38); *In re Reddy Ice Holdings, Inc.*, Case No. 12-32349 (Bankr. N.D. Tex. Apr. 17, 2012, docket no. 83); *In re Idearc, Inc.*, Case No. 09-31828 (Bankr. N.D. Tex. Apr. 30, 2009, docket no. 195); *In re Crusader Energy Group Inc., et al.*, Case No. 09-31797 (Bankr. N.D. Tex. Apr. 2, 2009, docket no. 39); *In re Heartland Automotive Holdings, Inc.*, Case No. 08-40047 (Bankr. N.D. Tex. Jan. 9, 2008, docket no. 39); *In re The Bombay Company, Inc.*, Case No. 07-44084 (Bankr. N.D. Tex. Sept. 20, 2007, docket no. 64).

34. Nothing in this Motion is intended, nor should it be construed, to impair the Debtor’s rights to contest the amount, basis or validity of any Employee Obligations that may be allowed to be due, and the Debtor expressly reserves all rights with respect thereto.

35. Concurrent herewith, the Debtor has filed a motion seeking approval to obtain post-petition financing (the “DIP Motion”). The DIP Motion proposes that all such post-petition financing will be used according to a limited budget (the “Budget”). The compensation and related employment expenses referenced in this Motion are included within the Budget or will be separately approved by the Debtor’s lender as identified in the DIP Motion. Accordingly, upon the approval of the DIP Motion, the Debtor will have sufficient funds to pay the amounts sought by this Motion.

36. In order to maintain the continuity of its business and to preserve the morale of its vital labor force, it is essential that the Debtor be permitted to pay the funds requested through this Motion. The Debtor seeks the relief requested in this Motion on an emergency basis because any delay or disruption in providing employee compensation will destroy the Debtor’s relationship with the Employees and irreparably impair workforce morale at the very time when the dedication, confidence, and cooperation of these individuals is most critical. The Debtor faces the risk that its operations may be severely impaired if authority is not granted for the Debtor to make the payments described above.

37. In addition, bolstering the Employees’ morale will assist the Debtor in maintaining a “business as usual” atmosphere and, in turn, facilitate the Debtor’s efforts to market its business as a going concern as more fully described in the Background Statement.

38. Because the amounts represented by Pre-Petition Wages are needed to enable the Employees to meet their own personal obligations, absent the relief requested herein, they will suffer undue hardship and, in many instances, serious financial difficulties. Moreover, without the requested relief, the stability of the Debtor would be undermined by the potential threat that otherwise loyal Employees would seek other employment.

**Request for Waiver of Stay**

39. To the extent that the relief sought in the Motion constitutes a use of property under Bankruptcy Code § 363(b), the Debtor seeks a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h). Further, to the extent applicable, the Debtor requests that the Court find that the provisions of Bankruptcy Rule 6003 are satisfied. As explained herein, the relief requested in this Motion is immediately necessary for the Debtor to be able to continue to operate its businesses and preserve the value of the estate.

**Notice**

40. Notice of this Motion has been provided to: (i) the Office of the United States Trustee; (ii) the Debtor and its counsel; (iii) the Debtor's secured creditors; (iv) any party whose interests are directly affected by this specific pleading; (v) those persons who have formally appeared and requested notice and service in these proceedings pursuant to Bankruptcy Rules 2002 and 3017; (vi) counsel for and the members of any official committees appointed by this Court; (vii) the 20 largest unsecured creditors of the Debtor; and (viii) all governmental agencies having a regulatory or statutory interest in this case. No other or further notice need be provided.

WHEREFORE the Debtor respectfully requests that the Court (i) grant the Motion and (ii) grant such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED this 2nd day of September, 2016.

**HAYNES AND BOONE, LLP**

By: /s/ Robert D. Albergotti

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**PROPOSED ATTORNEYS FOR DEBTOR**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
TPP ACQUISITION, INC. d/b/a The	§	Case No. 16-33437-hdh-11
Picture People,	§	
	§	
Debtor.	§	

**ORDER AUTHORIZING DEBTOR TO (I) PAY CERTAIN PRE-PETITION WAGES,  
OTHER COMPENSATION AND REIMBURSABLE EMPLOYEE EXPENSES, AND  
(II) CONTINUE EMPLOYEE BENEFITS PROGRAMS**

On \_\_\_\_\_, 2016, the Court conducted a hearing to consider the *Debtor's* *Emergency Motion for Order Authorizing the Debtors to (I) Pay Certain Prepetition Wages, Other Compensation and Reimbursable Employee Expenses, and (II) Continue Employee Benefits Programs* (the "Motion")<sup>1</sup> filed by TPP Acquisition, Inc. d/b/a The Picture People ("TPP" or the "Debtor"). The Court finds that: (i) it has jurisdiction over the matters raised in the

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interests of the Debtor, its estate, and its creditors; (iv) proper and adequate notice of the Motion has been given and no other or further notice is necessary; and (v) upon the record herein after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein.

Therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. Subject to the requirements of Bankruptcy Code §§ 507(a)(4) and (a)(5), the Debtor is authorized, in its discretion, to pay and remit in the ordinary course of business and in accordance with the Debtor's prepetition policies and programs, prepetition amounts outstanding on account of or relating to the following Employee Obligations or Employee Benefits: (a) Wage Obligations; (b) Reimbursable Expenses; (c) Payroll Taxes; (d) Deductions; (e) Health Benefits; (f) FSA Accounts; (g) PTO; and (h) 401(k) Plan obligations.
3. The Debtor is authorized to continue programs related to and remit the following Employee Obligations in the ordinary course of business on a post-petition basis, in accordance with the Debtor's prepetition policies and practices and in the Debtor's discretion, and to pay and honor claims related thereto: (a) Wage Obligations; (b) Reimbursable Expenses; (c) Payroll Taxes; (d) Deductions; (e) Health Benefits; (f) FSA Accounts; (g) PTO; and (h) 401(k) Plan obligations.
4. The Debtor is authorized, but not directed, to pay all post-petition costs and expenses incidental to payment of the Employee Obligations described in paragraphs 2 and 3 herein, including all administrative and processing costs.

5. Each of the authorizations contained in paragraphs 2 - 4 hereof are subject to the budget approved by Monroe Capital Management Advisors LLC, as administrative agent for the DIP Lenders in connection with the Debtor's request for authority to enter into a debtor-in-possession financing agreement and the terms and conditions thereof and any interim and/or final order(s) approving same and/or any budget (as may be subsequently amended, the "Budget").

6. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in 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 against the Debtor, a waiver of the Debtor's rights to subsequently dispute such claim or the assumption or adoption of any agreement, contract or lease under Bankruptcy Code § 365.

7. The banks and financial institutions on which checks were drawn (or were to be drawn) or electronic payment requests were made (or were to be made) in payment of the pre-petition obligations approved herein are authorized and directed 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 Debtor's designation of any particular check or electronic payment request as being approved by this Order.

8. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion or otherwise deemed waived.

9. The Debtor is authorized to take all actions necessary to effect the relief granted pursuant to this Order in accordance with the Motion.

10. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

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

### END OF ORDER ###

**Submitted by:**

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**PROPOSED ATTORNEYS FOR DEBTOR**