

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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In re: : Chapter 11
  
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VALERITAS HOLDINGS, INC., *et al.*,<sup>1</sup> : Case No. 20-10290 (LSS)
  
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Debtors. : (Jointly Administered)
  
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**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS OF SHIPPERS, WAREHOUSEMEN, AND NON-MERCHANDISE LIEN CLAIMANTS AND TO SATISFY CUSTOMS OBLIGATIONS; (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF**

Upon the *Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of Shippers, Warehousemen, and Non-Merchandise Lien Claimants to Satisfy Customs Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "Motion"),<sup>2</sup> filed by the above-captioned debtors (collectively, the "Debtors") for entry of an order (this "Interim Order") authorizing and directing the procedural consolidation and joint administration of the above-captioned Chapter 11 Cases, all as further described in the Motion; and upon consideration of the First Day Declaration and the record of these Chapter 11 Cases; and this Court having found that (i) this Court has jurisdiction over the Debtors, their estates, property of their estates and to consider the Motion and the relief requested therein under 28 U.S.C. §§ 157

<sup>1</sup> The debtors in these Chapter 11 Cases, along with the last four digits of each debtor's federal tax identification number, are: Valeritas Holdings, Inc. (8907); Valeritas, Inc. (1056); Valeritas Security Corporation (9654); Valeritas US, LLC (0007). The corporate headquarters and the mailing address for the debtors is 750 Route 202 South, Suite 600, Bridgewater, New Jersey 08807.

<sup>2</sup> Capitalized terms used but not otherwise defined in this Interim Order shall have the meaning ascribed to them in the Motion.



and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012, (ii) this Court may enter a final order consistent with Article III of the United States Constitution, (iii) this is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (iv) venue of this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409, and (v) no further or other notice of the Motion is required under the circumstances; and this Court having reviewed the Motion and having heard the statements in support of the relief requested in the Motion at a hearing before this Court; and having determined that the legal and factual bases set forth in the Motion and the First Day Declaration establish just cause for the relief granted in this Interim Order; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, on an interim basis, as set forth in this Interim Order.
2. The Debtors are authorized, but not directed, to pay in the ordinary course of business undisputed prepetition amounts due to Claimants in an amount not to exceed \$285,000 in the aggregate, unless otherwise set forth in a subsequent order.

Prepetition Obligations Categories <sup>3</sup>	Interim Amount	Final Amount
Shippers and Warehousemen	\$222,000	\$260,000
Non-Merchandise Lien Claimants	\$5,000	\$10,000
Customs Obligations	\$15,000	\$15,000
<b>Total</b>	<b>\$242,000</b>	<b>\$285,000</b>

<sup>3</sup> The breakdown of the amounts owed per the "Prepetition Obligations Categories" reflected in the above table is for convenience only, and the Debtors are authorized to reallocate any payments made, as necessary.

3. In return for payment of the Claimants, the Debtors will obtain agreements from the Claimants to provide services to the Debtors on Customary Trade Terms or such other terms as may be agreed upon between the Debtors and such Claimants.

4. For any payments that are made to any Claimant on account of prepetition charges, unless otherwise waived by the Debtors, Claimant receiving the payments shall (i) continue to provide services to the Debtors during the pendency of these Chapter 11 Cases on the terms most favorable to the Debtors that existed in the twelve (12) months before the Petition Date, (ii) to the extent applicable, agree to not cancel any contract or agreement pursuant to which such Claimant provides services to the Debtors, on less than the greater of either (a) sixty (60) days' notice; or (b) the notice period required by the respective contract or agreement, and (iii) take whatever action is necessary to remove any liens in respect of such claim, if any, at such Claimant's sole cost and expense; *provided that* no such payment shall be deemed to be a waiver of rights regarding the extent, validity, perfection or possible avoidance of any such liens.

5. If any Claimant accepts payment on account of a prepetition obligation of the Debtors and thereafter does not continue to provide goods or services to the Debtors on Customary Trade Terms, or other trade terms agreed upon by the Debtors, the Debtors reserve all rights to assert that such payments made were avoidable postpetition transfers under section 549 of the Bankruptcy Code and recoverable by the Debtors. In the event that the Debtors recover any such funds pursuant to the foregoing sentence, the claim of the Claimant as the case may be, shall be reinstated as a prepetition claim in the amount so recovered, less any costs incurred by the Debtors.

6. Upon any refusal by a third party to release Goods being held as security for such party's unsatisfied prepetition claim, the Debtors shall be entitled to seek an expedited hearing, on no fewer than five (5) days' notice, to compel the release of such property.

7. The Debtors shall also maintain a matrix summarizing (a) the name of each Claimants that received payment on its Claim, (b) the amount paid to each Claimants on account of its Claim, and (c) the goods or services provided by such Claimants.

8. Nothing in this Interim Order shall prohibit the Debtors from seeking Court authority to increase the prepetition amounts authorized to be paid to the Claimants.

9. Nothing in this Interim Order shall impair the Debtors' ability to contest, without prejudice, the validity and amounts owing to the Claimants and nothing shall limit the Claimants' rights to assert additional amounts owed.

10. Nothing in this Interim Order shall be deemed to constitute the postpetition assumption of any executory contracts between the Debtors and the Claimants.

11. Notwithstanding the relief granted in this Interim Order and any actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute: (a) an admission as to the validity or priority of any claim or lien against the Debtors, (b) a waiver of the Debtors' rights to subsequently dispute <sup>any unpaid portion of</sup> such claim or lien, (c) an undertaking, obligation, or commitment to pay any claims hereunder, or (d) the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

12. ~~If this Court grants the relief sought in the Motion, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently. The Debtors~~

~~retain the discretion whether to pay any claim that the Court authorizes under this proposed Interim Order.~~

13. The authority granted by this Interim Order to pay certain prepetition claims of the Claimant shall not create any obligation on the part of the Debtors or their officers, directors, attorneys or agents to pay such claims. None of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay a Claim pursuant to the authority granted by this Interim Order, and nothing contained this in this Interim Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise effect the claims of such Claimant.

14. Notwithstanding anything to the contrary contained in this Motion, any payment made, deposit or other transfer made under this Interim Order, any authorization contained in this Interim Order, or any claim for which payment is authorized hereunder, shall be subject to the terms and provisions of any orders of this Court authorizing the use of cash collateral by the Debtors and any budget (subject to permitted variances thereto) in connection therewith.

15. The final hearing (the "Final Hearing") on the Motion shall be held on **March 12, 2020 at 2:00 p.m. (EST)**. Any objections or responses to entry of a final order on the Motion (each, an "Objection") shall be filed on or before **4:00 p.m. (EST) on March 5, 2020**, and served on the following parties: (i) the Debtors, 750 Route 202 South, Suite 600, Bridgewater, New Jersey 08807 (Attn.: John E. Timberlake, President and CEO); (ii) proposed counsel for the Debtors, DLA Piper LLP (US), 1201 N. Market Street, Suite 2100, Wilmington, Delaware 19801 (Attn: Maris J. Kandestin, Esq., maris.kandestin@us.dlapiper.com), and 1251 Avenue of the Americas, New York, New York 10020 (Attn: Rachel Ehrlich Albanese, Esq., rachel.albanese@us.dlapiper.com); (iii) the Office of the United States Trustee, J. Caleb Boggs

Federal Building, 844 King St., Lockbox 35, Wilmington, Delaware 19801 (Attn: Richard L. Schepacarter, Esq., [Richard.Schepacarter@usdoj.gov](mailto:Richard.Schepacarter@usdoj.gov)); (iv) counsel to the official committee of unsecured creditors appointed in these Chapter 11 Cases, if any; (v) counsel to the Debtors' prepetition secured lenders, Venable LLP, 1201 N. Market Street, Suite 1400, Wilmington, Delaware 19801 (Attn: Daniel A. O'Brien, Esq., [dao'brien@venable.com](mailto:dao'brien@venable.com)), and 1042 Rockefeller Center, 1270 Avenue of the Americas, 24th Floor, New York, New York 10020 (Attn: Carol Weiner Levy, Esq. and Jeffrey S. Sabin, Esq., [cweinerlevy@venable.com](mailto:cweinerlevy@venable.com) and [jssabin@venable.com](mailto:jssabin@venable.com)); and (vi) counsel to the HB Fund LLC, Proskauer Rose LLP, Eleven Times Square, New York, New York 10036 (Attn: Peter Antoszyk, Esq. and Lucy F. Kweskin, Esq., [pantoszyk@proskauer.com](mailto:pantoszyk@proskauer.com) and [lkweskin@proskauer.com](mailto:lkweskin@proskauer.com)), and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19081 (Attn: Adam G. Landis, Esq. and Kerri Mumford, Esq., [landis@lrclaw.com](mailto:landis@lrclaw.com) and [mumford@lrclaw.com](mailto:mumford@lrclaw.com)). In the event no Objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

16. The Banks are authorized to (a) receive, process, honor, and pay any and all checks drawn on the Debtors' accounts, and to honor all fund transfer requests made, in respect of payments made by the Debtors to the Claimants whether such checks were drawn, or fund transfer requests submitted, prior to or after the Petition Date, *provided that* sufficient funds are available in the applicable accounts to make the payments and (b) rely on the Debtors' representations as to the identification of checks drawn and fund transfer requests made to satisfy any such claims pursuant to this Motion.

17. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

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

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

20. The Debtors are hereby authorized to take all actions they deem necessary to effectuate the relief granted in this Interim Order.

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

Dated: Feb 12, 2020  
Wilmington, Delaware

  
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THE HONORABLE LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE