

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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-----X Re: D.I. 13

**INTERIM ORDER (I) APPROVING CONTINUED USE OF CASH MANAGEMENT SYSTEM; (II) AUTHORIZING THE DEBTORS TO OPEN AND CLOSE BANK ACCOUNTS; (III) AUTHORIZING BANKS TO HONOR CERTAIN TRANSFERS; (IV) PERMITTING THE CONTINUED INTERCOMPANY TRANSFERS AND GRANTING ADMINISTRATIVE EXPENSE PRIORITY STATUS; (V) SUSPENDING THE REQUIREMENTS OF 11 U.S.C. § 345(b); AND (VI) GRANTING RELATED RELIEF**

Upon the *Motion of the Debtors for Entry of Interim and Final Orders (I) Approving Continued Use of Current Cash Management System; (II) Authorizing the Debtors to Open and Close Bank Accounts; (III) Authorizing Banks to Honor Certain Transfers; (IV) Permitting the Continued Intercompany Transfers and Granting Administrative Expense Priority Status; (V) Suspending the requirements of 11 U.S.C. § 345(b); and (VI) Granting Related Relief* (the "Motion"),<sup>2</sup> filed by the above-captioned debtors (collectively, the "Debtors") for entry of an interim order (this "Interim Order"), all as 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 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of*

<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.



*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, on an interim basis, to: (a) maintain and continue using in the ordinary course, subject to the terms of this Interim Order, the Cash Management System described in the Motion, a diagram of which is attached to the Motion as Exhibit C, including the Bank Accounts listed as Exhibit D to the Motion, and (b) open and close Bank Accounts without further order of this Court; *provided, however*, that (i) with respect to the opening of a Bank Account, such Bank Account is with a Bank that is insured with the FDIC and (ii) the Debtors will provide written notice within ten (10) business days of the opening or closing of any bank account to the U.S. Trustee.
3. The Debtors are authorized to continue to use the Bank Accounts under existing account numbers without interruption; *provided, however*, that no checks issued against the Bank Accounts prior to the commencement of these Chapter 11 Cases shall be honored, except as

otherwise set forth in this Order or as authorized by further order of this Court and directed by the Debtors.

4. Notwithstanding anything herein to the contrary, (a) those certain existing deposit agreements between the Debtors and Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Banks, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect, and (b) the Debtors and the Banks may, without further order of this Court, agree to and implement non-material changes to the cash management systems and procedures in the ordinary course of business.

5. The Banks are authorized to continue to service and administer the Bank Accounts as accounts of each respective 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 after the Petition Date by the holders or makers thereof (to the extent of available funds), as the case may be, including with respect to checks or other items issued prior to the Petition Date to the extent authorized by this Interim Order or a further order of this Court. Within ten (10) business days, after the day on which this Interim Order is entered, the Debtors shall contact the Banks and instruct them to rename the Bank Accounts as "Debtor in Possession" accounts with the Petition Date and the lead case number included in the account title. The Banks are also authorized to waive any applicable requirement to establish separate accounts for any cash collateral and/or tax payments.

6. Each Bank is authorized to charge, and the Debtors are authorized to continue to service, the Service Charges and other ordinary course fees, costs, charges, and expenses to which such Bank and credit card service provider may be entitled.

7. Except for those checks, drafts, wires, or ACH Transfers that may be honored and paid in accordance with any order(s) of this Court authorizing payment of certain prepetition claims, and except as otherwise set forth in this Interim Order or as authorized by other or further order of this Court and as represented by the Debtors to such Banks, no checks, drafts, wires, or ACH Transfers issued on the existing Bank Accounts prior to the Petition Date but presented for payment after the Petition Date shall be honored or paid.

8. The Banks shall not be liable to any party or otherwise deemed in violation of this Interim Order on account of: (a) following the Debtors' instructions or Debtors' representations as to any order of this Court; (b) honoring any prepetition check or item in the good faith belief that the Court has authorized such prepetition check or item to be honored despite implementation of reasonable item-handling procedures; or (c) an innocent mistake made despite implementation of customary item-handling procedures.

9. The Banks are authorized to debit the Bank Accounts in the ordinary course of business and without further order of this Court on account of all checks drawn on the Debtors' accounts which were negotiated at the counter of Banks or exchanged for cashier's or official checks by the payees thereof prior to the Petition Date.

10. The Debtors are authorized to continue to use their existing checks and other Business Forms without the designation of "Debtor in Possession" or the lead case number. However, if new checks and business forms are ordered or printed, such checks and business forms shall be required to include the legend "Debtor in Possession" and the lead case number. Third-party payroll and benefits administrators and providers are also authorized to prepare and issue checks on behalf of the Debtors, subject to the provisions of this paragraph.

11. The Debtors are authorized, from and after the Petition Date on an interim basis, to continue to use their Cash Management System with respect to Intercompany Transfers, in accordance with the Debtors' customary business practices that existed prior to the Petition Date and except as otherwise provided in this Interim Order. All net Intercompany Claims against a Debtor held by another Debtor arising from postpetition Intercompany Transfers, if any, shall be entitled to administrative expense priority pursuant to section 503(b)(1) of the Bankruptcy Code. For the avoidance of doubt, the Debtors are authorized to continue to send funds to another Debtor on an as-needed basis to focus on consummating the proposed sale.

12. The Debtors shall maintain accurate and detailed records of all transfers, including Intercompany Transfers, so that all transactions may be readily ascertained, traced, recorded properly, and distinguished between prepetition and postpetition transactions.

13. The requirement of section 345(b) of the Bankruptcy Code are suspended for the Morgan Stanley Investment Account on an interim basis for a period of forty-five (45) days from the entry of this Interim Order without prejudice to the Debtors' ability to seek a further suspension of such requirements.

14. Despite their use of a consolidated Cash Management System, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each debtor, regardless of who pays those disbursements.

15. For, the Banks at which the Debtors hold Bank Accounts that are party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, within fifteen (15) days of the date of entry of this Order the Debtors shall (a) contact the Banks, (b) provide the Banks with each of the Debtors' employer identification numbers and

(c) identify each of their Bank Accounts held at such Bank as being held by a debtor in possession in a bankruptcy case, and provide the case number.

16. For the 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 shall use their good-faith efforts to cause such Banks to execute a Uniform Depository Agreement in a form prescribed by the Office of the United States Trustee within thirty (30) 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.

17. The Debtors are authorized to open any new Bank Accounts or close any existing Bank Accounts as it may deem necessary and appropriate in their sole discretion; provided, however, that the Debtors give notice within fifteen (15) days to the Office of the United States Trustee for the District of Delaware and any statutory committees appointed in these chapter 11 cases; provided, further, however 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.

18. Any payment made pursuant to this Interim 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 <sup>any unpaid portion of</sup> dispute such claim at a later date.

19. The Debtors are hereby authorized to take all actions they deem necessary to effectuate the relief granted in this Final Order and to execute any additional documents and

cooperate with the Banks as may be required to carry out the intent and purpose of this Final Order.

20. 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](mailto: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](mailto: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.

21. The requirements of Bankruptcy Rule 6003(b) are satisfied.

22. The requirements of Bankruptcy Rule 6004(a) are waived.

23. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms and provisions of this Interim Order shall be immediately effective and enforceable upon its entry.

24. The Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Interim Order.

Dated: Feb. 12, 2020  
Wilmington, Delaware

  
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THE HONORABLE LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE