

**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.*,¹ : Case No. 20-10290 (LSS)

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Debtors. : (Jointly Administered)

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X Re: D.I. 11, 56

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CERTIFICATION OF COUNSEL REGARDING 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 AND TO SATISFY CUSTOMS OBLIGATIONS; (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF

I, Maris J. Kandestin, an attorney with DLA Piper LLP (US), as proposed counsel to Valeritas Holdings, Inc. and its affiliated debtors (collectively, the “Debtors”) in the above-captioned chapter 11 cases, hereby certify as follows:

1. On February 9, 2020, the Debtors filed 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 and to Satisfy Customs Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* [D.I. 11] (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. On February 12, 2020, the Court held a hearing to consider, among other things, the relief requested in the Motion. At the hearing, the Court directed the Debtors to make certain

¹ 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.



revisions to the proposed form of order and subsequently entered the *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* [D.I. 56] (the “Interim Order”).

3. Any objections or responses to the relief requested in the Motion on a final basis were to be filed with the Court and served upon the undersigned proposed counsel no later than 4:00 p.m. (prevailing Eastern Time) on March 5, 2020.

4. While no party filed a formal objection to the Motion, the Debtors increased the aggregate cap for the Debtors’ prepetition obligations in connection with the relief requested in the Motion on a final basis.

5. Accordingly, the Debtors prepared a revised proposed form of order (the “Revised Proposed Order”), granting the relief requested in the Motion on a final basis, which incorporates the Court-ordered revisions to the Interim Order. The Debtors circulated the Revised Proposed Order to the Office of the United States Trustee for Region 3, the Debtors’ prepetition secured lenders, the debtor-in-possession financing lender, and the Official Committee of Unsecured Creditors, none of which have indicated that they object to the entry of the Revised Proposed Order. A copy of the Revised Proposed Order is attached hereto as **Exhibit A**. For the convenience of the Court and parties in interest, a redline of the Revised Proposed Order marked against the proposed form of order attached as an exhibit to the Motion is attached hereto as **Exhibit B**.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Debtors respectfully request that the Court enter the Revised Proposed Order, attached hereto as **Exhibit A**, granting the relief requested, and grant such other and further relief as the Court may deem just and proper.

Dated: March 10, 2020
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Maris J. Kandestin

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-and-

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Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

(Revised Proposed Final Order)

**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.*,¹ : Case No. 20-10290 (LSS)

:

Debtors. : (Jointly Administered)

:

: **D.I. 11 & 56**

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FINAL 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 and to Satisfy Customs Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the “Motion”),² filed by the above-captioned debtors (collectively, the “Debtors”) for entry of an order (this “Final 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

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² Capitalized terms used but not otherwise defined in this Final 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 Final Order; and the Court having granted the relief requested in the Motion on an interim basis [D.I. 56]; 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 a final basis, as set forth in this Final Order.
2. The Debtors are authorized, but not directed, to pay in the ordinary course of business undisputed prepetition amounts owed to Claimants in an amount not to exceed \$435,000 in the aggregate, unless otherwise set forth in a subsequent order.

Prepetition Obligations Categories³	Interim Amount	Final Amount
Shippers and Warehousemen	\$222,000	\$410,000
Non-Merchandise Lien Claimants	\$5,000	\$10,000
Customs Obligations	\$15,000	\$15,000

³ 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.

Total	\$242,000	\$435,000
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3. In return for payment of the undisputed prepetition amounts owed to 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, the 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 Final 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 Final 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 Final Order shall be deemed to constitute the postpetition assumption of any executory contracts between the Debtors and the Claimant.

11. Notwithstanding the relief granted in this Final Order and any actions taken hereunder, nothing contained in the Motion or the Interim Order or any payment made pursuant to this Final 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 any unpaid portion of 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. The authority granted by this Final 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 the 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 Final Order, and nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise effect the claims of such Claimant.

13. Notwithstanding anything to the contrary in the Motion, any payment made, deposit or other transfer made under this Final Order, any authorization contained in this Final 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.

14. All Banks are hereby authorized to receive, process, honor and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under this Final Order whether presented prior to or after the Petition Date. Such Banks are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Final Order.

15. 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.

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

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

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

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

20. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Exhibit B

(Redline)

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

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In re:	:	Chapter 11
VALERITAS HOLDINGS, INC., <i>et al.</i> , ¹	:	Case No. 20-10290 (--- LSS)
Debtors.	:	(Jointly Administered)
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	:	D.I. --- 11 & --- 56
	X	

FINAL 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 and to Satisfy Customs Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the “Motion”),² filed by the above-captioned debtors (collectively, the “Debtors”) for entry of an order (this “Final 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

¹ 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.

² Capitalized terms used but not otherwise defined in this Final Order shall have the meaning ascribed to them in the Motion.

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 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 Final Order; and the Court having granted the relief requested in the Motion on an interim basis [D.I. ~~55~~[56](#)]; 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 a final basis, as set forth in this Final Order.
2. The Debtors are authorized, but not directed, to pay in the ordinary course of business undisputed prepetition amounts owed to Claimants in an amount not to exceed ~~\$285,000~~[435,000](#) in the aggregate, unless otherwise set forth in a subsequent order.

Prepetition Obligations Categories³	Interim Amount	Final Amount
Shippers and Warehousemen	\$222,000	\$260,000 <u>410,000</u>
Non-Merchandise Lien Claimants	\$5,000	\$10,000
Customs Obligations	\$15,000	\$15,000
Total	\$242,000	\$285,000<u>435,000</u>

3. In return for payment of the undisputed prepetition amounts owed to 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, the 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

³ 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.

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 Final 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 Final 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 Final Order shall be deemed to constitute the postpetition assumption of any executory contracts between the Debtors and the Claimant.

11. Notwithstanding the relief granted in this Final Order and any actions taken hereunder, nothing contained in the Motion or the Interim Order or any payment made pursuant to this Final 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 [any unpaid portion of](#) 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 retains the discretion whether to pay any claim that the Court authorizes under this proposed Final Order.~~

12. ~~13.~~ The authority granted by this Final 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 the 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 Final Order, and nothing contained this in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise effect the claims of such Claimant.

13. ~~14.~~ Notwithstanding anything to the contrary in the Motion, any payment made, deposit or other transfer made under this Final Order, any authorization contained in this Final 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. Notwithstanding anything set forth herein: (a) any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed under the Interim Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the~~

~~Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief and any related final order (each as amended, modified or supplemented in accordance with the terms thereof, the “DIP Order”), including the Approved Budget (as defined in the DIP Order); and (b) to the extent there is any inconsistency between the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order and the Approved Budget shall control.~~

14. ~~16.~~ All Banks are hereby authorized to receive, process, honor and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under this Final Order whether presented prior to or after the Petition Date. Such Banks are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Final Order.

15. ~~17.~~ 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.

16. ~~18.~~ The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

17. ~~19.~~ Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

| 18. ~~20.~~ Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

| 19. ~~21.~~ The Debtors are hereby authorized to take all actions they deem necessary to effectuate the relief granted in this Final Order.

| 20. ~~22.~~ This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Summary report:	
Litéra® Change-Pro TDC 10.1.0.700 Document comparison done on 3/8/2020 1:41:55 PM	
Style name: DLA Piper	
Intelligent Table Comparison: Active	
Original DMS: iw://USDMS.PIPER.ROOT.LOCAL/EAST/172449452/1	
Modified DMS: iw://USDMS.PIPER.ROOT.LOCAL/EAST/172449452/2	
Changes:	
Add	19
Delete	22
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	41