

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
In re: : Chapter 11
: :
STARRY GROUP HOLDINGS, INC., *et al.*,¹ : Case No. 23-10219 (___)
: :
Debtors. : (Joint Administration Requested)
: :
----- X

**MOTION OF DEBTORS FOR ENTRY OF INTERIM
AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO PAY
CERTAIN TAXES AND FEES AND (II) GRANTING RELATED RELIEF**

Starry Group Holdings, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), respectfully represent as follows in support of this motion (this “**Motion**”):

RELIEF REQUESTED

1. By this Motion, the Debtors seek entry of interim and final orders, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Interim Order**”) and **Exhibit B** (the “**Proposed Final Order**”) and, together with the Proposed Interim Order, the “**Proposed Orders**”): (a) authorizing, but not directing, the Debtors to pay certain prepetition taxes, assessments, fees, and other charges in the ordinary course of business, including any such taxes, assessments, fees, and charges subsequently determined upon audit, or otherwise, to be owed, and any associated fees owed to the third party administrators in connection therewith (collectively, the “**Taxes and Fees**”) and (b) granting related relief.

¹ The debtors in these cases, along with the last four digits of each debtor’s federal tax identification number, are: Starry Group Holdings, Inc. (9355); Starry, Inc. (9616); Connect Everyone LLC (5896); Starry Installation Corp. (7000); Starry (MA), Inc. (2010); Starry Spectrum LLC (N/A); Testco LLC (5226); Starry Spectrum Holdings LLC (9444); Widmo Holdings LLC (9208); Vibrant Composites Inc. (8431); Starry Foreign Holdings Inc. (3025); and Starry PR Inc. (1214). The debtors’ address is 38 Chauncy Street, Suite 200, Boston, Massachusetts 02111.



2. The Debtors request, pursuant to this Motion, authority to pay prepetition obligations related to the above as they become due in the ordinary course of business. The prepetition amounts sought to be paid by this Motion are discussed in greater detail below and are summarized in the following chart:

Prepetition Obligations	Interim Amount	Final Amount
Sales and Use Taxes	\$9,500	\$25,000
Income and Franchise Taxes	\$90,000	\$130,000
Property Taxes	\$5,000	\$216,000
Fees and Licenses	\$5,000	\$75,000
Total	\$109,500	\$446,000

JURISDICTION AND VENUE

3. The Court has jurisdiction to consider this Motion pursuant to 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. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory and legal predicates for the relief requested herein are sections 105(a), 363(b), 507(a), and 541 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

5. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent to the entry of a final order or judgment by the Court in connection with this Motion if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

BACKGROUND

6. On the date hereof (the “**Petition Date**”), the Debtors commenced with the Court voluntary cases (the “**Chapter 11 Cases**”) under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in the Chapter 11 Cases.

7. Contemporaneously with the filing of this Motion, the Debtors have filed with the Court a motion requesting joint administration of the Chapter 11 Cases for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

8. The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the circumstances leading to the commencement of the Chapter 11 Cases, is set forth in detail in the *Declaration of Chaitanya Kanojia In Support of Chapter 11 Petitions and First Day Pleadings* (the “**First Day Declaration**”),² filed contemporaneously herewith, and is incorporated herein by reference.³

TAXES AND FEES

9. In the ordinary course of business, the Debtors collect, withhold, and incur an assortment of Taxes and Fees that they remit periodically to various federal, state, and local taxing, licensing, regulatory, and other governmental authorities (collectively, the “**Taxing Authorities**”).⁴ The Taxes and Fees include (a) Sales and Use Taxes, (b) Income and

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the First Day Declaration.

³ The First Day Declaration and other relevant case information is available on the following website maintained by the Debtors’ proposed claims and noticing agent, Kurtzman Carson Consultants LLC: <http://www.kccllc.net/Starry>.

⁴ The Debtors incur various taxes related to their employees and are separately required to withhold certain amounts from each employee’s paycheck on account of things such as Social Security and FICA. Such payroll, withholding, and other employee-related tax obligations are separately addressed in the *Motion of Debtors for*

Franchise Taxes, (c) Property Taxes, and (d) Permit and License Fees (each as defined and described below).

10. The Debtors' failure to pay the Taxes and Fees could materially and adversely impact their estates. The Debtors are seeking to pay the Taxes and Fees to, among other things, prevent Taxing Authorities from taking actions that may interfere with the Debtors' administration of the Chapter 11 Cases. Such interference could, in certain instances, include seeking to lift the automatic stay, bringing personal liability actions against directors, officers, and other key employees, asserting liens on the Debtors' property, or assessing penalties or significant interest on past-due taxes. In addition, non-payment of the Taxes and Fees may give rise to priority claims pursuant to section 507(a)(8) of the Bankruptcy Code. Finally, the Debtors believe that certain of the Taxes and Fees are not property of the Debtors' estates but, rather, are held in trust for the Taxing Authorities. Accordingly, the Debtors submit that the relief requested herein is in the best interest of the Debtors' estates.

11. In the 12 months before the Petition Date, the Debtors paid approximately \$1,470,000 in the aggregate in Taxes and Fees. The Debtors estimate that approximately \$8,746,000 in Taxes and Fees remains accrued and outstanding as of the Petition Date with approximately \$109,500 estimated to become due and payable within 30 days of the Petition Date (the "**Interim Period**").

I. SALES AND USE TAXES

12. The Debtors incur various sales and use taxes in the ordinary course of business (collectively, the "**Sales and Use Taxes**"). Specifically, the Debtors collect and remit sales and

*Entry of Interim and Final Orders (I) Authorizing Payment of Workforce Obligations, (II) Authorizing Continuance of Workforce Programs, (III) Authorizing Payment of Withholding and Payroll-Related Taxes, (IV) Authorizing Payment of Prepetition Claims Owing to Administrators, and (V) Granting Related Relief (the "**Wages Motion**") filed contemporaneously herewith.*

use taxes to certain Taxing Authorities in connection with the operation of their businesses and the sale and distribution of their services and products. In addition, the Debtors incur use taxes that typically arise if a supplier does not have business operations in the state in which it is supplying goods and, therefore, does not charge sales tax on goods that are otherwise taxable to the purchaser. As purchasers, the Debtors must self-assess and pay the use taxes, when applicable, to the appropriate Taxing Authority.

13. As a general matter, the Debtors are required to remit Sales and Use Taxes to the applicable Taxing Authorities on monthly, quarterly, semi-annual, and annual bases. In the 12 months before the Petition Date, the Debtors remitted approximately \$1,010,000 in aggregate Sales and Use Taxes. The Debtors estimate that, as of the Petition Date, they have accrued approximately \$8,325,000 in Sales and Use Taxes, of which approximately \$9,500 will become due and payable during the Interim Period.⁵ By this Motion, the Debtors seek authority to pay up to \$9,500 on account of prepetition Sales and Use Taxes on an interim basis and \$25,000 on a final basis.

II. INCOME AND FRANCHISE TAXES

14. The Debtors incur franchise taxes assessed by certain Taxing Authorities to operate their businesses in applicable jurisdictions (“**Franchise Taxes**”). Franchise Taxes are generally remitted by the Debtors on quarterly and annual bases. Franchise Taxes vary by jurisdiction and may be based on a flat fee, net operating income, gross receipts, or capital employed. In addition,

⁵ The outstanding Sales and Use Taxes include an estimated \$8,300,000 of use taxes, including estimates for penalties and interest that may have accrued with respect to some portion of such taxes before the Petition Date (the “**Estimated Use Taxes**”), based on the Debtors’ self-reporting of such taxes. The Debtors may not pay the Estimated Use Taxes during the Chapter 11 Cases and may instead seek to pay amounts determined to be owed with respect to such taxes in the ordinary course or over several years, subject to a chapter 11 plan. The Debtors are not seeking authority to pay the Estimated Use Taxes through this Motion, but reserve the right to do so in the future.

the Debtors are subject to federal income tax obligations in the ordinary course of business, and certain states and localities where the Debtors operate require that the Debtors pay income or corporate taxes, including gross receipts taxes and miscellaneous fees (“**Income Taxes**” and, together with the Franchise Taxes, the “**Income and Franchise Taxes**”). Income Taxes are generally calculated as a percentage of net income (the difference between gross receipts and expenses, after accounting for additional write-offs).

15. In the 12 months before the Petition Date, the Debtors remitted approximately \$107,000 in aggregate Income and Franchise Taxes. Although the Debtors believe that they are current with respect to their payment of Income and Franchise Taxes, the Debtors estimate that, as of the Petition Date, they have accrued approximately \$130,000 in Income and Franchise Taxes, approximately \$90,000 of which will become due and payable during the Interim Period.

III. PROPERTY TAXES

16. The Debtors are subject to real and personal property taxes levied by state and local governments in jurisdictions in which they operate and maintain real and personal property (“**Property Taxes**”). The Debtors pay Property Taxes in the ordinary course and such taxes are typically invoiced on a quarterly basis depending on how the relevant Property Tax is assessed. Payment of Property Taxes is critical as failure to pay certain Property Taxes may give rise to liens in favor of the relevant Taxing Authority on the Debtors’ property. Nonpayment of Property Taxes could also result in additional fees and penalties being assessed against the Debtors.

17. In the 12 months before the Petition Date, the Debtors paid approximately \$270,000 in aggregate Property Taxes. Although the Debtors believe that they are current with respect to their payment of Property Taxes, the Debtors seek authority to pay \$216,000 in Property Taxes, approximately \$5,000 of which will become due and payable during the Interim Period.

IV. FEES AND LICENSES

18. The Debtors are required to pay a variety of regulatory and business license fees that are critical to maintaining the ongoing operations of their businesses, including fees for spectrum licenses and other similar licenses and fees. In addition, the Debtors are required to pay other miscellaneous Taxes and Fees owed to various regulatory agencies to remain in good standing, as well as fees on account of permits or licenses required to carry on business in a particular state or locality. The Debtors also incur certain minimal customs duties and related obligations in connection with the importation and transportation of inventory or other goods used by the Debtors in the operation of their businesses (collectively, “**Fees and Licenses**”). The methods for calculating Fees and Licenses and the deadlines for paying such amounts vary by jurisdiction.

19. In the 12 months before the Petition Date, the Debtors paid approximately \$62,000 in aggregate Fees and Licenses. Although the Debtors believe that they are current with respect to their payment of Fees and Licenses, the Debtors seek authority to pay \$75,000 in aggregate unpaid Fees and Licenses, approximately \$5,000 of which will become due and payable during the Interim Period.

BASIS FOR RELIEF REQUESTED

I. FAILURE TO PAY TAXES AND FEES COULD MATERIALLY IMPAIR THE DEBTORS’ CHAPTER 11 STRATEGY

20. The continued payment of the Taxes and Fees on their normal due dates will preserve the resources of the Debtors’ estates and increase the likelihood of a successful chapter 11 process. Nonpayment of the Taxes and Fees could cause certain Taxing Authorities to take adverse action against the Debtors and their estates, including by asserting liens on the Debtors’ assets or seeking to lift the automatic stay, which could impose significant costs on the Debtors’

estates. For example, Taxing Authorities could impose penalties on and charge the Debtors accrued interest for their failure to pay certain Taxes and Fees, and continued non-payment of certain Taxes and Fees could result in tax levies. In addition, failure to maintain the Debtors' spectrum licenses would materially impair the Debtors' businesses and ability to maximize value during the Chapter 11 Cases.

21. In addition, if certain Taxes and Fees remain unpaid by the Debtors, the Debtors' directors and officers may be subject to lawsuits or prosecution during the pendency of the Chapter 11 Cases. The dedicated and active participation of the Debtors' directors, officers, and other employees is both integral to the Debtors' continued, uninterrupted operations, and also essential to the orderly administration of the Chapter 11 Cases. The threat of a lawsuit or criminal prosecution and any ensuing liability would distract the Debtors and their personnel from important tasks, to the detriment of all parties in interest.

II. CERTAIN TAXES AND FEES MAY NOT BE PROPERTY OF THE DEBTORS' ESTATES

22. Certain of the Taxes and Fees (such as certain sales and use taxes) may not be property of the Debtors' estates, as they are collected from third-parties and held in trust for payment to the Taxing Authorities. Section 541(d) of the Bankruptcy Code provides, in relevant part, as follows:

Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d).

23. Where the Debtors have collected or hold Taxes and Fees in trust for payment to the Taxing Authorities, such funds do not constitute property of the Debtors' estates. *See, e.g.,*

Begier v. IRS, 496 U.S. 53, 60–62 (1990) (holding that excise and withholding taxes are property held by a debtor in trust for another and, as such, are not property of the debtor’s estate); *Shank v. Walsh, State Dept. of Revenue (In re Shank)*, 792 F.2d 829, 833 (9th Cir. 1986) (sales tax required by state law to be collected by sellers from their customers is a “trust fund” tax and not released by bankruptcy discharge); *DeChiaro v. N.Y. State Tax Comm’n*, 760 F. 2d 432, 435–36 (2d Cir. 1985) (same); *City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 96–97 (3d Cir. 1994) (finding that withholding taxes were subject to a trust); *In re Am. Int’l Airways, Inc.*, 70 B.R. 102, 103 (Bankr. E.D. Pa. 1987) (holding that funds held in trust for federal excise and withholding taxes are not property of the debtor’s estate). Accordingly, because the Debtors generally do not have an interest in such funds, the Debtors should be permitted to pay those funds to the Taxing Authorities as they become due, whether attributable to the prepetition period or otherwise.

III. CERTAIN TAXES AND FEES MAY BE ENTITLED TO PRIORITY TREATMENT

24. The Debtors’ failure to pay certain of the Taxes and Fees may give rise to secured or priority claims in favor of the affected Taxing Authorities. Many of the Taxes and Fees are afforded priority status under section 507(a)(8) of the Bankruptcy Code. *See* 11 U.S.C. § 507(a)(8). These include unsecured claims of governmental units for a tax on or measured by income or gross receipts for a taxable year ending on or before the Petition Date, a property tax incurred before the Petition Date and last payable without penalty after one year before the Petition Date, and a tax required to be collected or withheld and for which the debtor is liable in whatever capacity. *See* 11 U.S.C. § 507(a)(8)(A)-(C).

25. Taxes and Fees that are priority claims must be paid in full before any general unsecured obligations of the Debtors may be satisfied. Accordingly, the relief requested herein

will only affect the timing of the payment of such Taxes and Fees and will not prejudice the rights of general unsecured creditors or other parties in interest.

IV. PAYMENT OF TAXES AND FEES IS WARRANTED UNDER SECTION 363(b) OF THE BANKRUPTCY CODE AND THE DOCTRINE OF NECESSITY

26. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. Section 363(b) provides, in pertinent part, that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor “show that a sound business purpose justifies such actions.” *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); *accord In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987). Moreover, if “the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); *see also Stanziale v. Nachtomi (In re Tower Air, Inc.)*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

27. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts 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). Section 1107(a) of the Bankruptcy Code “contains an implied duty of

the debtor-in-possession” to “protect and preserve the estate, including an operating business’ going-concern value,” on behalf of a debtor’s creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232–33 (Bankr. S.D.N.Y. 1998) (“[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.”).

28. The Court may also rely on the doctrine of necessity and its equitable powers under section 105(a) of the Bankruptcy Code to authorize the payment of prepetition claims when such payment is essential to the continued operation of a debtor’s business. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides a statutory basis for payment of prepetition claims under the doctrine of necessity, particularly when such payment is necessary for the debtor’s survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is the standard for enabling a court to authorize payment of prepetition claims before confirmation of a reorganization plan).

29. The relief requested by this Motion represents a sound exercise of the Debtors’ business judgment, is necessary to avoid immediate and irreparable harm to the Debtors’ estates, and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. Authorizing the Debtors to pay Taxes and Fees is in the best interests of the Debtors, their estates, and their economic stakeholders.

**DEBTORS' BANKS SHOULD BE AUTHORIZED
TO HONOR CHECKS AND ELECTRONIC FUNDS TRANSFERS**

30. The Debtors further request that the Court (a) authorize all applicable financial institutions (collectively, the "**Banks**") to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the relief sought herein to the extent that the Debtors have sufficient funds on deposit in their accounts with the Banks, whether such checks were presented or electronic requests were submitted before or after the Petition Date, and (b) authorize the Banks to rely on the Debtors' designation of any particular check or electronic payment request as appropriate pursuant to this Motion without any duty of further inquiry and without liability for following the Debtors' instructions. The Debtors anticipate having sufficient funds to pay the amounts described herein. In addition, under the Debtors' existing cash management system, the Debtors can readily identify whether checks or wire transfer requests are payments authorized by the relief requested herein. Accordingly, the Debtors believe that checks, direct debits, or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently.

**BANKRUPTCY RULE 6003 HAS BEEN SATISFIED
AND BANKRUPTCY RULE 6004 SHOULD BE WAIVED**

31. Certain aspects of the relief requested herein may, if granted, be subject to Bankruptcy Rule 6003, which governs the availability of certain types of relief within 21 days after the Petition Date. Pursuant to Bankruptcy Rule 6003, a court may grant such relief if it is necessary to avoid immediate and irreparable harm. The Debtors submit that the facts set forth herein and in the First Day Declaration demonstrate that the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and, thus, Bankruptcy Rule 6003 has been satisfied.

32. Additionally, to the extent that any aspect of the relief sought herein constitutes a use of property under section 363(b) of the Bankruptcy Code, the Debtors seek a waiver of the

notice requirements under Bankruptcy Rule 6004(a), to the extent not satisfied, and of the 14-day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors seek in this Motion is immediately necessary in order for the Debtors to be able to continue to operate their business and preserve the value of their estates. Accordingly, the Debtors submit that the requested waiver of the notice requirements of Bankruptcy Rule 6004(a) and of the 14-day stay imposed by Bankruptcy Rule 6004(h) is appropriate.

RESERVATION OF RIGHTS

33. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' property; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to the Proposed Orders once entered. Nothing contained in the Proposed Orders will be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

NOTICE

34. Notice of this Motion will be provided to (a) the Office of the United States Trustee for the District of Delaware (Attn: Benjamin Hackman); (b) the holders of the 30 largest unsecured claims against the Debtors; (c) counsel to ArrowMark Agency Services LLC as DIP Agent and Prepetition Agent, (i) Sheppard, Mullin, Richter & Hampton LLP (Attn: Justin Bernbrock, Kyle J. Mathews, Bryan V. Uelk, and Catherine Jun), and (ii) Potter Anderson & Corroon LLP (Attn: L. Katherine Good); (d) the Taxing Authorities; (e) the Banks; (f) the United States Attorney's

Office for the District of Delaware; (g) the Internal Revenue Service; (h) the United States Securities and Exchange Commission; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking “first day” relief, the Debtors will serve copies of this Motion and any order entered in respect of this Motion as required by Local Rule 9013-1(m). The Debtors believe that no further notice is required.

[Remainder of page left intentionally blank]

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: February 20, 2023
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Joseph M. Mulvihill

Michael R. Nestor (No. 3526)
Kara Hammond Coyle (No. 4410)
Joseph M. Mulvihill (No. 6061)
Timothy R. Powell (No. 6894)
Rodney Square, 1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: mnestor@ycst.com
kcoyle@ycst.com
jmulvihill@ycst.com
tpowell@ycst.com

-and-

LATHAM & WATKINS LLP

Jeffrey E. Bjork (*pro hac vice* admission pending)
Ted A. Dillman (*pro hac vice* admission pending)
Jeffrey T. Mispagel (*pro hac vice* admission pending)
Nicholas J. Messana (*pro hac vice* admission pending)
355 South Grand Avenue, Suite 100
Los Angeles, California 90071
Telephone: (213) 485-1234
Facsimile: (213) 891-8763
Email: jeff.bjork@lw.com
ted.dillman@lw.com
jeffrey.mispagel@lw.com
nicholas.messana@lw.com

Jason B. Gott (*pro hac vice* admission pending)
330 North Wabash Avenue, Suite 2800
Chicago, Illinois 60611
Telephone: (312) 876-7700
Facsimile: (312) 993-9767
Email: jason.gott@lw.com

Proposed Counsel for Debtors and Debtors in Possession

EXHIBIT A

Proposed Interim Order

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

	x	
	:	
In re:	:	Chapter 11
	:	
STARRY GROUP HOLDINGS, INC., <i>et al.</i> , ¹	:	Case No. 23-10219 (___)
	:	
Debtors.	:	(Jointly Administered)
	:	
	x	Re: Docket No.

**INTERIM ORDER (I) AUTHORIZING DEBTORS TO PAY
CERTAIN TAXES AND FEES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of orders (a) authorizing, but not directing, the Debtors to pay the Taxes and Fees and (b) granting related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion and the First Day Declaration; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 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; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary, except as set forth in the Motion with respect to entry of this Interim

¹ The debtors in these cases, along with the last four digits of each debtor’s federal tax identification number, are: Starry Group Holdings, Inc. (9355); Starry, Inc. (9616); Connect Everyone LLC (5896); Starry Installation Corp. (7000); Starry (MA), Inc. (2010); Starry Spectrum LLC (N/A); Testco LLC (5226); Starry Spectrum Holdings LLC (9444); Widmo Holdings LLC (9208); Vibrant Composites Inc. (8431); Starry Foreign Holdings Inc. (3025); and Starry PR Inc. (1214). The debtors’ address is 38 Chauncy Street, Suite 200, Boston, Massachusetts 02111.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

Order and notice of the Final Hearing (as defined below); and upon the record herein; and after due deliberation thereon; and this Court having determined that there is good and sufficient cause for the relief granted in this Interim Order, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is granted on an interim basis, as set forth herein.
2. All objections to the entry of this Interim Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized, but not directed, in the ordinary course of business as such obligations become due, to pay the Taxes and Fees arising before the Petition Date, including all of those Taxes and Fees subsequently determined, upon audit or otherwise, to be owed, without further order of this Court in an aggregate amount not to exceed \$109,500 on an interim basis.
4. The Banks shall be, and are hereby authorized, when requested by the Debtors in their sole discretion, to process, honor, pay, and, if necessary, reissue any and all checks or electronic funds transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, drawn on the Debtors' accounts, whether those checks were presented before or after the Petition Date, provided that sufficient funds are available in such accounts to make the payments.
5. The Banks may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors before the Petition Date should be honored pursuant to this Interim Order, and the Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Interim Order.
6. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of Taxes and Fees as set forth herein, and to

replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored as a result of the commencement of the Chapter 11 Cases.

7. Nothing in the Motion or this Interim Order, nor any actions or payments made by the Debtors pursuant to this Interim Order, shall be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' properties; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to this Interim Order. Nothing contained in this Interim Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

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

9. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

10. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied because the relief set forth in this Interim Order is necessary to avoid immediate and irreparable harm.

11. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Interim Order.

12. The final hearing (the "**Final Hearing**") on the Motion shall be held on _____, 2023, at _____, prevailing Eastern Time. On or before _____, prevailing Eastern Time, on _____, 2023, any objections or responses to entry of a final order on the Motion (a "**Final Order**") shall be filed with this Court, and served on: (a) proposed counsel to the

Debtors, (i) Latham & Watkins LLP, (1) 355 South Grand Avenue, Suite 100, Los Angeles, California 90071 (Attn: Ted A. Dillman (ted.dillman@lw.com), Jeffrey T. Mispagel (jeffrey.mispagel@lw.com), and Nicholas J. Messana (nicholas.messana@lw.com)) and (2) 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611 (Attn: Jason B. Gott (jason.gott@lw.com)), and (ii) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Kara Hammond Coyle (kcoyle@ycst.com), Joseph M. Mulvihill (jmulvihill@ycst.com), and Timothy R. Powell (tpowell@ycst.com)); (b) counsel to ArrowMark Agency Services LLC as DIP Agent and Prepetition Agent, (i) Sheppard, Mullin, Richter & Hampton LLP, (1) 333 South Hope Street, 43rd Floor, Los Angeles, California 90071 (Attn: Kyle J. Matthews (KMatthews@sheppardmullin.com)) and (2) 321 North Clark Street, 32nd Floor, Chicago, Illinois 60654 (Attn: Justin Bernbrock (JBernbrock@sheppardmullin.com), Bryan V. Uelk (BUelk@sheppardmullin.com), and Catherine Jun (CJun@sheppardmullin.com)), and (ii) Potter Anderson & Corroon LLP, Hercules Plaza, 1313 North Market Street, 6th Floor, P.O. Box 951, Wilmington, Delaware, 19801 (Attn: L. Katherine Good (kgood@potteranderson.com)); (c) counsel to any statutory committee appointed in the Chapter 11 Cases; and (d) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Benjamin Hackman (Benjamin.A.Hackman@usdoj.gov)).

In the event that no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

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

EXHIBIT B

Proposed Final Order

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

	x	
	:	
In re:	:	Chapter 11
	:	
STARRY GROUP HOLDINGS, INC., <i>et al.</i> , ¹	:	Case No. 23-10219 (___)
	:	
Debtors.	:	(Jointly Administered)
	:	
	x	Re: Docket Nos.

**FINAL ORDER (I) AUTHORIZING DEBTORS TO PAY
CERTAIN TAXES AND FEES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of orders (a) authorizing, but not directing, the Debtors to pay the Taxes and Fees and (b) granting related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion, the First Day Declaration, and the Interim Order, as approved by this Court; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 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; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the

¹ The debtors in these cases, along with the last four digits of each debtor’s federal tax identification number, are: Starry Group Holdings, Inc. (9355); Starry, Inc. (9616); Connect Everyone LLC (5896); Starry Installation Corp. (7000); Starry (MA), Inc. (2010); Starry Spectrum LLC (N/A); Testco LLC (5226); Starry Spectrum Holdings LLC (9444); Widmo Holdings LLC (9208); Vibrant Composites Inc. (8431); Starry Foreign Holdings Inc. (3025); and Starry PR Inc. (1214). The debtors’ address is 38 Chauncy Street, Suite 200, Boston, Massachusetts 02111.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

record herein; and after due deliberation thereon; and this Court having determined that there is good and sufficient cause for the relief granted in this Final Order, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is granted on a final basis, as set forth herein.
2. All objections to the entry of this Final Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized, but not directed, in the ordinary course of business as such obligations become due, to pay the Taxes and Fees arising before the Petition Date, including all of those Taxes and Fees subsequently determined, upon audit or otherwise, to be owed, without further order of this Court in an aggregate amount not to exceed \$446,000 on a final basis.
4. The Banks shall be, and are hereby authorized, when requested by the Debtors, to process, honor, pay, and, if necessary, reissue any and all checks or electronic funds transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, drawn on the Debtors' accounts, whether those checks were presented before or after the Petition Date, provided that sufficient funds are available in such accounts to make the payments.
5. The Banks may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors before the Petition Date should be honored pursuant to this Final Order, and the Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Final Order.
6. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of Taxes and Fees as set forth herein, and to

replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored as a result of the commencement of the Chapter 11 Cases.

7. Nothing in the Motion or this Final Order, nor any actions or payments made by the Debtors pursuant to this Final Order, shall be construed as: (a) an admission as to the validity of any claim against the Debtors or the existence of any lien against the Debtors' properties; (b) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute an allowed claim; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to this Final Order. Nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

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

9. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Final Order.

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