

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

In re:

BLITZ U.S.A., Inc., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 11-13603 (PJW)

(Jointly Administered)

**Re: Docket No. 4**

**Final Hearing Date: December 5, 2011 at 9:30 a.m.**

**Committee Objection Deadline: December 1, 2011**

**RESPONSE AND RESERVATION OF RIGHTS OF THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS TO DEBTORS' MOTION FOR ENTRY OF AN  
ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE USING THE  
CASH MANAGEMENT SYSTEM, (B) MAINTAIN EXISTING BANK  
ACCOUNTS AND BUSINESS FORMS, AND (C) CONTINUE  
INTERCOMPANY ARRANGEMENTS AND (II) GRANTING  
INTERCOMPANY CLAIMS ADMINISTRATIVE PRIORITY**

The Official Committee of Unsecured Creditors (the "Committee") appointed in the chapter 11 cases (the "Chapter 11 Cases") of Blitz U.S.A., Inc., *et al.*, the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), by and through its undersigned proposed counsel, submits this response and reservation of rights (the "Response") to the Debtors' *Motion for Entry of an Order (I) Authorizing the Debtors to (A) Continue Using the Cash Management System, (B) Maintain Existing Bank Accounts and Business Forms, and, (C) Continue Intercompany Arrangements and (II) Granting Intercompany Claims Administrative Priority* (the "Cash Management Motion"). See Docket No. 4. In support of this Response, the Committee respectfully states as follows:

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: LAM 2011 Holdings, LLC (8742); Blitz Acquisition Holdings, Inc. 98825); Blitz Acquisition, LLC (8979); Blitz RE Holdings, LLC (9071); Blitz U.S.A., Inc. (8104); and F3 Brands LLC (2604). The location of the Debtors' corporate headquarters and the Debtors' service address is: 404 26<sup>th</sup> Ave. NW, Miami, OH 74354.



1. On November 9, 2011 (the “Petition Date”), the Debtors commenced their respective bankruptcy cases by filing voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”).

2. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code.

3. No trustee or examiner has been appointed in the Debtors’ bankruptcy cases.

4. On the Petition Date, the Debtors filed their *Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing on a Senior Secured and Superpriority Basis, (B) Authorizing the Use of Cash Collateral, (C) Granting Adequate Protection to Certain Prepetition Secured Parties, (D) Granting Related Relief and (E) Scheduling Final Hearing Thereon* (the “DIP Motion”). *See* Docket No. 14.

5. As set forth in the DIP Motion, the Debtors intend to sell the assets of Debtor F3 Brands LLC (“F3”) by March 16, 2012, with the proceeds of such sale purportedly to be paid to the Debtors’ secured lenders. *See* DIP Motion, p. 8.

6. On the Petition Date, the Debtors also filed the Cash Management Motion seeking, *inter alia*, authority to continue conducting certain intercompany transactions between and among Debtor and non-debtor affiliates (the “Intercompany Transactions”). *See* Cash Management Motion, ¶ 17.

7. On November 10, 2011, the Court entered an order granting the Cash Management Motion on an interim basis and setting a final hearing on the Cash Management Motion for December 5, 2011. *See* Docket No. 33.

### **RESPONSE**

8. The Committee does not oppose the bulk of the relief sought in the Cash

Management Motion, The Committee does, however, have concerns with the provisions of the Cash Management Motion dealing with Intercompany Transactions.

9. One such category of Intercompany Transactions--which has allegedly been paid since October 2011--involves Debtor Blitz U.S.A., Inc. ("Blitz") funding the payroll and other expenses of Debtor F3 (the "F3 Intercompany Transactions") *Id.* The Cash Management Motion contemplates that the Debtors will "continue to do so until F3 Brands has enough cash to independently pay its employees, which is expected to occur at year-end, at which time a significant amount of its outstanding receivables can be or would otherwise have been collected." Cash Management Motion, ¶ 17.A. The Cash Management Motion does not, however, indicate how F3 will be able to repay such Intercompany Transactions. Nor does the Cash Management Motion quantify the aggregate total of such Intercompany Transactions as of "year-end", the anticipated termination of the payments.

10. As set forth in the DIP Motion, the Debtors contemplate closing the F3 asset sale on or before March 16, 2012, however, the Cash Management Motion does not describe any mechanism by which the F3 Intercompany Transactions will be repaid to the Debtors' estates from the F3 sale proceeds in the event the Intercompany Transactions are not fully repaid prior to the closing of the F3 asset sale.

11. The Committee understands that F3 intends to repay the F3 Intercompany Transactions from F3's operational cash flow and/or from the proceeds of the F3 asset sale proceeds. However, it is unclear to the Committee whether there will be sufficient funds generated from F3's operational cash flow to repay the F3 Intercompany Transactions. Accordingly, the Committee requests that the final order granting the Cash Management Motion provide that all outstanding F3 Intercompany Transactions will be repaid in full from the proceeds of F3's assets prior to payment of any other debts or obligations.

12. Finally, the Committee requests that the final order granting the Cash Management Motion require that the Debtors provide the Committee with a weekly report listing

all Intercompany Transactions.

**RESERVATION OF RIGHTS**

13. The Committee reserves the right to assert any other or further objections and amend or supplement this Response at any time, including at any further hearing on the Cash Management Motion.

Dated: December 1, 2011

Respectfully submitted,

**LOWENSTEIN SANDLER PC**

Kenneth A. Rosen, Esq.  
Sharon L. Levine, Esq.  
Jeffrey D. Prol, Esq.  
65 Livingston Avenue  
Roseland, New Jersey 07068  
(973) 597-2500 (Telephone)  
(973) 597-2400 (Facsimile)

-- and --

**WOMBLE CARLYLE SANDRIDGE  
& RICE, PLLC**

By: /s/ Kevin J. Mangan  
Francis A. Monaco, Jr., Esq. (DE Bar I.D. 2078)  
Kevin J. Mangan, Esq. (DE Bar I.D. 3810)  
222 Delaware Avenue, Suite 1501  
Wilmington, DE 19801  
Telephone: 302-252-4359  
Facsimile: 302-

*Proposed Co-Counsel for the Official Committee of  
Unsecured Creditors*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 1, 2011, the foregoing document was served via CM/ECF and Hand Delivery on the following parties:

Daniel J. DeFranceschi  
Michael J. Merchant  
Julie Finocchiaro  
Amanda Steele  
Richards, Layton & Finger  
One Rodney Square, P.O. Box 551  
Wilmington, DE 19899

Richard Schepacarter  
United States Trustee  
844 King Street, Room 2207  
Lockbox #35  
Wilmington, DE 19899-0035

Under penalty of perjury, I declare that the foregoing is true and correct.

Date: December 1, 2011

/s/ Kathleen Lytle  
Kathleen Lytle