

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

In re:

BLITZ U.S.A., Inc., *et al.*,¹

Debtors.

)
) **Chapter 11**
)
) **Case No. 11-13603 (PJW)**
)
) **(Jointly Administered)**
)
) **Re: Docket Nos. 234, 253 and 255, 291**

**ORDER APPROVING (I) SEVERANCE PLAN FOR NON-INSIDERS OF F3
BRANDS LLC; (II) SALE RELATED INCENTIVE PLAN FOR NON-INSIDERS
OF F3 BRANDS LLC; AND (III) SALE RELATED INCENTIVE PLAN FOR
TWO MANAGEMENT EMPLOYEES OF F3 BRANDS LLC PURSUANT
TO SECTIONS 105(a), 363 AND 503 OF THE BANKRUPTCY CODE**

Upon the *Amended Motion of Debtors and Debtors in Possession for an Order Approving (A) Sale Related Incentive and Retention Plan for Certain Non-Insider Employees of F3 Brands LLC and (B) Sale Related Incentive Plan for Certain Management Employees of F3 Brands LLC Pursuant to Sections 105(a), 363 and 503 of the Bankruptcy Code* (the “Motion”), which was filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”); and objections (collectively, the “Objections”) having been filed by (i) the Official Committee of Unsecured Creditors [Docket No. 253] (the “Creditors’ Committee”) and the Office of the United States Trustee for the District of Delaware [Docket No. 255] (the “U.S. Trustee”, and together with the Debtors and the Creditors’ Committee, the “Parties”); and the Parties having reached agreement on the terms of a (i) a severance program (the “Severance Plan”) for nineteen (19) employees of F3 Brands (the “Plan Participants”) that are not considered “insiders” under section 101(31) of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532

¹ 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. (8825); 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 26th Ave. NW Miami, OK 74354.



(the "Bankruptcy Code"); (ii) a separate sale related incentive program (the "Non-Insider Incentive Plan") for the Plan Participants; and (iii) a sale related incentive program (the "SRIP", together with the Severance Plan and the Non-Insider Incentive Plan, the "Revised F3 Employee Plans") for two (2) employees of F3 Brands that are presumed to be "insiders" under section 101(31) of the Bankruptcy Code; and the terms of the Revised F3 Employee Plans having resolved the Objections filed by the Creditors' Committee and the U.S. Trustee; and the Court having reviewed the Motion and the Revised F3 Employee Plans; and the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (c) notice of the Motion was sufficient under the circumstances and no further notice is required; and the Court having determined that the legal and factual basis set forth in the Motion establish just cause for the relief granted herein and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors and their estates; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion, as modified herein, is GRANTED.
2. The Severance Plan, the Non-Insider Incentive Plan and the SRIP, copies of which are attached hereto as Exhibit 1, are hereby approved.
3. The Debtors are authorized and directed to make the payments authorized under the Revised F3 Employee Plans in accordance with the terms of the Revised F3 Employee Plans.
4. The Severance Payments to be made under the Severance Plan, the Bonus Payments to be made under the Non-Insider Incentive Plan and the SRIP Payments to be made under the SRIP shall be funded by distributions otherwise payable to the Lenders from the proceeds of the F3 Sale.

5. This Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order.

Dated: March 8, 2012
Wilmington, Delaware



THE HONORABLE PETER J. WALSH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

**SALE RELATED SEVERANCE AND INCENTIVE
PLANS FOR EMPLOYEES OF DEBTOR F3 BRANDS LLC**

On November 9, 2011, Blitz U.S.A., Inc. and certain of its affiliates (collectively, the “Debtors”), including F3 Brands LLC (“F3 Brands”), commenced cases (the “Chapter 11 Cases”) under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), by filing petitions in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). In connection with the contemplated sale of substantially all of the assets and/or stock of F3 Brands (the “Sale”), F3 Brands, BOKF, NA d/b/a Bank of Oklahoma (the “Administrative Agent”), on behalf of and in its capacity as agent for the Debtors’ prepetition and DIP lenders (collectively, the “Lenders”), and the Official Committee of Unsecured Creditors (the “Creditors’ Committee”) have negotiated the terms of (i) a severance program (the “Severance Plan”) for nineteen (19) employees of F3 Brands (the “Plan Participants”), as identified by their respective job descriptions on Exhibit A hereto, that are not considered “insiders” under section 101(31) of the Bankruptcy Code; (ii) a separate sale related incentive program (the “Non-Insider Incentive Plan”) for the Plan Participants; and (iii) a sale related incentive program (the “SRIP”) for two (2) employees of F3 Brands that are presumed to be “insiders” under section 101(31) of the Bankruptcy Code. The Lenders’ claims in the Chapter 11 Cases are secured by, among other things, the assets of F3 Brands. The Severance Plan, the Non-Insider Incentive Plan and the SRIP (collectively, the “Employee Plans”) reflect a compromise between the Debtors, the Lenders and the Creditors’ Committee with regards to the terms of the Employee Plans and, as a result, are now supported by the Lenders and the Creditors’ Committee.

THE SEVERANCE PLAN

The Debtors have identified nineteen (19) Plan Participants that they believe are essential to ensure an effective sale of the assets and/or stock of F3 Brands, including a transition of the business to the purchaser of all or substantially all of F3 Brands' assets (the "Purchaser") following the closing of the Sale and wind-down of any remaining entity. Given the uncertainty surrounding their future employment in light of the pending Sale, the Debtors believe that the Plan Participants may focus their energies in search for new employment during a period when their efforts are needed to maximize the value received from the Sale or that such Plan Participants may leave the Debtors' employ altogether in pursuit of new career opportunities. In an effort to retain Plan Participants through the Sale, any transition period and the wind-down process, and to focus their energies during this critical time, the Debtors have designed the Severance Plan.

A. Criteria for Severance Benefits

Under the proposed Severance Plan, a Plan Participant shall be entitled to the payment of a lump sum severance payment (a "Severance Payment"), in addition to the Plan Participant's existing wages or salary, in the event that (i) the Plan Participant's employment is terminated by the Debtors without Cause (as defined herein) prior to the date upon which the Debtors consummate a sale of substantially all of the assets and/or stock of F3 Brands pursuant to a Sale approved by the Bankruptcy Court (the "Sale Closing Date"); (ii) the Plan Participant is not offered employment by the Purchaser in a job and at a rate of base pay commensurate with the terms of their current employment with F3 Brands ("Qualifying Employment"); (iii) the Plan Participant is offered Qualifying Employment by the Purchaser, but is retained by the Purchaser for a period of less than three months, provided that the Plan Participant's employment with the

Purchaser is not terminated for Cause during such three-month period; or (iv) the Plan Participant is offered Qualifying Employment by the Purchaser, but the Plan Participant declines the offer because it would require the Plan Participant to relocate to another state or country. For purposes of the Severance Plan, Plan Participants that decline Qualifying Employment because it would require the Plan Participant to relocate to another state or country shall be deemed to have been terminated without Cause effective as of the Sale Closing Date.

To receive a Severance Payment, except in the case where a Plan Participant has been terminated without Cause, a Plan Participant must remain employed by F3 Brands until the later of (i) the Sale Closing Date; or (ii) such later date that the Board of Directors of F3 Brands (the "Board") determines is appropriate in the event that such Plan Participant's services are necessary to assist in the transition of the business to the Purchaser or the wind-down of the remaining entity, provided, however, that this post-closing transition period may not extend more than three (3) months beyond the Sale Closing Date without the Plan Participant's consent (the "Transition Completion Date"). Prior to receiving any payments under the Severance Plan, each Plan Participant shall be required to execute a form of agreement acceptable to the Board, in consultation with the Creditors' Committee, releasing F3 Brands and the other Debtors and waiving any and all claims against their estates.

Plan Participants who elect to leave F3 Brands prior to the Sale Closing Date or their Transition Completion Date, if applicable, will not be entitled to any Severance Payments under the Severance Plan.

Plan Participants who are terminated for Cause prior to the Sale Closing Date or their Transition Completion Date, if applicable, will not be entitled to any Severance Payments under the Severance Plan.

“Cause” shall mean (a) an employee’s conviction of any crime deemed by the Board to make the employee’s continued employment untenable; (b) an employee’s willful and intentional misconduct or negligence that has caused or could reasonably be expected to result in material injury to the business or reputation of F3 Brands or any other Debtors; (c) an employee’s conviction of, or entering a plea of guilty or nolo contendere to, a crime constituting a felony and/or a crime of moral turpitude; (d) the breach by an employee of any written covenant or agreement with F3 Brands or any other Debtors; or (e) an employee’s failure to comply with or breach of F3 Brands’ or any other Debtors’ written policies and/or “code of conduct” in effect from time to time.

B. Amount of Severance Payments

The Severance Payments to be made under the Severance Plan shall be funded by distributions otherwise payable to the Lenders from the proceeds of the Sale. The aggregate Severance Payments (the “Aggregate Severance Payments”) will be \$350,236 and shall be allocated amongst the nineteen (19) Plan Participants in the percentage allocation indicated on Exhibit A.¹ All Severance Payments shall be paid in cash from the proceeds of the Sale that would otherwise be distributed to the Lenders within ten (10) days of the Plan Participant’s employment being terminated by F3 Brands or the Purchaser²; provided, however, that Plan

¹ The Plan Participants are identified by their job descriptions only on Exhibit A hereto. The Debtors have identified the Plan Participants in this manner in an effort to avoid public disclosure of the Plan Participants, but do intend to provide the Court, the Office of the United States Trustee, the Administrative Agent and the Official Committee of Unsecured Creditors with a list identifying the Plan Participants by name.

² Severance Payments will be paid within ten (10) days of the Sale Closing Date for those Plan Participants that (i) are not offered Qualifying Employment by the Purchaser, (ii) are terminated without Cause prior to the Sale Closing Date or (iii) have declined Qualifying Employment because it would require the Plan Participant to relocate to outside of the state or country. For a period of three (3) months following the Sale Closing Date, the Debtors shall retain a level of sale proceeds sufficient to cover any Severance Payments that may become payable to Plan Participants that are offered Qualifying Employment by the Purchaser, but are then terminated by the Purchaser without Cause within three months of the Sale Closing Date.

Participants who's employment is terminated without Cause prior to the Sale Closing Date shall be paid their respective Severance Payments within ten (10) days of the Sale Closing Date.

THE NON-INSIDER INCENTIVE PLAN

In addition to the Severance Plan, the Debtors have crafted the Non-Insider Incentive Plan to incentivize the Plan Participants to maximize the value received for the F3 Brands' assets and/or stock in connection with the Sale. The Debtors acknowledge that the Plan Participants will be called upon to take on additional responsibilities and to expend significantly more hours working than contemplated by the normal terms of their employment. To properly and fairly induce and reward the performance of the Plan Participants, the Debtors have designed the Non-Insider Incentive Plan.

A. Criteria for Bonus Payments

Under the proposed Non-Insider Incentive Plan, the Plan Participants shall be entitled to the payment of a bonus (a "Bonus Payment"), in addition to their existing wages or salary and any amounts that may become payable under the Severance Plan, provided that (i) such Plan Participants remain employed by the Debtors through the Sale Closing Date and (ii) the Net Sale Proceeds (as defined herein) recovered from any Sale of substantially all of the assets and/or stock of F3 Brands are equal to or greater than \$14.5 million (the "Minimum Threshold"). In the event that the Net Sale Proceeds recovered from the Sale are less than the Minimum Threshold, the Plan Participants shall not receive any payments under the Non-Insider Incentive Plan. In the event that the Net Sale Proceeds recovered from the Sale exceed the Minimum Threshold, the Plan Participants may be entitled to a greater Bonus Payment provided that certain additional milestones are met.

To the extent that a Plan Participant does not become entitled to a Severance Payment under the Severance Plan, the Severance Payment allocable to such Plan Participant shall be retained by the Debtors' estates

Plan Participants who elect to leave F3 Brands prior to the Sale Closing Date will not be entitled to any Bonus Payment under the Non-Insider Incentive Plan.

Plan Participants who are terminated for Cause prior to the Sale Closing Date will not be entitled to any Bonus Payments under the Non-Insider Incentive Plan.

Plan Participants who are terminated without Cause prior to the Sale Closing Date will be entitled to any Bonus Payments under the Non-Insider Incentive Plan.

Prior to receiving any payments under the Non-Insider Incentive Plan, each Plan Participant shall be required to execute a form of agreement acceptable to the Board, in consultation with the Creditors' Committee, releasing F3 Brands and the other Debtors and waiving any and all claims against their estates.

B. Amount of Bonus Payments

The Bonus Payments to be made under the Non-Insider Incentive Plan shall be funded by distributions otherwise payable to the Lenders from the proceeds of the Sale and shall be calculated based on the Net Sale Proceeds received from the Sale. Specifically, the aggregate Bonus Payments (the "Aggregate Bonus Payments") will be calculated as follows:

- In the event that the Net Sale Proceeds are equal to or greater than \$14.5 million, the Aggregate Bonus Payments shall equal \$127,197;
- In the event that the Net Sale Proceeds are equal to or greater than \$17.5 million, the Aggregate Bonus Payments shall equal \$190,795; and
- In the event that the Net Sale Proceeds are equal to or greater than \$21.5 million, the Aggregate Bonus Payments shall equal \$254,393.

and shall not be reallocated to the other Plan Participants under the Severance Plan.

“Net Sale Proceeds” shall mean the gross proceeds (the “Gross Proceeds”) received from the Purchaser of substantially all of the assets and/or stock of F3 Brands less any (i) sales expenses borne by the Debtors, including, but not limited to, the fees of any investment banker, marketing costs, diligence costs and any break-up fee or expense reimbursement that must be paid in connection with the Sale; and (ii) estimated future transition costs associated with the Sale and wind-down costs relating to the estate of F3 Brands; provided, however, that in the event that the Lenders credit bid their claims as consideration in the Sale, the Gross Proceeds shall be deemed to be zero and there shall be no payments made under the Non-Insider Incentive Plan or under the SRIP; and provided, further, that in the event that substantially all of the assets and/or stock of F3 Brands is sold in connection with a sale transaction involving assets and/or stock of other Debtors in the Chapter 11 Cases (a “Global Sale”), the calculation of the Net Sale Proceeds received for the assets and/or stock of F3 Brands shall be subject to an allocation of the total proceeds received and the costs and expenses incurred in connection with the Global Sale, which allocation must be approved by an order (the “Allocation Order”) of the Bankruptcy Court. The Debtors shall consult with the Administrative Agent and the Creditors’ Committee in calculating the Net Sale Proceeds.

The Aggregate Bonus Payments shall be allocated amongst the nineteen (19) Plan Participants in the percentage allocation indicated on Exhibit A.³ All Bonus Payments shall be paid in cash from the proceeds of the Sale that would otherwise be distributed to the Lenders

³ In the event that a Plan Participant voluntarily leaves in advance of the Sale Closing Date and another employee of F3 Brands (a “Back-Up Participant”) is required to assume the job responsibilities of the departing Plan Participant, the Board may substitute the Back-Up Participant for the departing Plan Participant under the Non-Insider Incentive Plan; provided, however, in the event that a departing Plan Participant is not replaced under the Non-Insider Incentive Plan with a Back-Up Participant, any Bonus Payments allocable to the departing Plan Participant shall be retained by the Debtors’ estate and not reallocated amongst the remaining Plan Participants.

within ten (10) days of the later of (i) the Sale Closing Date; or (iii) in the event of a Global Sale, the entry of the Allocation Order.

THE SRIP PLAN

The Debtors have identified two (2) employees (the “SRIP Participants”), that are presumed to be “insiders” for purposes of section 101(31) of the Bankruptcy Code, that they believe will be essential to an effective sale of the assets and/or stock of F3 Brands and critical to the Debtors’ efforts to maximize the value received from the Sale. The SRIP Participants will be called upon to take on additional responsibilities and to expend significantly more hours working than contemplated by the normal terms of their employment. To properly and fairly induce and reward the performance of the SRIP Participants, the Debtors have designed the SRIP.

A. Criteria for SRIP Payments

Under the proposed SRIP, the SRIP Participants shall be entitled to the payment of an incentive bonus (the “SRIP Payments”), in addition to their existing wages or salary, in the event that the Net Sale Proceeds recovered from any Sale of substantially all of the assets and/or stock of F3 Brands are equal to or greater than the Minimum Threshold of \$14.5 million. In the event that the Net Sale Proceeds recovered from the Sale are less than the Minimum Threshold, the SRIP Participants shall not receive any payments under the SRIP. In the event that the Net Sale Proceeds recovered from the Sale exceed the Minimum Threshold, the Plan Participants may be entitled to a greater SRIP Payment provided that certain additional milestones are met.

SRIP Participants that elect to leave F3 Brands prior to the Sale Closing Date will not be entitled to any SRIP Payment under the SRIP.

SRIP Participants who are terminated for Cause prior to the Sale Closing Date will not be entitled to any SRIP Payments under the SRIP.

SRIP Participants who are terminated without Cause prior to the Sale Closing Date will be entitled to any SRIP Payments under the SRIP.

Prior to receiving any payments under the SRIP, each SRIP Participant shall be required to execute a form of agreement acceptable to the Board, in consultation with the Creditors' Committee, releasing F3 Brands and the other Debtors and waiving any and all claims against their estates.

B. Amount of SRIP Payments

The SRIP Payments to be made under the SRIP shall be funded by distributions otherwise payable to the Lenders from the proceeds of the Sale and shall be calculated based on the Net Sale Proceeds received from the Sale. Specifically, the aggregate SRIP Payments (the "Aggregate SRIP Payments") will be calculated as follows:

- In the event that the Net Sale Proceeds are equal to or greater than \$14.5 million, the Aggregate SRIP Payments shall equal \$127,706;
- In the event that the Net Sale Proceeds are equal to or greater than \$17.5 million, the Aggregate SRIP Payments shall equal \$155,328; and
- In the event that the Net Sale Proceeds are equal to or greater than \$21.5 million, the Aggregate SRIP Payments shall equal \$182,950.

The Aggregate SRIP Payments shall be allocated amongst the two (2) SRIP Participants as follows: (a) sixty (60) percent of the Aggregate SRIP Payments shall be allocated to Grant Kernan, the President and Chief Executive Officer of F3 Brands; and (b) forty (40) percent of the Aggregate SRIP Payments shall be allocated to James Calcagno, the Vice President of F3 Brands; provided, however, no SRIP Payments shall be made to Grant Kernan in the event that Grant Kernan is the Purchaser or part of a group that constitutes the Purchaser of

the assets and/or stock of F3 Brands.⁴ All SRIP Payments shall be paid in cash from the proceeds of the Sale, that would otherwise be distributed to the Lenders, within ten (10) days of the later of (i) the Sale Closing Date; or (ii) in the event of a Global Sale, the entry of the Allocation Order.

⁴ In the event that Grant Kernan is the Purchaser or part of a group that constitutes the Purchaser of the assets and/or stock of F3 Brands, James Calcagno's portion of the Aggregate SRIP Payments shall remain limited to forty (40) percent of the Aggregate SRIP Payments and Grant Kernan's portion of the Aggregate SRIP Payments shall be retained by the Debtors' estates. For the avoidance of doubt, the Purchaser's decision to employ or retain Grant Kernan alone shall not be sufficient for purposes of deeming him to be the Purchaser or part of a group that constitutes the Purchaser of the assets and/or stock of F3 Brands.

EXHIBIT A

Job Description	Classification	Allocation
CONTROLLER	Senior Leader	11.333%
DIRECTOR OF RETAIL SALES	Key Manager	15.333%
DIRECTOR OF NEW BUSINESS	Key Manager	11.333%
MARKETING MANAGER	Key Manager	7.333%
RESEARCH & DEVELOPMENT MGR	Manager	7.333%
SALES MANAGER I	Manager	7.333%
PRODUCT ENGINEER	Manager	5.333%
IT MANAGER	Manager	8.000%
ENGINEERING, EHS & QUALITY MGR	Manager	2.333%
PROCUREMENT MANAGER	Manager	2.333%
DISTRIBUTION MANAGER	Manager	1.667%
HR & PRODUCTION MANAGER	Manager	2.333%
CONSUMER/CUSTOMER SERVICE REP	Support	1.667%
ACCOUNTS PAYABLE ADMINISTRATOR	Support	2.333%
ACCOUNTING SUPPORT	Support	2.333%
APPLICATION SUPPORT COORDINATOR	Support	2.333%
CATEGORY ANALYST	Support	3.333%
SALES SUPPORT ANALYST II	Support	3.333%
SALES SUPPORT ANALYST I	Support	2.667%
		100.0%