

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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 In re: : Chapter 11
 :
 CHAPARRAL ENERGY, INC., et al., : Case No. 16-_____ (_____)
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 Debtors.¹ : Joint Administration Pending
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MOTION OF DEBTORS FOR ORDER UNDER 11 U.S.C. §§ 105(a), 363(b), 363(c), 364, 507(a), 541, 1107(a), AND 1108 AND FED. R. BANKR. P. 6003 (I) AUTHORIZING PAYMENT OF CERTAIN PREPETITION WORKFORCE OBLIGATIONS, INCLUDING COMPENSATION, BENEFITS, EXPENSE REIMBURSEMENTS, AND RELATED OBLIGATIONS, (II) CONFIRMING RIGHT TO CONTINUE WORKFORCE PROGRAMS ON POSTPETITION BASIS, (III) AUTHORIZING PAYMENT OF WITHHOLDING AND PAYROLL-RELATED TAXES, (IV) AUTHORIZING PAYMENT OF PREPETITION CLAIMS OWING TO ADMINISTRATORS OF, OR THIRD PARTY PROVIDERS UNDER, WORKFORCE PROGRAMS, AND (V) DIRECTING BANKS TO HONOR PREPETITION CHECKS AND FUND TRANSFERS FOR AUTHORIZED PAYMENTS

The debtors and debtors in possession in the above-captioned cases (together, the “**Debtors**”) hereby move (the “**Motion**”) for entry of interim and final orders substantially in the forms attached hereto as Exhibit A and Exhibit B (respectively, the “**Interim Order**” and the “**Final Order**”), under Sections 105(a), 363(b), 363(c), 364, 507(a), 541, 1107(a), and 1108 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6003 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), (i) authorizing the Debtors to pay certain prepetition amounts owing to or for the benefit of employees and independent contractors for compensation, benefits, and reimbursable expenses; (ii) confirming the Debtors’ right to

¹ The Debtors in these cases, along with the last four digits (or five digits, in cases in which multiple Debtors have the same last four digits) of each Debtor’s federal tax identification number, are: CEI Acquisition, L.L.C. (1817); CEI Pipeline, L.L.C. (6877); Chaparral Biofuels, L.L.C. (1066); Chaparral CO₂, L.L.C. (1656); Chaparral Energy, Inc. (90941); Chaparral Energy, L.L.C. (20941); Chaparral Exploration, L.L.C. (1968); Chaparral Real Estate, L.L.C. (1655); Chaparral Resources, L.L.C. (1710); Green Country Supply, Inc. (2723); and Roadrunner Drilling, L.L.C. (2399). The Debtors’ address is 701 Cedar Lake Blvd., Oklahoma City, OK 73114.



continue postpetition, in the ordinary course of business, the workforce-related plans, programs, and policies in effect immediately prior to the filing of these cases; (iii) authorizing the Debtors to pay any and all local, state, and federal withholding and payroll-related or similar taxes relating to prepetition periods; (iv) confirming the Debtors' right to continue to deduct and to transmit deductions from payroll checks as authorized by employees and independent contractors, as required under any workforce-related plan, program, or policy, or as required by law; (v) authorizing the Debtors to pay any prepetition claims owing to the administrators of, or third party providers under, their workforce-related plans, programs, and policies as necessary to ensure the delivery of compensation, benefits, and expense reimbursements to their employees and independent contractors; and (vi) authorizing and directing all banks to receive, process, honor, and pay all of the Debtors' prepetition checks and fund transfers on account of any obligations authorized to be paid pursuant hereto. In support of the Motion, the Debtors rely upon the *Declaration of Mark A. Fischer, Chief Executive Officer of Chaparral Energy, Inc., in Support of Chapter 11 Petitions and First Day Pleadings*, filed with the Court concurrently herewith (the "**Fischer Declaration**"). In further support of the Motion, the Debtors, by and through their undersigned counsel, respectfully represent:

JURISDICTION

1. This Court has jurisdiction to consider this Motion 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 as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are Bankruptcy Code Sections 105(a), 363(b), 363(c), 364, 507(a), 541, 1107(a), and 1108. Such relief is warranted under Bankruptcy Rule 6003.

BACKGROUND

2. On May 9, 2016 (the “**Petition Date**”), the Debtors filed voluntary petitions in this Court commencing cases for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the Fischer Declaration and fully incorporated herein by reference.

3. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to Bankruptcy Code Sections 1107 and 1108. No trustee or examiner has been requested in the Chapter 11 Cases and no committees have yet been appointed.

RELIEF REQUESTED

4. By this Motion, the Debtors request entry of the Interim and Final Orders, substantially in the forms of Exhibits A and B attached hereto, respectively, authorizing them, in their discretion, to pay, continue, or otherwise honor various prepetition workforce-related obligations (collectively, the “**Prepetition Workforce Obligations**”) to or for the benefit of their (a) employees (collectively, the “**Employees**”) and (b) independent contractors (the “**Independent Contractors**”) and, together with the Employees, the “**Workforce**”) for compensation, benefits, and expense reimbursements under all plans, programs, and policies maintained or contributed to, and agreements entered into, by the Debtors prior to the Petition Date (as described below, the “**Workforce Programs**”). In addition, the Debtors request that the Court confirm their right to continue each of the Workforce Programs in the ordinary course of business during the pendency of these Chapter 11 Cases in the manner and to the extent that such Workforce Programs were in effect immediately prior to the filing of such cases and to

make payments in connection with expenses incurred in the postpetition administration of any Workforce Program.²

5. The Workforce Programs under which the Prepetition Workforce Obligations arise are described more fully herein and include, without limitation, plans, programs, policies, and agreements providing for: (a) wages, salaries, holiday pay, paid time off, and other accrued compensation; (b) reimbursement of business, travel, and other reimbursable expenses; and (c) benefits, with coverage as applicable for eligible spouses and dependents, in the form of medical and dental coverage, basic term life insurance, accidental death and dismemberment insurance, short-term disability coverage, long-term disability coverage, workers' compensation, and miscellaneous other benefits provided to the Workforce in the ordinary course of business; (d) prepetition contributions to, and benefits under 401(k) plan; and (e) certain severance related obligations, as described herein.³

6. The Debtors also request authorization to pay any and all local, state, and federal withholding and payroll-related or similar taxes relating to the Prepetition Workforce Obligations including, but not limited to, all withholding taxes, social security taxes, Medicare taxes, and Employment Insurance premiums. In addition, the Debtors request authorization to pay to third parties any and all amounts deducted from Employee paychecks for payments on

² By this Motion, the Debtors do not seek to assume or reject any Workforce Program to the extent that such Workforce Program is deemed to be an executory contract within the meaning of Bankruptcy Code Section 365. Moreover, the Debtors do not waive their right to modify or terminate any Workforce Program to the extent that such right exists under the terms of the Workforce Program or as may be authorized by applicable law.

³ The Debtors may separately request authorization to implement new postpetition retention, severance or similar employment protection programs designed to preserve employee morale, encourage continuing employment and otherwise ameliorate the effects on employees of these Chapter 11 Cases. Pending approval of any such postpetition programs, the prepetition programs will continue in the ordinary course, subject to the provisions of Bankruptcy Code Section 503(c)(2).

behalf of Employees for savings programs, benefit plans, insurance programs, and other similar programs.

7. The Debtors also request that, with respect to any Workforce Programs that are administered, insured, or paid through a third-party administrator or provider, the Debtors be expressly authorized, in their discretion, to pay any prepetition claims of such administrator and provider in the ordinary course of business to insure the uninterrupted delivery of payments or other benefits to the Employees.

8. In support of the Motion, the Debtors request that the Court authorize and direct all banks and financial institutions to receive, process, honor, pay, and, if necessary, reissue all prepetition and postpetition checks and fund transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, drawn on the bank accounts used by the Debtors to satisfy their obligations in connection with Prepetition Workforce Obligations, upon receipt by each bank or financial institution of notice of such authorization, provided that sufficient funds are on deposit in the applicable accounts to cover such payments. The Debtors additionally request that the Court authorize them to issue new postpetition checks to replace any checks that may nevertheless be dishonored and to reimburse any expenses that holders of claims in connection with Prepetition Workforce Obligations may incur as a result of any bank's failure to honor a prepetition check.

BASIS FOR RELIEF

9. As of the Petition Date, the Debtors' Workforce consisted of approximately 354 Employees, of whom 173 were located at the Debtors' headquarters in Oklahoma City, Oklahoma (the "**Headquarters**") and the remainder of whom work primarily in the field supporting the Debtors' oil and gas operations. Of the Employees, approximately 181 are salaried Employees and approximately 189 are hourly Employees. The Debtors' Workforce

also currently includes approximately 35 Independent Contractors. Chaparral Energy, L.L.C., a Debtor in these Chapter 11 Cases and a wholly owned subsidiary of Chaparral Energy, Inc., employs the Debtors' entire Workforce. No Employee is represented by a collective bargaining unit.

10. The Debtors' ability to preserve their businesses and successfully reorganize is dependent on the expertise and continued enthusiasm and service of their Workforce. Due to the disruption and uncertainty that typically accompanies a chapter 11 filing, the Debtors believe that the morale and, thus, the performance of their Workforce may be adversely affected.

11. If the Debtors fail to pay the Prepetition Workforce Obligations in the ordinary course, their Workforce will suffer extreme personal hardship and, in some cases, may be unable to pay their basic living expenses. Such a result would have a highly negative impact on Workforce morale and likely would result in unmanageable performance issues or turnover, thereby resulting in immediate and irreparable harm to the Debtors and their estates. The Debtors have determined that continuation of the Workforce Programs is vital to preserving and rebuilding Workforce morale during the pendency of these Chapter 11 Cases and to reducing the level of attrition that might otherwise occur.

A. Prepetition Workforce Compensation

i. Employee Payroll and Payroll Deductions

12. The Employees are paid bi-weekly on Fridays (or on the preceding business day if these dates fall on a holiday). The next payroll date is May 13, 2016. The average payroll each pay period is approximately \$2,000,000 in the aggregate. The Debtors utilize Automatic Data Processing, Inc. ("**ADP**") for the administration of payroll for the Employees. Employees assigned to the Headquarters are paid current, in that they receive their

bi-weekly earnings on the last day of the current pay period. Employees that work in the field are paid two weeks in arrears, so that they receive their bi-weekly earnings two weeks after the last day of a pay period.

13. In the ordinary course of their businesses, the Debtors make deductions from Employees' paychecks for payments to third parties on behalf of Employees for various federal, state, and local income, FICA, and other taxes, court ordered garnishments, as well as for savings programs, repayments for loans taken against the savings programs, pension plans, benefit plans, insurance and other similar programs (collectively, the "**Deductions**"). Over the past twelve (12) months, the Debtors' average bi-weekly Deductions for Employees aggregated approximately \$800,000.

14. Employees may be owed certain prepetition amounts on account of regular compensation earned through the Petition Date. As such, the applicable Deductions have not yet been taken. Additionally, even where Deductions have been withheld from the applicable Employee's paycheck, the Debtors may not yet have forwarded the Deductions to the various third parties to which the Deductions are required to be distributed.

15. The Debtors pay their Employees who work in the field in arrears for work performed two or more weeks prior to the Debtors' normal bi-weekly payroll. As a result, such Employees often have a significant amount of unpaid wages and other compensation that has accrued, but is unpaid. As a result, the Debtors estimate that, as of the Petition Date, accrued but unpaid wages and other compensation, including the Deductions, total approximately \$700,000 (comprised of \$614,000 owed to the Employees and \$86,000 attributable to the Deductions), which is almost entirely attributable to amounts owed on account of amounts owed to field Employees.

ii. Independent Contractors

16. In addition to the Employees, the Debtors also retain approximately 35 Independent Contractors, including contract pumpers, IT support specialists, geologists, and geophysicists, to perform a variety of tasks related to the Debtors' operations in the ordinary course of business. The Independent Contractors may provide services to the Debtors directly, or the Debtors may utilize the services of certain employment agencies in connection with engaging certain Independent Contractors. The Debtors do not pay wages, withhold taxes or provide benefits or paid time off for the Independent Contractors. Instead, the Debtors make payments to Independent Contractors or their contracting agency based upon the relevant agreement. The Independent Contractors are generally paid on an hourly basis and they provide the Debtors with invoices for their services (and generally are paid) monthly. On average, the Debtors pay approximately \$200,000 per month in the aggregate to the Independent Contractors.

iii. Vacation Days, Holidays, and Sick Leave

17. As part of their overall compensation, all Employees who work at least 30 hours per week ("**Regular Employees**") are entitled to paid time off ("**PTO**")⁴ plus 10 additional paid holidays per year. Regular Employees earn 120 to 240 hours of PTO per year, accruing proportionally each pay period, depending upon their experience or length of time in the industry, with those Employees who are more experienced or have been in the industry longer being entitled to a greater number of PTO hours than those Employees with less experience.

18. Typically, Employees may carry over up to 320 unused PTO hours from one calendar year to the next. Upon termination or retirement, Employees receive payment on

⁴ Prior to 2015, vacation and sick leave were granted separately. In 2015, these programs were combined into a single PTO program. While certain Employees have carried over unused sick hours which had accrued prior to January 1, 2015, such Employees may only use such sick hours for FMLA qualifying leave, and are not entitled to otherwise monetize such sick hours.

account of any accrued and unused PTO hours, up to the maximum carryover hours. This policy is consistent with the laws of most states, which provide that vacation benefits are vested and must be paid upon termination of employment. The Debtors estimate that, as of the Petition Date, total accrued but unpaid PTO liability is approximately \$3,800,000. Although the Debtors request authority to pay such accrued but unpaid vacation liability in the ordinary course of business as necessary, no amounts will be due or owing to any Employee unless and until such Employee is no longer employed by the Debtors (assuming the Employee does not use his or her PTO).

iv. AIM Program; Incentive Plan

19. In the ordinary course of business, in order to encourage and reward outstanding performance, the Debtors offer full-time Employees the opportunity to earn bonuses under an annual incentive measures program (the “AIM Program”), under which the Employees are eligible to earn awards based on individual and business targets. The target amount that an individual may receive under the AIM Program is a percentage of their annual base salary. Half of the amount that an Employee may receive is based on company performance on nine identified metrics from the previous year. The other half is discretionary and based on various factors, including, but not limited to, departmental and individual performance. Chaparral’s board of directors (the “Board”) has discretion with regard to funding the AIM Program at any amount up to funding the full target amount for all Employees. If the Board determines that it is appropriate to fund the AIM Program, then bonuses are paid in the regular payroll on or immediately prior to March 15th to eligible Employees that are still employed by the Debtors as of such date. In 2015, the Debtors met or exceeded the company’s annual performance thresholds in seven of nine categories; accordingly, on March 11, 2016, the Debtors awarded bonuses to its 366 Employees whose individual performance reviews indicated the Employee

met or exceeded his or her performance expectations in 2015. Such bonuses were necessary to maintain Employee morale and minimize attrition and consistent with bonuses granted by the Debtors in previous years and bonuses granted by other oil and gas companies. With limited exceptions, bonuses for 2015 performance have already been paid.⁵ The Debtors do not anticipate that any further awards will be made under the AIM Program in 2016 or during these Chapter 11 Cases.⁶

20. The Debtors also maintain a Long Term Cash Incentive Plan (the “**Incentive Plan**”).⁷ Under the Incentive Plan, certain non-insider Employees selected by the executive committee of Chaparral Energy, L.L.C. (the “**Executive Committee**”) are entitled to a cash payment in an amount determined by the Executive Committee. Amounts awarded under the Incentive Plan vest over a period of four years, with 25% of the total amount vesting at the end of each plan year, August 31st. Amounts that have vested under the Incentive Plan are paid to Employees annually within 30 days of August 31st.⁸ In most cases, the Employee must remain employed by the Debtors at the end of a plan year for any Incentive Plan awards to vest for such

⁵ Pursuant to the decision of the Board, approximately 16% of the bonus awarded to the Chief Executive Officer and the President was deferred until September 2016.

⁶ The Debtors reserve the right to request authority to grant future awards under the AIM Program or to implement new incentive programs in the future. Any such request will be pursuant to notice and hearing with this Court.

⁷ In 2015, the Incentive Plan replaced the Debtors’ restricted stock unit plan (the “**RSU Plan**”), which granted restricted shares of Chaparral Energy, Inc. (“**RSUs**”) for certain of their Employees, which vest over three or more years. Although there are unvested shares of the RSU Plan, the RSU Plan is no longer in effect as to future grants and no stock options have been granted pursuant to the RSU Plan since July 2015. As of the Petition Date, over 110 Employees have been granted 114,714 RSUs that are still outstanding and have not yet vested pursuant to the RSU Plan. Additionally, in 2011, the RSU Plan replaced the Debtor’s Phantom Stock Plan. The Phantom Stock Plan operated similarly to the RSU Plan, but allowed for vesting of phantom stock over a period of five years. Six Employees have been granted 1,634 shares of phantom stock that are still outstanding and have not yet vested that will vest in July 2016. At this time, the Debtors do not ascribe any value to the RSUs or the phantom stock. Accordingly, the Debtors do not believe that they will owe any amounts on accounts of RSUs or phantom stock that will vest during these Chapter 11 Cases.

⁸ Two non-insider Employees have awards under the Incentive Plan which vest on January 1st of each year.

year. As of the Petition Date, 110 Employees have been selected by the Executive Committee to participate in the Incentive Plan. Given the large percentage of the Employees covered by the Incentive Program, the Debtors believe that any interruption in payments pursuant to the Incentive Plan could upset Employee morale or cause attrition, which could lead to severe disruptions to the Debtors' operations. As of the Petition Date, the Debtors estimate that accrued but unpaid awards outstanding under the Incentive Plan total approximately \$2,700,000, which will vest and are to be paid in equal parts in each of 2016 through 2019.

B. Prepetition Employee Reimbursements

i. Business Expenses

21. The Debtors, in the ordinary course of their business, reimburse Employees for a variety of ordinary, necessary, and reasonable business-related expenses that Employees incur within the scope of their job duties. These include expenses for business travel (including lodging, automobile rentals, meals, and internet charges), business-related taxi and mileage costs, and other general business-related expenses. Employees are expected to use sound judgment and good business sense when incurring the expenses. In order to be reimbursed, an Employee must submit his or her receipts to the Employee's manager for approval. If approved, the Debtors reimburse the Employee by check when manual checks are cut in the ordinary course of the Debtors' businesses. The Debtors also reimburse (or pay directly) for certain professional expenses, such as required continuing education expenses, professional license fees or dues, and subscriptions. The Debtors believe that there are accrued but unpaid amounts owing to Employees for reimbursements on account of business expenses totaling approximately \$76,000 as of the Petition Date.

22. Certain Employees chosen by the Debtors are issued a company credit card (a "Credit Card") through JPMorgan Chase Bank, N.A. ("JPM") or Diner's Club

International (“**Diner’s Club**”) to be utilized for business-related expenses. The Debtors make all Credit Card payments and are reimbursed by Employees for any unapproved expenses. Receipts for expenses charged to a Credit Card must be submitted by the Employee to a reviewer designated by the Debtors for approval. Employees who fail to turn in receipts or turn in receipts for unapproved purposes will have the total amount of such receipts deducted from their next paycheck. The average monthly amount of reimbursable expenses paid by the Debtors is approximately \$300,000, inclusive of amounts that are owed on the Credit Cards.

23. The Debtors’ obligations under the JPM Credit Cards are secured by security interests and liens granted in connection with the syndicated credit facility (the “**Credit Facility**”) of which JPMorgan Chase Bank, N.A. is the agent. The Debtors seek authority to incur credit on a secured basis through the Employees’ use of the JPM Credit Cards on an uninterrupted and ongoing basis pursuant to Section 364 of the Bankruptcy Code.

ii. Miscellaneous

24. The Debtors also offer certain other miscellaneous programs and benefits. For example, the Debtors offer Employees the ability to participate in a qualified educational assistance program to obtain professional education and certifications (the “**Education Program**”) and in wellness reimbursement programs (the “**Wellness Program**”). Under the Education Program, the Debtors provide reimbursement to Employees for reasonable educational expenses, including, but not limited to, tuition, books and certain required fees incurred in conjunction with job related courses at an accredited educational institution that are pre-approved by the Employee’s manager. In order to be reimbursed for the Education Program, an Employee must successfully complete the approved course with a passing grade and submit the Employee’s receipts to the Employee’s manager for approval. Under the Wellness Program, the Debtors provide reimbursement to Employees on account of their health club memberships, tobacco

cessation programs, and weight management programs. In order to be reimbursed for the Wellness Program, an Employee must submit receipts and evidence that the Employee has participated in the qualifying program to the Employee's manager for approval. If such expenses are approved, the Debtors reimburse the Employee by check when manual checks are cut in the ordinary course of the Debtors' businesses. The total amount of reimbursements paid under the Education and Wellness Programs in 2015 was \$86,300 and 7,400, respectively. Because the Education Program and Wellness Program provide for quarterly reimbursements, the Debtors believe there are accrued but unpaid amounts under the Education Program or the Wellness Program of approximately \$24,000 as of the Petition Date.

25. The Debtors believe that their total prepetition obligations in respect of Workforce reimbursements described in this Section B will not exceed \$400,000 as of the Petition Date (the "**Reimbursement Obligations**").

C. Employee Benefits; Severance Payments

26. Prior to the Petition Date, the Debtors offered Employees and their eligible spouses and dependents various standard employee benefits, including, without limitation, (a) medical insurance (b) dental insurance, (c) basic term life and accidental death and dismemberment insurance, (d) long-term and short-term disability insurance, (e) savings and related types of benefits, (f) workers' compensation, (g) severance benefits, and (h) miscellaneous other benefits provided to the Employees in the ordinary course of business (collectively, the "**Employee Benefits**"). As of the Petition Date, the Debtors were obligated to pay certain contributions to or provide benefits under such plans, programs, and policies.

i. Medical Insurance

27. The Debtors offer all Regular Employees the opportunity to obtain basic medical insurance, vision care, prescription drug coverage, and related benefits under one of two

plans administered by Blue Cross Blue Shield (“**BCBS**”). Regular Employees have the ability to choose between two plans, a high-deductible health plan combined with a health savings account (the “**HDHP**”) and a PPO plan (the “**PPO Plan**”) and, together with the HDHP, the “**BCBS Plans**”), each of which provides for similar types of medical and prescription drug coverage. Both options are preferred provider organization plans, under which eligible Employees and their family members have the choice to use providers within the network or to use providers outside the network (the latter option being subject to higher costs to the Employee). The PPO Plan has a higher upfront premium cost than the HDHP, but lower deductible and copayment costs for the Employee. Participating Employees pay semi-monthly premiums through payroll deductions remitted to BCBS of between approximately \$0 and \$160 depending on (i) the plan selected, (ii) tobacco use, (iii) family coverage, and (iv) whether the Employee participates in a program to promote Employee health and wellbeing (the “**Health and Wellbeing Program**”) administered by Viverae, Inc. (“**Viverae**”).

28. Under the Debtors’ Health and Wellbeing Program, Employees participating in the BCBS Plans may be eligible to receive a discount to their BCBS Plan premiums if they complete an online health assessment questionnaire, submit to a biometric screening, and take certain other preventive care actions. Viverae provides the Debtors with data collection services to facilitate the Health and Wellbeing Program.

29. The Debtors also provide Employees participating in the BCBS Plans with access to telephonic and online medical services (“**Telehealth Services**”) through MDLive Inc. (“**MDLive**”). Telehealth Services allow participating Employees to speak to a physician by phone, website, or mobile app 365 days a year for non-emergency medical issues who can recommend treatments and write prescriptions for a variety of non-emergency ailments.

30. The Debtors are self-insured for medical benefits, including prescription drug coverage. Accordingly, after BCBS provides a discount to invoices received from providers on account of Employee medical expenses under the BCBS Plans and determines the eligibility of expenses and under the BCBS Plans and the Participating Employees pay any required deductibles or co-pays, the Debtors are responsible to pay all eligible remaining medical expenses of Employees participating in the BCBS Plans. The Debtors remit approved amounts to BCBS, which distributes the payments to medical service providers.

31. The obligations that the Debtors incur on behalf of the Employees on account of the BCBS Plans fluctuate based on the medical needs of the Employees, but average approximately \$500,000 per month. The Debtors pay such expenses for medical claims submitted in the previous month and an administration fee of approximately \$52,000 directly to BCBS each month. Additionally, the Debtors pay a monthly administration fee of approximately \$330 to MDLive for providing Telehealth Services and \$3,200 to Viverae for data collection services in connection with the Health and Wellbeing Program. As of the Petition Date, the Debtors estimate that they owe approximately \$750,000 on account of the BCBS Plan, including \$330 on account of fees owed to MDLive and \$3,200 on account of fees owed to Viverae.

ii. Dental Insurance

32. The Debtors provide all Regular Employees with the option to enroll in a dental insurance plan administered by Delta Dental (“**Delta**” and the plans, the “**Delta Plans**”). Eligible Employees may enroll in their choice of two coverage options, either a ‘base’ plan with a low premium and low maximum benefit, or a ‘high’ plan with higher premiums and higher maximum benefit. 200 Employees (and their dependents) receive up to \$2,000 in dental coverage per year through the high deductible plan, which covers 100% of all eligible expenses for most preventive care, 20% or more of expenses relating to other dental care, and includes

orthodontic benefits. On the base plan, 148 Employees (and their dependents) receive up to \$1,000 in dental coverage per year, which covers 100% of all eligible expenses for most preventive care and 20% or more of expenses relating to other dental care, but does not include orthodontic benefits. Participating Employees pay a portion of semi-monthly⁹ premiums through payroll deductions remitted to Delta of up to \$45 depending on the plan selected and family coverage.

33. The Debtors pay the remainder of the premiums charged by Delta, which include Delta's administration fees, to Delta on a semi-monthly basis. The Debtors pay between \$30,000 to \$35,000 per Employee on account of such supplemental premiums and administration fees. As of the Petition Date, the Debtors estimate that they owe approximately \$35,000 on account of premiums and administration fees to Delta on account of the Delta Plans.

iii. Pre-Tax Contribution Health Savings Accounts and Flexible Spending Accounts

34. The Debtors offer all of their Employees participating in the HDHP the opportunity to contribute, through pre-tax compensation deductions, to health saving accounts ("**HSA**s") to be used for healthcare related expenses. On behalf of Employees participating in the HDHP, the Debtors contribute \$1,000 for Employee-only coverage and \$2,000 for family coverage annually into each participating Employees' HSA. Participating Employees may then contribute a portion of his or her eligible earnings each year on a pre-tax basis to his or her HSA, subject to limits imposed by federal law. The Debtors deduct Employee contributions from the Debtors' bi-weekly payroll and deposits such contributions into HSAs created by, and held in the name of, each participating Employee. A participating Employee may only use his or her HSA

⁹ In months with three bi-weekly pay periods, only two pay checks deduct the cost of the premiums.

for eligible medical expenses. As of the Petition Date, the Debtors estimate that they are holding HSA deductions to be remitted to various HSAs of approximately \$15,000.

35. The Debtors additionally offer all of their Employees the opportunity to contribute, through pre-tax compensation deductions, to flexible spending accounts (“**FSAs**”) to be used for healthcare related expenses and dependent care expenses, subject to limits imposed by federal law.¹⁰ FSA deductions are made from Employees’ paychecks. In order to be reimbursed for these expenses, Employees must submit eligible claims to HSABank, which administers the claims under the FSAs and remits reimbursements to the Employees. HSABank makes these payments from FSAs maintained by the Debtors. As of the Petition Date, the Debtors estimate that they are holding FSA deductions to be remitted to HSABank of approximately \$15,000.

iv. Life and Accidental Death and Dismemberment Insurance, Short-Term Disability Program, and Long-Term Disability Program

36. Employees receive, at the Debtors’ cost, short-term disability (“**STD**”) insurance, long-term disability (“**LTD**”) insurance, accidental death and dismemberment (“**AD&D**”) insurance, and life insurance under plans (the “**Health Benefits Programs**”) administered by Cigna Health and Life Insurance Company (“**Cigna**”).

37. Under the Debtors’ STD insurance program (the “**STD Plan**”), if an Employee becomes disabled for at least seven (7) days, Cigna pays benefits equal to seventy (70%) of the Employee’s monthly base salary, up to a maximum of \$3,000 per week for a period of up to twelve (12) weeks.

¹⁰ Employees participating in the HDHP may also contribute money to FSAs. Such Employees, however, may only use FSA funds for eligible dental, orthodontic, and vision expenses.

38. Under the Debtors' LTD insurance program (the "**LTD Plan**"), if an Employee becomes disabled for at least ninety (90) days, Cigna pays benefits equal to sixty (60%) of the Employee's monthly base salary, up to a maximum of \$8,000¹¹ per month for a period of up to forty-two (42) months. The LTD Plan also provides the family of the Employee with benefits in the event of the Employee's death.

39. The Debtors also provide Regular Employees with group term life insurance and AD&D insurance in amounts equal to two (2) times the Employee's annual salary, up to a maximum of \$750,000, at no charge to Employees until retirement. Regular Employees may also purchase additional voluntary term life and AD&D insurance for themselves and their dependents at their own cost up to a maximum of \$500,000 for themselves, \$100,000 for their spouses, and \$10,000 for other dependents.

40. The Debtors pay the premiums for the Health Benefits Programs to Life Insurance Company of North America on behalf of Cigna each month. The premiums for any voluntary term life and AD&D insurance purchased by Employees are then deducted from the applicable Employee's paychecks and reimbursed to the Debtors. As of the Petition Date, the Debtors estimate that they owe approximately \$140,000 to Cigna on account of premiums under the Health Benefits Programs.

v. **Savings Plan**

41. The Debtors sponsor a 401(k) retirement savings plan (the "**401(k) Plan**") for their Employees. The 401(k) Plan is administered by the Fidelity Investments ("**Fidelity**"). Under the 401(k) Plan, an Employee may contribute a portion of his or her eligible earnings each

¹¹ Certain executives are covered up to a maximum of \$12,000 per month.

year on a pre-tax basis to the 401(k) Plan, subject to limits imposed by federal law.¹² These contributions are deducted from the paychecks of participating Employees and held in trust on the Employees' behalf until such amounts are paid to Fidelity Management Trust Company (the "**Trustee**") to be held in an account maintained by the Trustee on the Employee's behalf. In addition, the 401(k) Plan permits Employees to take loans against their individual 401(k) account, and the Debtors deduct loan payments from such Employee's paycheck and remit such amounts to the Trustee. The Debtors' 401(k) committee oversees the 401(k) Plan and receives advice for investment decisions from Lockton Investment Advisors, LLC ("**Lockton**"). Currently, 340 Employees participate in the 401(k) Plan.

42. The Debtors match Employee contributions up to 7% of the participating Employee's salary, subject to limits imposed by federal law. One-third of the Debtors' contributions vest annually at the end of each year that the Employee has remained employed by the Debtors over a three-year period, after which all contributions of the Debtors vest in full when made.¹³ The Debtors' matching contributions are paid directly to the Trustee for deposit into Employee accounts. The Debtors paid approximately \$700,000 in connection with matching contributions for the first quarter of 2016. The Debtors expect that the total aggregate amount of contributions in the second quarter of 2016 will be similar to the amount paid for the first quarter of 2016. The Debtors' matching 401(k) contribution is a critical component of the Employees' compensation. Failure to make such payments would negatively impact morale and place undue hardship on Employees that could result in losses of Employees during these Chapter 11 Cases.

¹² Employees may also contribute all or a portion of this amount on a taxed basis to a Roth IRA.

¹³ Accordingly, once an Employee has been employed for at least three years, all matching contributions vest immediately.

Accordingly, the Debtors request authority to make matching contributions under the 401(k) Plan in 2016.

vi. Workers' Compensation

43. Under the laws of the various states in which they operate, the Debtors are required to maintain workers' compensation policies and programs, or participate in workers' compensation programs administered by state governments, to provide their Employees with workers' compensation coverage for claims arising from or related to their employment with the Debtors.

44. Employees are covered under a workers' compensation policy issued by Zurich American Insurance Company ("**Zurich**"). The Debtors pay Houston Series of Lockton Companies on behalf of Zurich approximately \$406,000 per year for workers' compensation coverage, and there is no deductible per occurrence in connection with the Zurich policy. Under the Zurich policy, upon the filing of a verified claim by an eligible Employee, Zurich pays the claim amount directly to the Employee.

45. It is critical that the Debtors be permitted to continue their workers' compensation program and to pay outstanding prepetition claims, taxes, charges, assessments, premiums, and third party administrator fees in the ordinary course of business because alternative arrangements for workers' compensation coverage would most certainly be more costly, and the failure to provide coverage may subject the Debtors and/or their officers to severe penalties. To facilitate the ordinary course handling of workers' compensation claims, the Debtors further request authority, in their sole discretion, to lift the automatic stay of Bankruptcy Code Section 362 to allow workers' compensation claimants to proceed with their claims under the applicable insurance policy or program and to allow the Debtors or their insurance providers

and/or third party administrators to negotiate, settle and/or litigate workers' compensation claims, and pay resulting amounts, whether such claims arose before or after the Petition Date.

vii. Severance Program

46. As part of the Debtors' cost-saving initiatives, the Debtors reduced their workforce by 213 Employees in 2015 and 62 Employees in 2016. In connection with this recent reduction in force, the Debtors provided severance packages to Employees who were terminated in accordance with the Debtors' past practice. In addition, from time to time the Debtors provide severance benefits to Employees not related to a reduction in force. These benefits are typically provided in exchange for a release in liability for the Debtors. Accordingly, the Debtors believe that it is important that they have the flexibility to maintain their current practice of honoring their severance program for Employee retention and morale. The Debtors seek to continue providing such benefits in the ordinary course of business to Employees, other than insiders. As of the Petition Date, the Debtors estimate that the aggregate accrued and unpaid amount of such prepetition severance obligations is approximately \$20,000.¹⁴

viii. Field Employee Per-Diem

47. The Debtors also provide Employees who work in the field with a per-diem based on the type of work that they perform. Field Employees are entitled to a per-diem of \$25 plus an additional \$25 if they are required to remain in the field for four or more consecutive days. The Debtors pay the per-diem to its field Employees in connection with the Debtors' bi-weekly payroll. As of the Petition Date, the Debtors estimate that the aggregate accrued and unpaid amount of per-diem obligations is \$10,000.

¹⁴ By this Motion, the Debtors are not requesting authority to make any postpetition severance payments not permitted under section 503(c) of the Bankruptcy Code; or (b) severance payments pursuant to a contract or offer letter.

ix. Honoring of Prepetition Benefits

48. As described above, certain of the Employee Benefits remained unpaid or unprovided as of the Petition Date because certain obligations of the Debtors under the applicable plan, program, or policy accrued either in whole or in part prior to the commencement of these Chapter 11 Cases, but will not be required to be paid or provided in the ordinary course of the Debtors' business until a later date. The Debtors request authority to pay or provide as they become due all prepetition Employee Benefits that have already accrued and that are described above. The Debtors estimate that the aggregate accrued amount of such prepetition Employee Benefits described in this Section C, including severance payments, is approximately \$2,000,000.

D. Continuation of Workforce Programs Postpetition

49. The Debtors also request confirmation of their right to continue to perform their obligations with respect to all Workforce Programs, except as otherwise indicated herein. The Workforce Programs are essential to the Debtors' efforts to maintain Workforce morale and minimize attrition. The Debtors believe that the expenses associated with the Workforce Programs are reasonable and cost-efficient in light of the potential attrition, loss of morale, and loss of productivity that would occur if the Workforce Programs were discontinued.

50. Notwithstanding the foregoing, the Debtors reserve the right to evaluate all Workforce Programs and to make such modifications, including terminating any particular plan, program, or policy, as may be necessary or appropriate during the pendency of these cases.

E. Payments to Independent Directors

51. In the ordinary course of business, the Debtors reimburse expenses on a quarterly basis (or as invoiced) to three non-Employee members of Chaparral Energy, Inc.'s board of directors (the "**Independent Directors**"). The Independent Directors' service is

necessary for the continued management of the Debtors and, accordingly, it is essential that the Debtors be authorized to pay all prepetition amounts accrued as of the Petition Date to the Independent Directors. As of the Petition Date, the Debtors estimate that the aggregate accrued but unpaid amounts owed to the Independent Directors is approximately \$10,000. In addition, out of an abundance of caution, the Debtors request authority to continue to reimburse expenses to the Independent Directors on a postpetition basis in the ordinary course of business.

F. Payments to Administrators

52. With respect to the Employee compensation and benefits described above, the Debtors contract with several vendors to administer and deliver payments or other benefits to their Employees (the “**Administrators**”). The Debtors pay these Administrators’ fees and expenses incurred in connection with providing such services.

53. For example, the Debtors, in the ordinary course of business, pay monthly fees to Administrators as follows: (a) \$5,600 (on average) to ADP in connection with payroll administration, background screening and invoicing based on the number of Employees paid through ADP, (b) \$52,000 to BCBS in connection with the administration of the BCBS Plan, (c) \$1,000 to Life Insurance Company of North America on behalf of Cigna in connection with the administration of the STD Plan, LTD Plan, and AD&D insurance, (d) \$3,200 to Viverae for data collection services in connection with the Health and Wellbeing Program, and (e) \$330 to MDLive in connection with the administering of Telehealth Services, which total approximately \$72,200 per month in the aggregate.

54. In conjunction with the Debtors’ payment of Prepetition Workforce Obligations and continued performance under Workforce Programs, the Debtors believe that it is necessary to obtain specific authorization to pay any claims of the Administrators on a postpetition basis, including prepetition claims to the extent necessary to ensure uninterrupted

delivery of certain benefits to the Workforce. The Debtors believe that the Administrators may fail to adequately and timely perform or may terminate their services to the Debtors unless the Debtors pay the Administrators' prepetition claims for administrative services rendered and expenses incurred. A need to engage replacement Administrators postpetition likely would cause significant disruption to the payment of benefits and other obligations to the Workforce. Accordingly, the Debtors submit that the payment of claims owed to the Administrators is in the best interest of the Debtors' estates.

G. Payments to Employee Benefits Consultants

55. The Debtors contract with PricewaterhouseCoopers ("**PwC**") for consulting services relating to the Employee Benefits. PwC assists the Debtors on an ongoing basis by, among other things, developing strategies to manage and optimize the Employee Benefits, providing information about trends in the employee benefits marketplace, and acting as a liaison between the Debtors and their insurers. The Debtors pay fees to PwC in connection with providing such services on a monthly basis in the amount of \$25,000.

56. In addition, the Debtors are party to a contract with Lockton, pursuant to which Lockton advises the Debtors on issues relating to the 401(k) Plan. The Debtors pay Lockton fees of \$13,000 per quarter for such services.

H. Honoring of Prepetition Checks

57. Prior to the Petition Date, the Debtors paid certain of their Prepetition Workforce Obligations with checks that had not been presented for payment as of the Petition Date. In order to ensure the orderly payment of the Prepetition Workforce Obligations, the Debtors request that the Court enter an order requiring the Debtors' banks to honor any such checks which are drawn on the Debtors' accounts, and authorizing the banks to rely on the representations of the Debtors as to which checks are subject to this Motion. To the extent that

any such checks are nevertheless refused payment, the Debtors additionally request authority to issue replacement checks and to reimburse their Workforce for any loss resulting from the dishonoring.

APPLICABLE AUTHORITY

A. Payment of the Priority Portion of Prepetition Workforce Obligations Should be Authorized under Bankruptcy Code Section 507(a)

58. Bankruptcy Code Sections 507(a)(4) and 507(a)(5) require that certain claims for prepetition wages, salaries, and vacation pay be accorded priority in payment in an amount not to exceed \$12,475 for each individual. In chapter 11, priority claims must be paid in full. Accordingly, granting the relief requested with respect to the priority portion of the Prepetition Workforce Obligations will not adversely affect the Debtors' other unsecured creditors.

59. Some Employee Benefit amounts are unknown pending submission of claims and, therefore, the Debtors do not know the exact amount due on account of each Employee for the prepetition period. To the extent that Employees are owed aggregate amounts in excess of the priority cap, or amounts that are otherwise not entitled to priority status, the Debtors submit that payment of the Prepetition Workforce Obligations in such higher amounts or otherwise non-priority amounts is nonetheless justified under the authority discussed below.

B. The Proposed Payments are Appropriate under Bankruptcy Code Section 363

60. Under Bankruptcy Code Section 363, a bankruptcy court is empowered to authorize a chapter 11 debtor to expend funds in the bankruptcy court's discretion outside the ordinary course of business. See 11 U.S.C. § 363. In order to obtain approval for the use of estate assets outside the ordinary course of business, the debtor must articulate a valid business justification for the requested use. See In re Iridium Operating LLC, 478 F.3d 452, 466 (2d Cir.

2007). To the extent the payment of prepetition wage, salary, and benefit claims were deemed to be outside the ordinary course of business, the preservation and protection of a debtor's business, the retention of a debtor's currently working employees, and the maintenance of positive employee morale provide a sufficient business justification for such payment. See id.

61. Accordingly, this Court should grant the requested relief under Bankruptcy Code Section 363.

C. Payment of Certain of the Prepetition Workforce Obligations is Appropriate under Bankruptcy Code Section 541

62. The payment of the Employee contribution component of the Savings Plan or payment of other Deductions will not prejudice the Debtors' estates because such withholdings are derived from Employee funds and held in trust for the benefit of the related payees and, thus, do not constitute property of the Debtors' estates under Bankruptcy Code Section 541. See Begier v. IRS, 496 U.S. 53, 58-59 (1990). See also In re Columbia Gas Sys., Inc., 997 F.2d 1039, 1059 (3d Cir. 1993) (concluding that property that debtor holds in trust – either express or constructive – for another does not become property of the estate when the debtor files for bankruptcy, and stating that “Congress clearly intended the exclusion by section 541(d) to include not only funds held in express trust, but also funds held in constructive trust.”); EBS Pension L.L.C. v. Edison Bros. Stores, Inc. (In re Edison Bros., Inc.), 243 B.R. 231 (Bankr. D. Del. 2000) (same). Moreover, payments that are critical to the retention and morale of the Debtors' Workforce actually add value to the estates because an unplanned reduction in Employee retention or productivity could have disastrous effects on any potential recoveries to unsecured creditors.

D. Payment of the Prepetition Workforce Obligations is Authorized under Bankruptcy Code Sections 1107(a) and 1108

63. The Debtors, operating their businesses as debtors in possession under Bankruptcy Code Sections 1107(a) and 1108, are fiduciaries “holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners.” In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the duties of a chapter 11 debtor in possession is the duty “to protect and preserve the estate, including an operating business’s going-concern value.” Id.

64. According to the CoServ court, there are instances in which a debtor in possession can fulfill its fiduciary duty “only . . . by the preplan satisfaction of a prepetition claim.” See id. The CoServ court specifically noted that preplan satisfaction of prepetition claims would be a valid exercise of a debtor’s fiduciary duty when the payment “is the only means to effect a substantial enhancement of the estate.” Id. The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim was a valid exercise of a debtor’s fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor’s going concern value, which is disproportionate to the amount of the claimant’s prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id. at 498.

65. Payment of the Prepetition Workforce Obligations meets each element of the CoServ court’s standard. Any failure by the Debtors to pay the Prepetition Workforce Obligations would have a severe negative impact on the morale of the Debtors’ Workforce at a critical time for the Debtors and their businesses. Moreover, as described above, the Employees

likely maintain priority claims against the Debtors for the vast majority of the Prepetition Workforce Obligations.

66. Second, the potential harm and economic disadvantage that would stem from the failure to pay the Prepetition Workforce Obligations is grossly disproportionate to the amount of any prepetition claim that may be paid. Absent payment of the Prepetition Workforce Obligations, Workforce morale would decrease dramatically, likely leading to the loss of key personnel and other severe business disruptions costing far in excess of the amount of such obligations.

67. Third, the Debtors have examined other options short of payment of the Prepetition Workforce Obligations and have determined that to avoid significant disruption of the Debtors' business operations there exists no practical or legal alternative to payment of such obligations.

68. Therefore, the Debtors can only meet their fiduciary duties as debtors in possession under Bankruptcy Code Sections 1107(a) and 1108 by payment of the Prepetition Workforce Obligations.

E. Bankruptcy Code Section 105 and the Doctrine of Necessity Support Payment of the Prepetition Workforce Obligations

69. The proposed payments of the Prepetition Workforce Obligations should be authorized pursuant to Bankruptcy Code Section 105, which authorizes this Court "to issue any order . . . necessary or appropriate to carry out the provisions" of the Bankruptcy Code. 11 U.S.C. § 105. For the reasons set forth herein, and in light of the critical need for the Debtors to preserve the going concern value of their businesses in order to effect a successful reorganization through, among other things, preservation of the Debtors' Workforce and its morale and

productivity, payment of the Prepetition Workforce Obligations as requested herein is proper in accordance with Bankruptcy Code Section 105.

70. Payment of the Prepetition Workforce Obligations is further supported by the doctrine of necessity. The doctrine of necessity is a well-settled doctrine that permits a bankruptcy court to authorize payment of certain prepetition claims prior to the completion of the reorganization process where the payment of such claims is necessary to the reorganization. See In re Just for Feet, Inc., 242 B.R. 821, 826 (D. Del. 1999) (stating that where the debtor “cannot survive” absent payment of certain prepetition claims, the doctrine of necessity should be invoked to permit payment);¹⁵ see also In re Wehrenberg, Inc., 260 B.R. 468, 469 (Bankr. E.D. Mo. 2001) (“Pursuant to 11 U.S.C. § 105(a) the Court may authorize the payment of prepetition claims when such payments are necessary to the continued operation of the Debtor.”); In re NVR L.P., 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (“[T]he court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.”).

71. The doctrine of necessity is a widely accepted component of modern bankruptcy jurisprudence. See Just For Feet, 242 B.R. at 826 (approving payment of key inventory suppliers’ prepetition claims when such suppliers could destroy debtor’s business by refusing to deliver new inventory on eve of debtor’s key sales season); In re Payless Cashways, Inc., 268 B.R. 543, 546-47 (Bankr. W.D. Mo. 2001) (authorizing payment of critical prepetition

¹⁵ The Court’s power to utilize the doctrine of necessity in chapter 11 cases derives from the Court’s inherent equity powers and its statutory authority 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). The United States Supreme Court first articulated the doctrine of necessity over a century ago, in Miltenberger v. Logansport C & Sw. Ry. Co., 106 U.S. 286 (1882), in affirming the authorization by the lower court of the use of receivership funds to pay pre-receivership debts owed to employees, vendors and suppliers, among others, when such payments were necessary to preserve the receivership property and the integrity of the business in receivership. See id. at 309-14. The modern application of the doctrine of necessity is largely unchanged from the Court’s reasoning in Miltenberger. See In re Lehigh & New Eng. Ry., 657 F.2d 570, 581-82 (3d Cir. 1981) (“[I]n order to justify payment under the ‘necessity of payment’ rule, a real and immediate threat must exist that failure to pay will place the [debtor’s] continued operation . . . in serious, jeopardy.”)

suppliers' claims when such suppliers agree to provide postpetition trade credit); see also In re Columbia Gas Sys., Inc., 171 B.R. 189, 191-92 (Bankr. D. Del. 1994); In re Ionosphere Clubs, Inc., 98 B.R. 174, 175-76 (Bankr. S.D.N.Y. 1989).

72. For the reasons discussed herein, it is evident that payment of the Prepetition Workforce Obligations is necessary to the achievement of the Debtors' chapter 11 objectives. In particular, without payment of the Prepetition Workforce Obligations, the Debtors' businesses and operations will be detrimentally impacted through the reduction in Workforce morale and the potential loss of key personnel during a critical time for the Debtors and their businesses. Hence, this Court should exercise its equitable powers to grant the relief requested in this Motion.

F. Precedent Cases Support the Requested Relief

73. Numerous courts, including this Court, have permitted the payment of prepetition compensation, benefits, and reimbursable expenses on the first day or in the early stages of chapter 11 bankruptcy cases. See, e.g., In re Swift Energy Company, Case No. 15-12670 (MFW) (Bankr. D. Del. January 1, 2016); In re Samson Resources Corporation, Case No. 15-11934 (CSS) (Bankr. D. Del. Sept. 17, 2015); In re Energy Future Holdings Corp., Case No. 14-10979 (CSS) (Bankr. D. Del. June 4, 2014); In re OnCure Holdings, Inc., Case No. 13-11540 (KG) (Bankr. D. Del. July 24, 2013); In re Otelco Inc., Case No. 13-10593 (MFW) (Bankr. D. Del. Mar. 26, 2013); In re Penson Worldwide, Inc., Case No. 13-10061 (PJW) (Bankr. D. Del. Jan. 15, 2013); In re B456 Sys., Inc., Case No. 12-12859 (KJC) (Bankr. D. Del. Nov. 8, 2012).

G. Bankruptcy Rule 6003 Has Been Satisfied and Bankruptcy Rule 6004 Should Be Waived

74. Certain aspects of the relief requested herein are subject to Bankruptcy Rule 6003. Pursuant to Bankruptcy Rule 6003, a court may grant such relief on an expedited

basis if it is necessary to avoid immediate and irreparable harm. The Debtors submit that the facts set forth herein demonstrate that the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and, thus, Bankruptcy Rule 6003 has been satisfied.

75. Additionally, with respect to any aspect of the relief sought herein that constitutes a use of property under Bankruptcy Code Section 363(b), the Debtors request a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors request in this Motion is immediately necessary in order for the Debtors to be able to continue to operate their businesses and preserve the value of their estates. The Debtors thus submit that the requested waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h) is appropriate.

WAIVER OF BANKRUPTCY RULES

76. Pursuant to Bankruptcy Rule 6003, the Court may grant relief regarding a motion to pay all or part of a prepetition claim within twenty one (21) days after the Petition Date if the relief is necessary to avoid immediate and irreparable harm. See Fed. R. Bankr. P. 6003(b). Based on the foregoing, the Debtors submit that they have satisfied the requirements of Bankruptcy Rule 6003(b) because the relief set forth in Exhibit A and Exhibit B is necessary to avoid immediate and irreparable harm.

77. To the extent that any aspect of the relief sought herein constitutes a use of property under Bankruptcy Code Section 363(b), the Debtors request a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors request in this Motion is immediately necessary in order for the Debtors to be able to continue to operate their businesses and preserve the value of their estates. The Debtors respectfully request that the Court waive the notice requirements imposed by Bankruptcy Rule 6004(a) and the fourteen (14) day stay

imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

CONSENT TO JURISDICTION

78. 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 judgment or order with respect to this Motion if it is determined that the Court would lack Article III jurisdiction to enter such final judgment or order absent consent of the parties.

NOTICE

1. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the District of Delaware; (b) the administrative agent for the Debtors’ prepetition secured financing; (c) counsel to the administrative agent for the Debtors’ prepetition secured financing; (d) the indenture trustee under the Debtors’ 9.875% senior notes due 2020; (e) the indenture trustee under the Debtors’ 8.25% senior notes due 2021; (f) the indenture trustee under the Debtors’ 7.625% senior notes due 2022; (g) Milbank, Tweed, Hadley & McCloy LLP, counsel to the ad hoc committee of the holders of the Debtors’ prepetition unsecured notes; (h) the parties included on the Debtors’ consolidated list of thirty (30) largest unsecured creditors; (i) the United States Attorney’s Office for the District of Delaware; (j) the Internal Revenue Service; (k) the Environmental Protection Agency and similar state environmental agencies for states in which the Debtors conduct business; (l) the attorneys general for Oklahoma, Texas, and Kansas; and (m) all parties entitled to notice pursuant to Local Rule 9013-1(m) (collectively, the “**Initial Notice Parties**”). As this motion is seeking “first day” relief, this motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). The Debtors submit that, under the circumstances, no other or further notice is required.

2. In the event the Court enters the Interim Order granting this Motion, within forty-eight (48) hours thereafter, the Debtors propose to serve notice of such entry on the Initial Notice Parties and all parties that have filed prior to such service date requests for notice pursuant to Bankruptcy Rule 2002. The notice will provide that any objections to the relief granted in the Interim Order must be filed with the Court and served upon counsel for the Debtors no later than seven (7) days prior to the final hearing to be held on the Motion (the “**Objection Deadline**”). If an objection is timely filed and served prior to the Objection Deadline, such objection will be heard at the final hearing on the Motion. If no objections are timely filed and served, the Debtors’ counsel will file a certification of counsel to that effect attaching a final form of order.

WHEREFORE, the Debtors respectfully request that the Court enter Interim and Final Orders, substantially in the form attached hereto as Exhibits A and B, respectively, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: May 10, 2016
Wilmington, Delaware

RICHARDS, LAYTON & FINGER, P.A.

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*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
	:	
CHAPARRAL ENERGY, INC., <u>et al.</u> ,	:	Case No. 16-_____ (_____)
	:	
Debtors. ¹	:	Joint Administration Pending
	:	
	X	

**INTERIM ORDER (I) AUTHORIZING PAYMENT OF CERTAIN PREPETITION
WORKFORCE OBLIGATIONS, INCLUDING COMPENSATION, BENEFITS,
EXPENSE REIMBURSEMENTS, AND RELATED OBLIGATIONS, (II) CONFIRMING
RIGHT TO CONTINUE WORKFORCE PROGRAMS ON POSTPETITION BASIS,
(III) AUTHORIZING PAYMENT OF WITHHOLDING AND PAYROLL-RELATED
TAXES, (IV) AUTHORIZING PAYMENT OF PREPETITION CLAIMS OWING TO
ADMINISTRATORS OF, OR THIRD PARTY PROVIDERS UNDER, WORKFORCE
PROGRAMS, AND (V) DIRECTING BANKS TO HONOR PREPETITION CHECKS
AND FUND TRANSFERS FOR AUTHORIZED PAYMENTS**

Upon the motion (the "**Motion**")² of the Debtors for entry of an Interim Order under Bankruptcy Code Sections 105(a), 363(b), 363(c), 364, 507(a), 541, 1107(a), and 1108 and Bankruptcy Rule 6003 (i) authorizing the Debtors to pay certain prepetition amounts owing to or for the benefit of the Workforce for compensation, benefits, and reimbursable expenses; (ii) confirming the Debtors' right to continue postpetition, in the ordinary course of business, the workforce-related plans, programs, and policies in effect immediately prior to the filing of these cases; (iii) authorizing the Debtors to pay any and all local, state, and federal withholding and payroll-related or similar taxes relating to prepetition periods; (iv) confirming the Debtors' right

¹ The Debtors in these cases, along with the last four digits (or five digits, in cases in which multiple Debtors have the same last four digits) of each Debtor's federal tax identification number, are: CEI Acquisition, L.L.C. (1817); CEI Pipeline, L.L.C. (6877); Chaparral Biofuels, L.L.C. (1066); Chaparral CO₂, L.L.C. (1656); Chaparral Energy, Inc. (90941); Chaparral Energy, L.L.C. (20941); Chaparral Exploration, L.L.C. (1968); Chaparral Real Estate, L.L.C. (1655); Chaparral Resources, L.L.C. (1710); Green Country Supply, Inc. (2723); and Roadrunner Drilling, L.L.C. (2399). The Debtors' address is 701 Cedar Lake Blvd., Oklahoma City, OK 73114.

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

to continue to deduct and to transmit deductions from payroll checks as authorized by employees and independent contractors or required under any workforce-related plan, program, or policy or as required by law; (v) authorizing the Debtors to pay any prepetition claims owing to the administrators of, or third party providers under, such plans, programs, and policies as necessary to ensure the delivery of compensation, benefits, and expense reimbursements to their Workforce; and (vi) authorizing and directing all banks to receive, process, honor, pay and, if necessary, reissue all prepetition and postpetition checks and fund transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, on account of any obligations authorized to be paid hereunder; and the Court having reviewed the Motion and the Fischer Declaration; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest and should be granted on an interim basis to the extent set forth herein; and the 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 as of February 29, 2012; 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 record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED on an interim basis, as set forth herein.
2. The Debtors are authorized to pay or otherwise honor the Prepetition

Workforce Obligations described in the Motion, to, or for the benefit of, the Workforce,

including the Independent Contractors, under the Workforce Programs. Such payments shall not exceed \$4,000,000 in the aggregate without further order of the Court.

3. The Debtors are authorized to (a) continue each of the Workforce Programs, including but not limited to maintaining the Employee Benefits described in the Motion, in the ordinary course of business during the pendency of these cases in the manner and to the extent that such Workforce Programs were in effect immediately prior to the filing of these cases, and (b) continue to fund and to make payments in connection with the costs of and the expenses incurred in the administration of any Workforce Program.

4. The Debtors are authorized to reimburse the Employees for all Reimbursement Obligations incurred prior to the Petition Date. In addition, the Debtors are authorized to make direct payments to third parties owed amounts in connection with the Reimbursement Obligations.

5. The Debtors are authorized to continue their workers' compensation programs and to pay any outstanding prepetition claims, taxes, charges, assessments, premiums, and third party administrator fees arising under the workers' compensation policies and or programs in which they participate. In addition, the automatic stay of Bankruptcy Code Section 362 is hereby lifted to allow workers' compensation claimants to proceed with their claims under the applicable insurance policy or program and to allow the Debtors' insurance providers and/or third party administrators to negotiate, settle, and/or litigate workers' compensation claims, and pay resulting amounts, whether such claims arose before or after the Petition Date.

6. The Debtors are authorized to pay any and all local, state, and federal withholding and payroll-related or similar taxes related to the Prepetition Workforce Obligations including, but not limited to, all withholding taxes, social security taxes, Medicare taxes, and

Employment Insurance premiums, whether such taxes relate to the period before or after the Petition Date.

7. The Debtors are authorized to pay claims of the Administrators, in connection with administering and delivering payments or other benefits to the Workforce for prepetition services rendered and claims for reimbursement based on prepetition disbursements made by the Administrators.

8. Subject to the entry of a final order, the Debtors are authorized, but not directed, to pay prepetition amounts owed to the Independent Directors and may continue to make such payments on a postpetition basis in the ordinary course of business.

9. The Debtors' banks and financial institutions shall be, and hereby are, authorized, when requested by the Debtors in their sole discretion, to process, honor, and pay any and all checks or electronic fund transfers drawn on the Debtors' bank accounts to pay all prepetition amounts owed to any party in connection with the Prepetition Workforce Obligations, whether those checks were presented prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments. Further, the Debtors are authorized to issue new postpetition checks and initiate new postpetition electronic fund transfers to replace any checks or electronic fund transfers that may be dishonored and to reimburse any related expenses that may be incurred as a result of any bank's failure to honor a prepetition check or electronic fund transfer.

10. The Debtors' banks and financial institutions may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Interim Order,

and any such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Interim Order.

11. *Nunc pro tunc* to the Petition Date, and subject to the terms of this Interim Order, the Debtors are authorized (i) to continue to use (and allow the use by the Employees of) the Credit Cards subject to the terms and conditions thereof, as applicable, including, with respect to the JPM Credit Card, any and all applicable agreements between the Debtors and JPM for security or credit enhancement of the JPM Credit Cards.

12. *Nunc pro tunc* to the Petition Date, and subject to the terms of this Interim Order, the Debtors are authorized (i) to obtain such credit on a secured basis through their and their employees' continued use of the Credit Cards and the SUAs pursuant to section 364 of the Bankruptcy Code, and (ii) to continue to use (and allow the use by their employees of) the Credit Cards and the SUAs subject to the terms and conditions thereof, and all charges (whether prepetition or post-petition) in connection with the Credit Cards and the SUAs are authorized to be paid by the Debtors as and when due and payable.

13. JPM and Diner's Club are hereby authorized to extend credit and make advances from time to time on behalf of the Debtors in accordance with the terms of any applicable agreements with the Debtors governing the Credit Cards and the SUAs, including agreements entered into in connection with the Credit Facility, pursuant to section 364 of the Bankruptcy Code with liens on all assets and properties of the estates as those subject to the adequate protection liens granted under the cash collateral orders in these Chapter 11 Cases and subject to any carve out approved therein.

14. Authorization to pay, and the payment of, any amounts on account of Prepetition Workforce Obligations shall not affect the Debtors' right to contest the amount or

validity of any Prepetition Workforce Obligation, including without limitation, any amounts that may be due to any taxing authority.

15. Neither the provisions of this Interim Order, nor any payments made or not made by the Debtors pursuant to this Interim Order, shall be deemed an assumption or rejection of any Workforce Program, agreement or contract, or otherwise affect the Debtors' rights under Bankruptcy Code Section 365 to assume or reject any executory contract between the Debtors and any member of the Workforce, or other person.

16. Notwithstanding anything to the contrary in this Interim Order, the Debtors retain their right to modify or terminate any Workforce Program to the extent that such right exists under the terms of the Workforce Program or as may be required by applicable law.

17. Nothing in this Interim Order shall be deemed to authorize the payment of any amounts in satisfaction of bonus or severance obligations that are subject to Bankruptcy Code Section 503(c).

18. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this Interim Order shall create any rights in favor of, or enhance the status of any claim held by, any member of the Workforce, or other person.

19. No payments to any individual Employee pursuant to this Interim Order shall exceed the aggregate amounts set forth in 11 U.S.C. §§ 507(a)(4) and 507(a)(5).

20. The contents of the Motion satisfy the requirements of Bankruptcy Rules 6003(b) and 6004(a).

21. Notwithstanding anything to the contrary contained in this Interim Order or in the Motion, any payment, obligation, or other relief authorized by this Interim Order shall

be subject to and limited by the requirements imposed on the Debtors under the terms of any interim and/or final orders regarding the use of cash collateral.

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

23. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

24. The final hearing (the "**Final Hearing**") on the Motion shall be held on _____, 2016, at _____:_____ .m, prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on _____, 2016, and shall be served on: (a) Chaparral Energy, Inc., 701 Cedar Lake Blvd., Oklahoma City, OK 73114 (Attn: Linda Byford), (b) Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022 (Attn: David F. McElhoe), (c) Richards, Layton & Finger, One Rodney Square 920 North King St., Wilmington, Delaware 19801 (Attn: John H. Knight), (d) counsel to the administrative agent for the Debtors' prepetition secured financing, Vinson & Elkins LLP, Trammell Crow Center, 2001 Ross Avenue, Suite 3700, Dallas, Texas 75201 (Attn: Chris Dewar, Esq.); (e) counsel to the ad hoc committee of the holders of the Debtors' prepetition unsecured notes, Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, NY 10005 (Attn: Evan Fleck, Esq. and Michael Price, Esq.); (f) counsel to the official committee of unsecured creditors, if one is appointed, and (g) the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, DE 19801 (Attn: David Buchbinder), no later than _____, 2016, at 5:00 p.m. Prevailing Eastern Time.. In the event 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.

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

Dated: _____, 2016
Wilmington, Delaware

THE HONORABLE _____
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Proposed Final Order

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

	X	
In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <u>et al.</u> ,	:	Case No. 16-_____ (_____)
	:	
Debtors. ¹	:	Joint Administration Pending
	:	
	X	

**FINAL ORDER (I) AUTHORIZING PAYMENT OF CERTAIN PREPETITION
WORKFORCE OBLIGATIONS, INCLUDING COMPENSATION, BENEFITS,
EXPENSE REIMBURSEMENTS, AND RELATED OBLIGATIONS, (II) CONFIRMING
RIGHT TO CONTINUE WORKFORCE PROGRAMS ON POSTPETITION BASIS,
(III) AUTHORIZING PAYMENT OF WITHHOLDING AND PAYROLL-RELATED
TAXES, (IV) AUTHORIZING PAYMENT OF PREPETITION CLAIMS OWING TO
ADMINISTRATORS OF, OR THIRD PARTY PROVIDERS UNDER, WORKFORCE
PROGRAMS, AND (V) DIRECTING BANKS TO HONOR PREPETITION
CHECKS AND FUND TRANSFERS FOR AUTHORIZED PAYMENTS**

Upon the motion (the “**Motion**”)² of the Debtors for entry of a Final Order under Bankruptcy Code Sections 105(a), 363(b), 363(c), 364, 507(a), 541, 1107(a), and 1108 and Bankruptcy Rule 6003 (i) authorizing the Debtors to pay certain prepetition amounts owing to or for the benefit of the Workforce for compensation, benefits, and reimbursable expenses; (ii) confirming the Debtors’ right to continue postpetition, in the ordinary course of business, the workforce-related plans, programs, and policies in effect immediately prior to the filing of these cases; (iii) authorizing the Debtors to pay any and all local, state, and federal withholding and

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: CEI Acquisition, L.L.C. (1817); CEI Pipeline, L.L.C. (6877); Chaparral Biofuels, L.L.C. (1066); Chaparral CO₂, L.L.C. (1656); Chaparral Energy, Inc. (90941); Chaparral Energy, L.L.C. (20941); Chaparral Exploration, L.L.C. (1968); Chaparral Real Estate, L.L.C. (1655); Chaparral Resources, L.L.C. (1710); Green Country Supply, Inc. (2723); and Roadrunner Drilling, L.L.C. (2399). The Debtors’ address is 701 Cedar Lake Blvd., Oklahoma City, OK 73114.

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

payroll-related or similar taxes relating to prepetition periods; (iv) confirming the Debtors' right to continue to deduct and to transmit deductions from payroll checks as authorized by employees and independent contractors or required under any workforce-related plan, program, or policy or as required by law; (v) authorizing the Debtors to pay any prepetition claims owing to the administrators of, or third party providers under, such plans, programs, and policies as necessary to ensure the delivery of compensation, benefits, and expense reimbursements to their Workforce; and (vi) authorizing and directing all banks to receive, process, honor, pay and, if necessary, reissue all prepetition and postpetition checks and fund transfers, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, on account of any obligations authorized to be paid hereunder; and the Court having reviewed the Motion and the Fischer Declaration; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and the 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 as of February 29, 2012; 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 record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED as set forth herein on a final basis.
2. The Debtors are authorized to pay or otherwise honor the Prepetition

Workforce Obligations described in the Motion, to, or for the benefit of, the Workforce,

including the Independent Contractors, under the Workforce Programs. Such payments shall not exceed \$8,500,000 in the aggregate without further order of the Court.

3. The Debtors are authorized to (a) continue each of the Workforce Programs, including but not limited to maintaining the Employee Benefits described in the Motion, in the ordinary course of business during the pendency of these cases in the manner and to the extent that such Workforce Programs were in effect immediately prior to the filing of these cases, and (b) continue to fund and to make payments in connection with the costs of and the expenses incurred in the administration of any Workforce Program.

4. The Debtors are authorized to reimburse the Employees for all Reimbursement Obligations incurred prior to the Petition Date. In addition, the Debtors are authorized to make direct payments to third parties owed amounts in connection with the Reimbursement Obligations.

5. The Debtors are authorized to continue their workers' compensation programs and to pay any outstanding prepetition claims, taxes, charges, assessments, premiums, and third party administrator fees arising under the workers' compensation policies and or programs in which they participate. In addition, the automatic stay of Bankruptcy Code Section 362 is hereby lifted to allow workers' compensation claimants to proceed with their claims under the applicable insurance policy or program and to allow the Debtors' insurance providers and/or third party administrators to negotiate, settle, and/or litigate workers' compensation claims, and pay resulting amounts, whether such claims arose before or after the Petition Date.

6. The Debtors are authorized to pay any and all local, state, and federal withholding and payroll-related or similar taxes related to the Prepetition Workforce Obligations including, but not limited to, all withholding taxes, social security taxes, Medicare taxes, and

Employment Insurance premiums, whether such taxes relate to the period before or after the Petition Date.

7. The Debtors are authorized to pay claims of the Administrators, in connection with administering and delivering payments or other benefits to the Workforce for prepetition services rendered and claims for reimbursement based on prepetition disbursements made by the Administrators.

8. The Debtors are authorized, but not directed, to pay prepetition amounts owed to the Independent Directors and may continue to make such payments on a postpetition basis in the ordinary course of business.

9. The Debtors' banks and financial institutions shall be, and hereby are, authorized, when requested by the Debtors in their sole discretion, to process, honor, and pay any and all checks or electronic fund transfers drawn on the Debtors' bank accounts to pay all prepetition amounts owed to any party in connection with the Prepetition Workforce Obligations, whether those checks were presented prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments. Further, the Debtors are authorized to issue new postpetition checks and initiate new postpetition electronic fund transfers to replace any checks or electronic fund transfers that may be dishonored and to reimburse any related expenses that may be incurred as a result of any bank's failure to honor a prepetition check or electronic fund transfer.

10. The Debtors' banks and financial institutions may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Final Order,

and any such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Final Order.

11. *Nunc pro tunc* to the Petition Date, and subject to the terms of this Final Order, the Debtors are authorized (i) to continue to use (and allow the use by the Employees of) the Credit Cards subject to the terms and conditions thereof, as applicable, including, with respect to the JPM Credit Card, any and all applicable agreements between the Debtors and JPM for security or credit enhancement of the JPM Credit Cards.

12. *Nunc pro tunc* to the Petition Date, and subject to the terms of this Final Order, (i) to obtain such credit on a secured basis through their and their employees' continued use of the Credit Cards and the SUAs pursuant to section 364 of the Bankruptcy Code, and (ii) to continue to use (and allow the use by their employees of) the Credit Cards and the SUAs subject to the terms and conditions thereof, and all charges (whether prepetition or post-petition) in connection with the Credit Cards and the SUAs are authorized to be paid by the Debtors as and when due and payable.

13. JPM and Diner's Club are hereby authorized to extend credit and make advances from time to time on behalf of the Debtors in accordance with the terms of any applicable agreements with the Debtors governing the Credit Cards and the SUAs, including agreements entered into in connection with the Credit Facility, pursuant to section 364 of the Bankruptcy Code with liens on all assets and properties of the estates as those subject to the adequate protection liens granted under the cash collateral orders in these Chapter 11 Cases and subject to any carve out approved therein.

14. Authorization to pay, and the payment of, any amounts on account of Prepetition Workforce Obligations shall not affect the Debtors' right to contest the amount or

validity of any Prepetition Workforce Obligation, including without limitation, any amounts that may be due to any taxing authority.

15. Neither the provisions of this Final Order, nor any payments made or not made by the Debtors pursuant to this Final Order, shall be deemed an assumption or rejection of any Workforce Program, agreement or contract, or otherwise affect the Debtors' rights under Bankruptcy Code Section 365 to assume or reject any executory contract between the Debtors and any member of the Workforce, or other person.

16. Notwithstanding anything to the contrary in this Final Order, the Debtors retain their right to modify or terminate any Workforce Program to the extent that such right exists under the terms of the Workforce Program or as may be required by applicable law.

17. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this Final Order shall create any rights in favor of, or enhance the status of any claim held by, any member of the Workforce, or other person.

18. Nothing in this Final Order shall be deemed to authorize the payment of any amounts in satisfaction of bonus or severance obligations that are subject to Bankruptcy Code Section 503(c).

19. Neither the provisions contained herein, nor any actions or payments made by the Debtors pursuant to this Final Order, shall be deemed an admission as to the validity of any underlying obligation or a waiver of any rights the Debtors may have to dispute such obligation on any ground that applicable law permits.

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

21. Notwithstanding anything to the contrary in this Final Order or in the Motion, any payment, obligation, or other relief authorized by this Final Order shall be subject to and

limited by the requirements imposed on the Debtors under the terms of any interim and/or final orders approving the use of cash collateral.

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

23. 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.

24. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Final Order.

Dated: _____, 2016
Wilmington, Delaware

THE HONORABLE _____
UNITED STATES BANKRUPTCY JUDGE