



SO ORDERED.

SIGNED June 14, 2013.


ROBERT SUMMERHAYS
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

IN RE:

PICCADILLY RESTAURANTS, LLC,
ET AL.,

DEBTORS

* CASE NO. 12-51127
*
* (JOINT ADMINISTRATION)¹
*
* CHAPTER 11
*
* JUDGE ROBERT SUMMERHAYS

**ORDER APPROVING PREMIUM FINANCE AGREEMENT WITH RESPECT TO
PAYMENT AND SECURITY FOR AFCO CREDIT CORPORATION**

Considering the *Motion for an Order Authorizing and Approving Debtors-in-Possession Entering into Insurance Premium Financing Agreement For Officer and Director Liability Insurance Coverage* (the "Motion") filed herein on May 17, 2013 (Docket #813), the above-

¹ Jointly administered with *In re Piccadilly Food Service, LLC*, 12-51128 (Bankr. W.D. La. 2012), and *In re Piccadilly Investments, LLC*, 12-51129 (Bankr. W.D. La. 2012).

{N2644672.1}

captioned debtors and debtors-in-possession (collectively, the “Debtors”),² the Court concluding that (a) it has jurisdiction over this Motion, pursuant to 28 U.S.C. §§ 157 and 1334, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (b) the relief requested in the Motion is essential to the continued operation of the Debtors’ businesses and is in the best interests of the Debtors’ estates and creditors, and (c) it appearing that all legal requisites having been met, and that sufficient cause supports the relief sought in the Motion;

IT IS ORDERED that the Motion is hereby **GRANTED**.

IT IS ORDERED that, pursuant to pursuant to 11 U.S.C. §364(c)(2), Piccadilly Restaurants, LLC (“Restaurants”) is hereby authorized to enter into the Premium Finance Agreement (the “Agreement”) with AFCO Credit Corporation, or its assigns (“AFCO”), a copy of which is attached hereto as **Exhibit A** and made a part hereof.

IT IS FURTHER ORDERED that to secure the repayment of the premiums (as defined in the Agreement) AFCO is hereby granted a first and only priority security interests in:

- (i) any and all unearned premiums and dividends which may become payable under the financed insurance policies for whatever reason; and
- (ii) loss payments which reduce the unearned premiums, subject to any mortgagee or loss payee interests.

IT IS FURTHER ORDERED that the Debtors are hereby authorized and directed to pay AFCO all sums due pursuant to the Agreement.

IT IS FURTHER ORDERED that the full rights of AFCO pursuant to the Agreement and controlling state law be and the same hereby are fully preserved and protected and are and shall remain unimpaired by the pendency of the bankruptcy case or any subsequent conversion of this proceeding to a Chapter 7 or any subsequent appointment of a trustee.

² The debtors in these Chapter 11 cases include Piccadilly Restaurants, LLC, Piccadilly Food Service, LLC, and Piccadilly Investments, LLC.

IT IS FURTHER ORDERED that, in the event that the Debtors defaults upon any of the terms of the Agreement, AFCO may exercise such rights as it may otherwise have under state law, but for the pendency of this proceeding and, without the necessity of further application to this Court, cancel all insurance policies listed on the Agreement or any amendment thereto, and receive and apply all unearned insurance premiums to the account of the Debtors. In the event that, after such application of unearned premiums, any sums still remain due to AFCO pursuant to the Agreement, such deficiency shall be deemed an administrative expense of the estates.

IT IS FURTHER ORDERED that the Court will retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or implementation of this Order.

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This Order was prepared and is being submitted by:

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**Attorneys for Piccadilly Restaurants, LLC,
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{N2644672.1}

Exhibit A

Commercial Premium Finance Agreement

AFCO PREMIUM CREDIT LLC

A Joint Venture of AFCO Credit Corporation and Marsh USA Inc.
12160 Abrams Road, Suite 301-L.B. 51, Dallas, TX 75243-4587
TEL. NO. 972-669-8870 800-288-5960

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Agent (Name and Address) Marsh USA Inc Attn : Debbie Werling 701 Poydras Street Suite 4125 New Orleans, LA 70139 504-522-8541	10052475	Insured (Name and Address as shown on the policy) Piccadilly Restaurants, LLC Attn : Jim Ortis 3332 S. Sherwood Forest Blvd Baton Rouge, LA 70816
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A) Total Premiums	B) Down Payment	C) Amount Financed	D) Finance Charge	E) Total Payments
\$70,102.00	\$24,536.00	\$45,566.00	\$720.19	\$46,286.19
F) Annual Percentage Rate	No. of Payments	Amount of Payments	First Installment Due	Installment Due Dates
3.164 %	9 (Monthly)	\$5,142.91	06/30/2013	30th

SCHEDULE OF POLICIES

Policy Prefix and Numbers	Effective Date of Policy/Inst.	Name of Insurance Company and Name and Address of General or Policy Issuing Agent or Intermediary	Type of Coverage	Months Covered	Premium \$
018567315	05/01/2013	National Union Fire Insurance Co Pittsburgh PA	D&O/FID	1	4,159.00
018567315	05/31/2013	National Union Fire Insurance Co Pittsburgh PA	D&O/Fid	12	65,943.00

(1) DEFINITIONS: The above named insured ("the insured") is the debtor. AFCO Premium Credit LLC ("AFCO"), a joint venture of AFCO Credit Corporation and Marsh USA Inc., is the lender to whom the debt is owed. "Insurance company" or "company", "insurance policy" or "policy" and "premium" refer to those items listed under the "Schedule of Policies". Singular words mean plural and vice-versa as may be required in order to give the agreement meaning. For New York insureds, services for which any charge pursuant to Insurance Law, Section 2119, is imposed, are in connection with obtaining and servicing the policies listed herein.
NOTICE: 1. Do not sign this agreement before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this agreement. 3. Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge.

INSURED AGREES TO THE TERMS SET FORTH ABOVE AND ON THE LAST PAGE OF THIS AGREEMENT

SIGNATURE OF INSURED OR AUTHORIZED REPRESENTATIVE TITLE DATE

AGENT OR BROKER REPRESENTATIONS

The undersigned warrants and agrees: 1. The policies are in full force and effect and the information in the Schedule of Policies and the premiums are correct. 2. The insured has authorized this transaction and recognizes the security interest assigned herein and has received a copy of this agreement. 3. To hold in trust for AFCO any payments made or credited to the insured through or to the undersigned, directly or indirectly, actually or constructively by the insurance companies or AFCO and to pay the monies as well as any unearned commissions to AFCO upon demand to satisfy the outstanding indebtedness of the insured. Any lien the undersigned has or may acquire in the return premiums arising out of the listed insurance policies is subordinated to AFCO's lien or security interest therein. 4. The policies comply with AFCO's eligibility requirements. 5. No audit or reporting form policies, policies subject to retrospective rating or minimum earned premium are included. The deposit or provisional premiums are not less than anticipated premiums to be earned for the full term of the policies. 6. The policies can be cancelled by the insured and the unearned premiums will be computed on the standard short-rate or pro-rata table. 7. The undersigned represents that a proceeding in bankruptcy, receivership, or insolvency has not been instituted by or against the named insured.

IF THERE ARE ANY EXCEPTIONS TO THE ABOVE STATEMENTS PLEASE LIST BELOW:

THE UNDERSIGNED FURTHER WARRANTS THAT IT HAS RECEIVED THE DOWN PAYMENT AND ANY OTHER SUMS DUE AS REQUIRED BY THE AGREEMENT AND IS HOLDING SAME OR THEY ARE ATTACHED TO THIS AGREEMENT

SIGNATURE OF AGENT OR BROKER TITLE DATE

AGENT OR BROKER
ZZJV (10/00-win) c. 2000 Afco Premium Credit LLC

QIV# 100000537494.001

- (2) ASSIGNMENT OF AGREEMENT:** This agreement will be assigned and transferred to and serviced by AFCO Credit Corporation.
- (3) LIMITED POWER OF ATTORNEY:** The insured irrevocably appoints AFCO as its attorney in fact with full authority to cancel the insurance policies for the reasons stated in paragraph (15), and to receive all sums assigned to AFCO or in which it has granted AFCO a security interest. AFCO may execute and deliver on the insured's behalf all documents, instruments of payment, forms, and notices of any kind relating to the insurance policies in furtherance of this agreement.
- (4) PROMISE OF PAYMENT:** The insured requests that AFCO pay the premiums in the Schedule of Policies. The insured promises to pay to AFCO the amount stated in Block E above according to the payment schedule, subject to the remaining terms of this agreement.
- (5) SECURITY INTEREST:** The insured assigns to AFCO as security for the total amount payable in this agreement any and all unearned premiums and dividends which may become payable under the insurance policies for whatever reason and loss payments which reduce the unearned premiums subject to any mortgagee or loss payee interests. The insured gives to AFCO a security interest in all items mentioned in this paragraph. The insured further grants to AFCO its interest which may arise under any state insurance guarantee fund relating to any policy shown in the Schedule of Policies.
- (6) WARRANTY OF ACCURACY:** The insured warrants to AFCO that the insurance policies listed in the Schedule have been issued to the insured and are in full force and effect and that the insured has not assigned any interest in the policies except for the interest of mortgagees and loss payees. The insured authorizes AFCO to insert or correct on this agreement, if omitted or incorrect, the insurer's name, the policy numbers, and the due date of the first installment. AFCO is permitted to correct any obvious errors. In the event of any change or insertion, AFCO will give the insured written notice of those changes or corrections made in accordance with this provision.
- (7) REPRESENTATION OF SOLVENCY:** The insured represents that the insured is not insolvent or presently the subject of any insolvency proceeding.
- (8) ADDITIONAL PREMIUMS:** The money paid by AFCO is only for the premium as determined at the time the insurance policy is issued. The insured agrees to pay the company any additional premiums which become due for any reason. AFCO may assign the company any rights it has against the insured for premiums due the company in excess of the premiums returned to AFCO.
- (9) SPECIAL INSURANCE POLICIES:** If the insurance policy issued to the insured is auditable or is a reporting form policy or is subject to retrospective rating, then the insured promises to pay to the insurance company the earned premium computed in accordance with the policy provisions which is in excess of the amount of premium advanced by AFCO which the insurance company retains.
- (10) NAMED INSURED:** If the insurance policy provides that the first named insured in the policy shall be responsible for payment of premiums and shall act on behalf of all other insureds with respect to any actions relating to the policy, then the same shall apply to this agreement. If such is not the case, then all insureds' names must be shown on this agreement unless a separate agreement specifies one insured to act in all matters for the others.
- (11) FINANCE CHARGE:** The finance charge shown in Block D begins to accrue as of the earliest policy effective date unless otherwise indicated in the Schedule of Policies.
- (12) AGREEMENT BECOMES A CONTRACT:** This agreement becomes a binding contract when AFCO mails a written acceptance to the insured.
- (13) DEFAULT CHARGES:** If the insured is late in making an installment payment to AFCO by more than the number of days specified by law the insured will pay to AFCO a delinquency charge not to exceed the maximum charge permitted by law.
- (14) DISHONORED CHECK:** If an insured's check is dishonored for any reason and if permitted by law, the insured will pay to AFCO a fee for expenses in processing that check not to exceed the amount permitted by law.
- (15) CANCELLATION:** AFCO may cancel the insurance policies after giving any required statutory notice and the unpaid balance due to AFCO shall be immediately payable by the insured if the insured does not pay any installment according to the terms of this agreement. AFCO at its option may enforce payment of this debt without recourse to the security given to AFCO. If cancellation occurs, the borrower agrees to pay a finance charge on the balance due at the contract rate of interest until that balance is paid in full or until such other date as required by law.
- (16) CANCELLATION CHARGES:** If AFCO cancels any insurance policy in accordance with the terms of this agreement, then the insured will pay AFCO a cancellation charge, if permitted, up to the limit specified by law.
- (17) MONEY RECEIVED AFTER NOTICE OF CANCELLATION:** Any payments made to AFCO after AFCO's notice of cancellation of the insurance policy has been mailed may be credited to the insured's account without affecting the acceleration of this agreement and without any liability or obligation on AFCO's part to request reinstatement of a cancelled insurance policy. Any money AFCO receives from an insurance company shall be credited to the amount due AFCO with any surplus being paid over to whomever is entitled to the money. No refund of less than \$1.00 shall be made. In the event that AFCO does request, on the insured's behalf, a reinstatement of the policy, such request does not guarantee that coverage under the policy will be reinstated or continued.
- (18) ATTORNEY FEES - COLLECTION EXPENSE:** If, for collection, this agreement is placed in the hands of an attorney who is not a salaried employee of AFCO, then the insured agrees to pay reasonable attorney fees and costs including those in the course of appeal as well as other expenses, as permitted by law or granted by the court.
- (19) REFUND CREDITS:** The insured will receive a refund credit of the finance charge if the account is voluntarily prepaid in full prior to the last installment due date as required or permitted by law. Any minimum or fully earned fees will be deducted as permitted by law.
- (20) INSURANCE AGENT OR BROKER:** The insurance agent or broker named in this agreement is the insured's agent, not AFCO's, and AFCO is not legally bound by anything the agent or broker represents to the insured orally or in writing.
- (21) NOT A CONDITION OF OBTAINING INSURANCE:** This agreement is not required as a condition of the insured obtaining insurance coverage.
- (22) SUCCESSORS AND ASSIGNS:** All legal rights given to AFCO shall benefit AFCO's successors and assigns. The insured will not assign the policies without AFCO's written consent except for the interest of mortgagees and loss payees.
- (23) LIMITATION OF LIABILITY:** The insured agrees that AFCO's liability for breach of any of the terms of this agreement or the wrongful exercise of any of its powers shall be limited to the amount of the principal balance outstanding except in the event of gross negligence or willful misconduct.
- (24) ENTIRE DOCUMENT - GOVERNING LAW:** This document is the entire agreement between AFCO and the insured and can only be changed in writing and signed by both parties except as stated in paragraph (6). The laws of the state indicated in the insured's address as set forth in the Schedule will govern this agreement unless stated in that Schedule.

INSURED'S INITIALS