

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

In re: : Chapter 11
: :
ALSET OWNERS, LLC, *et al.*,¹ : Case No. 09- _____ ()
: (Joint Administration Requested)
Debtors. :

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (A) AUTHORIZING
(I) PAYMENT OF PREPETITION WAGES, COMPENSATION,
EMPLOYEE BENEFITS, EXPENSE REIMBURSEMENT AND RELATED
ITEMS, AND (II) THE CONTINUATION OF CERTAIN EMPLOYMENT POLICIES
AND BENEFITS, AND (B) AUTHORIZING AND DIRECTING APPLICABLE BANKS
TO HONOR PAYMENT REQUESTS WITH RESPECT THERETO**

Alset Owners, LLC, and its affiliated debtors and debtors in possession

(collectively, the “Debtors”) file this motion (the “Motion”) for entry of an order (a) authorizing but not directing the Debtors to (i) pay prepetition wages, compensation, employee benefits, expense reimbursements and related items and (ii) continue on a postpetition basis certain of the Debtors’ employment policies, practices and programs, and (b) authorizing and directing the Debtors’ banks to honor checks and other payment requests related to the matters discussed below. Facts and circumstances supporting this Motion are set forth in the concurrently filed Declaration of Leonard Levitsky in support of Chapter 11 Petitions and First Day Relief (the “Levitsky Declaration”). In further support of this Motion, the Debtors respectfully represent as follows:

¹ The Debtors and the last four digits of their respective tax identification numbers are: Alset Owners, LLC, a Delaware limited liability company (7520); Altes, LLC, a Delaware limited liability company (6927); Setla, LLC, a Delaware limited liability company (6752); and Checkers Michigan, LLC, a Delaware limited liability company (8016).

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The predicates for the relief requested herein are sections 105(a), 363, 507(a)(4), and 507(a)(5) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 6003 of the Federal Rules of Bankruptcy Procedure.

BACKGROUND

3. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. On the Petition Date, the Debtors jointly filed this Motion along with other motions or applications seeking certain typical “first day” relief, including a request to have these cases jointly administered.

4. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

5. No trustee or examiner has been appointed in these chapter 11 cases, and no official committee of unsecured creditors has been established to date.

6. Additional factual background regarding the Debtors, including their business operations, their capital and debt structure and the events leading up to the filing of these bankruptcy cases, is set forth in detail in the Levitsky Declaration, which is fully incorporated herein by reference.²

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

THE DEBTORS' EMPLOYEES

A. Overview

7. The Debtors currently employ approximately 112 active full-time salaried employees (the "Salaried Employees") and approximately 1600 active full-time and part-time hourly employees (the "Hourly Employees, together with the Salaried Employees, the "Employees").³

8. Most of the Debtors' Employees work in the restaurant locations of the Debtors' businesses, with less than three percent of the Employees working in the marketing and administration sectors of the Debtors. The Employees' skills, knowledge, and understanding of the Debtors' businesses are critical to the Debtors' operations and enable the Debtors to remain competitive in the quick-service restaurant industry. A positive result in these cases likely will not be possible without the continued services of the Employees.

B. Employee Compensation

9. Wages, Salaries and Commissions. In the ordinary course of business, the Debtors pay Employees on a bi-weekly basis. Salaried Employees are paid currently with respect to salaries.⁴ Hourly Employees are paid one week in arrears.⁵

10. In the month prior to the Petition Date, the Debtors incurred and paid bi-weekly payroll obligations of approximately \$574,000 biweekly to its field Employees and approximately \$42,000 to its office employees, including area managers, regional directors, and

³ Approximately 250 of these Employees, of which 40 were salaried Employees and 210 were hourly Employees, were terminated on the eve of the Petition Date and are owed wages and salaries through the Petition Date. By this Motion, the Debtors intend on honoring such commitments.

⁴ The range of annual salaries for Salaried Employees is \$12,000 to \$200,000 per year.

⁵ Hourly Employees earn between \$7.05 to \$10.50 per hour.

corporate office staff.⁶ Due to a June 1, 2009 reduction in force, the Debtors estimate that their postpetition bi-weekly payroll obligations will decrease to approximately \$74,000.00 from and after the Petition Date. Approximately 21% of the Debtors' payroll payments to Employees are made by direct deposit through electronic transfer of funds. The remaining Employees are paid by checks. The Debtors' payroll administrator transfers funds from the Debtors' bank account to fund the payroll and all checks are cashed against the Debtor's bank accounts.

11. The Debtors funded their bi-weekly payroll obligations on June 2, 2009 for home office payroll. As of the Petition Date, the home office Employees were due wages and salaries for June 2, 2009 to June 5, 2009 which are scheduled to be paid on June 16, 2009. These wages due to the home office payroll equal approximately \$15,400.00. As for the field payroll Employees, the Debtors last funded their bi-weekly payroll obligations on May 27, 2009 and May 28, 2008. As of the Petition Date, the field level Employees were due wages and salaries for the period from May 19, 2009 to June 5, 2009. The wages and salaries to the field level Employees for the period from May 19, 2009 to June 1, 2009 in the approximate amount of \$574,000 will be paid on June 10, 2009. The wages and salaries to the field level Employees for the period from June 2, 2009 to June 5, 2009 in the approximate amount of \$178,000.00 will be paid on June 24, 2009. In total, \$767,400.00 remains due to home office and field level Employees (collectively, the "Unpaid Wages and Salaries"). The Debtors seek authority to pay any prepetition amounts of Unpaid Wages and Salaries subject to the \$10,950 cap for any individual Employee.

⁶ This amount does not include approximately \$149,000 bi-weekly in respect of the Debtors' Employee-related obligations to the federal, state, and local governments (*i.e.*, employer contributions for Social Security and Medicare, etc.). This amount does not include the payment of a salary of \$15,000 biweekly to Leonard Levitsky on the 10th and 25th of each month.

12. The Payroll Administrator and the Payroll Processor. The Debtors utilize the services of Infosync Services (“Infosync”) (the “Payroll Administrator”) to administer payroll, make payroll disbursements to Employees, remit payroll-related taxes to the appropriate governmental entities and file necessary quarterly and annual Employee-related tax reports. The Payroll Administrator processes electronic funds transfers and payroll checks, withholds appropriate local, state and federal taxes and other authorized withholdings and files necessary tax returns. The Debtors internal payroll processor transfers funds from the Debtors’ concentration accounts to the payroll accounts.

13. The Debtors believe that Infosync has been paid in full as of the Petition Date as Infosync is paid in advance for services they render to the Debtors. The Debtors request authority to continue to employ and pay the Payroll Administrator in the ordinary course. The Debtors currently pay an average of \$24,608 per month to the Payroll Administrator, which also includes all accounts payable, license renewals, sales tax filings, and financial data services that are provided to the Debtors.

EMPLOYEE BENEFITS

14. In the ordinary course of business, the Debtors maintain various plans and policies to provide eligible Employees with paid time off, medical insurance, dental insurance, life insurance, long term disability insurance, COBRA coverage, and other benefits described below (collectively, the “Employee Benefits”). Part-time Employees, who work less than 40 hours per week, are offered a mini-med self pay plan, which is deducted from payroll as a courtesy. Full-time Employees, who work 40 or more hours per week are offered medical, dental, vision, short-term disability (under health plan), life insurance and other self-paid

disability insurance with AFLAC.⁷

A. Paid Time Off

15. The Debtors provide Employees with paid time off (“PTO”) in accordance with an employee handbook that was created on December 6, 2005 and amended on June 9, 2006 (“PTO Policy”). The PTO Policy replaced the Debtors’ prior vacation time, personal time and sick leave policies. Employees are accountable and responsible for managing their own PTO hours to allow for adequate reserves if there is a need to cover vacation, illness or disability, appointments, emergencies, or other needs that require time off from work.

16. PTO for Salaried Employees and assistant managers begins to accrue upon hire or transfer into a benefits-eligible position and are available for use after a certain number of years. The PTO Policy also provides that upon termination, eligible Employees will be paid for all PTO hours accumulated but not used in accordance with state law requirements.

17. Length of service and employment classification determine the amount of base PTO Employees have under the PTO Policy, as well as the rate at which Employees accrue additional PTO. Generally, full-time employees have and accrue additional PTO depending on their years of service to the Debtors as follows:

| Years of Service | Salaried Employees and Assistant Managers | Shift Managers Over 30 Hours | Hourly Employees Over 30 Hours |
|------------------|---|------------------------------|--------------------------------|
| 1 year | 10 days | 5 days | 5 days |
| 5 years | 15 days | 10 days | 10 days |
| 10 years | 20 days | 15 days | 10 days |

Employees begin to accrue at a higher accrual rate based on the foregoing table on the first day of the pay period in which the Employee’s service anniversary date falls. Employees may accrue

⁷ All Employees are covered under the Debtors’ Workers Compensation Insurance.

up to the maximum amount of PTO set forth on the foregoing chart. Once an Employee has reached his or her PTO cap, PTO will stop accruing. PTO accrual will resume after the Employee uses some of his or her PTO time. PTO is paid at the Employee's straight time rate and may be taken in minimum increments of one day.

18. The Debtors request authority to honor and pay on a postpetition basis PTO that accrued prior to the Petition Date, including the PTO payout owed to Employees who are terminated postpetition, to the extent that such payments to eligible Employees, together with all other payments in respect of Unpaid Wages and Salaries, will not exceed \$10,950 for any individual Employee.⁸ The Debtors also seek authority to honor and pay any PTO that accrues postpetition in accordance with the PTO Policy.

B. Health Benefits Policies and Programs

19. The Debtors offer medical, dental and vision coverage to all eligible full-time Employees and to a mini-med plan to eligible part-time Employees who work at least fifteen hours a week (collectively the "Health Benefit Plans"). The Debtors seek authority to pay all prepetition obligations under the Health Benefits Plans and to continue to offer and honor the Health Benefit Plans postpetition.

20. Medical Plans. The Debtors' medical and prescription drug plans are fully-insured (the "Medical Plans") through three insurance companies (collectively, the "Medical Insurance Companies").⁹ The Debtors pay monthly premiums based on the number of Employees covered by a particular Medical Plan. A certain percentage of the costs of the

⁸ The Debtors reserve the right to file a subsequent motion seeking authority to pay PTO not covered by this Motion.

⁹ UnitedHealthcare provides the Medical Plan. Jefferson Pilot, a division of The Lincoln National Life Insurance Company, provides the life insurance that is part of the United Healthcare plan. Medco provides prescription coverage under the United Healthcare plan.

Medical Plans are funded by Employee withholdings.¹⁰

21. As of the Petition Date, approximately 100 Employees were enrolled in the Medical Plans. The Debtors believe that they have paid the monthly premiums through June 2009. On information and belief, the Debtors will owe approximately \$65,000 per month, commencing in July 2009.

22. Dental Plan. The Debtors' dental plan covers all locations and is fully-insured through Cigna Dental (the "Dental Plan"). Under the Dental Plan, the Debtors pay monthly premiums based on the number of covered Employees. A certain percentage of the costs of the Dental Plans are funded by Employee withholdings.¹¹

23. As of the Petition Date, approximately 82 Employees were enrolled in the Dental Plan. The Debtors believe that they have paid the monthly premiums through April 2009. On information and belief, the Debtors will owe approximately \$3,900 for May 2009 premium¹² and \$3,900 for the June premium (net of Employee withholdings).

24. Vision Plan. The Debtors offer eligible full-time Employees the opportunity to participate in a vision care program (the "Vision Care Program") with Cigna Vision. Under the Vision Care Program, the Debtors pay monthly premiums based on the number of covered Employees. Some costs of the Vision Care Program are funded by Employee withholdings.¹³

25. As of the Petition Date, approximately 53 Employees were enrolled in the

¹⁰ The percentage of the Medical Plan cost paid by Employees varies from 0% to 50% based on coverage option elected.

¹¹ The percentage of the Dental Plan cost paid by Employees varies from 0% to 100% based on coverage option elected. Employees only cover premium amounts for Dental HMO contributed by the Debtors. All other coverage amounts are paid 100% by the Employees, except executives who are covered in full by the Debtor under the Dental Plan.

¹² The premium payment for May 2009 was delivered by first class mail on June 2, 2009 and it is unclear as to whether it will be cashed before the Petition Date.

¹³ The percentage of the Vision Care Program cost paid by Employees is 100%, except for executives who are covered in full by the Debtors under the Vision Care Program under the Executive Plan (defined below).

Vision Care Program. The Debtors believe that they have paid the monthly premiums through April 2009. On information and belief, the Debtors will owe approximately \$500 for the May 2009 premium and \$500 for the June premium (net of Employee withholdings).

26. Supplemental Executive Benefits. The Debtors provide five active executive Employees and two non-active executives with an executive medical benefit plan administered through UnitedHealthcare, a dental plan administered by Cigna Dental, and a vision plan which is self-funded under Section 125 Cafeteria plan (the "Executive Plan"). The Debtors view executives as persons who work for all of the Debtors generally as opposed to area, regional, and assistant managers and rank-and-file employees who service only one particular region or store. The five active executives are Leonard Levitsky, the Debtors' President, Annette Masdal, Director of Administration, Letitia Lopez, Relations and Human Resources Coordinator, Steve Fox, Vice President, Operations, and Chris Spillman, Regional Director. The two non-active executives are Robert Alrod and Mitchell Alrod, each of whom were previously officers of the Debtors.¹⁴ The UnitedHealthcare, Cigna Dental, and Mass Mutual plan premiums are paid 100% by the Debtors. Vision plan expenses are capped at \$200 per year for exams and \$600 per year for glasses and contact lenses. In accordance with the Executive Plan, the eligible Executive submits the invoices to Annette Masdal, the Director of Administration, and the Vision plan administrator, who requests reimbursement checks from the Debtors payable to the executive.

27. UnitedHealthcare administers the Executive Plan as part of the regular healthcare billing. There are no monthly premiums due under the Executive Plan. The annual cost of this program and reimbursement amounts is approximately \$9,800 per month. The

¹⁴ Mitchell Levitsky, Leonard Levitsky's son, also receives current benefits under the Executive Plan, but the premiums for such benefits to Mitchell Levitsky will be borne by him, and not the Debtors, in these cases.

Debtors believe that all claims through June 30, 2009 have been paid to date. However, to the extent additional prepetition obligations under the Executive Plan exist, the Debtors seek authority to pay such pre-petition obligations and to continue to offer and honor the Executive Plan postpetition, up to the \$10,950.

C. Group Insurance Plans

28. The Debtors provide eligible full-time Employees with life and short-term disability insurance, supplemental life insurance, disability benefits and workers' compensation benefits (the "Group Insurance Plans"). The Debtors seek authority to pay all unpaid prepetition amounts owed by the Debtors under the Group Insurance Plans and to continue to offer and honor the Group Insurance Plans after the Petition Date.

29. Life and Disability Insurance. The Debtors provide group term life insurance and short-term disability benefits for certain non-work injuries and illnesses, including, but not limited to, maternity leave, to all Employees who work at least thirty hours per week. The Debtors pay 100% of the monthly premiums owing to United Healthcare under these policies (the "Life and STD Policies"), which premiums vary based upon the salary of covered Employees. These plans are inclusive in the health benefit premium. The Employees are all eligible for STD benefits after an initial seven day period and at that time, such Employees are paid at 60% or maximum of \$600 per week for 26 weeks.

30. As of the Petition Date, approximately 100 Employees were enrolled in Life and/or STD Policies. The Debtors believe that they have paid the monthly premiums through June 2009 and no amounts remain outstanding as of the Petition Date. There may be, however, claims that have not yet been approved or submitted. The Debtors seek authority to continue paying pre- and postpetition STD claims in accordance with their prepetition policies and practices.

31. Supplemental Life Insurance. The Debtors offer voluntary supplemental life insurance (“Supplemental Insurance”) to all full-time Employees who work at least thirty hours per week. The Supplemental Insurance policies also are issued by Mass Mutual under the Executive Plan and Aflac for all Employees.

32. As of the Petition Date, approximately 34 Employees were enrolled in Supplemental Insurance policies. Coverage for Supplemental Insurance is fully paid by eligible Employees through payroll deductions, except for the three executives under Mass Mutual who are paid in full by the Debtors.

33. Workers’ Compensation Insurance. The Debtors provide workers’ compensation coverage to all Employees for occupational injuries sustained at work, except in Ohio, where workers compensation is provided by the state and paid for by the Debtors. The Debtors currently maintain a comprehensive workers’ compensation policy (the “Workers’ Compensation Policy”) with Fireman’s Fund, except for Ohio, which is maintained by the Bureau of Workers’ Compensation (the “BWC”) and is managed by Compensation Consultants, Inc. (“CCI”). The Workers’ Compensation Policy covers approximately 757 Employees based in Illinois, Missouri, Arkansas, and Michigan.

34. Under the Workers’ Compensation Policy, the Debtors pay an annual premium of approximately \$197,000 to Fireman’s Fund based upon estimated payroll amounts for Arkansas, Illinois, Missouri, and Michigan. The annual premium to Fireman’s Fund is paid monthly and calculated by multiplying the estimated payroll for each job classification in each state by a premium rate. At the end of the policy period, an audit is performed and the premium is recalculated based upon the Debtors’ actual payroll. The Debtors’ Workers Compensation

Policy runs from June 29, 2008 to June 28, 2009. Due to the recent reduction in force, the Debtors estimate premium amounts will be reimbursed when Fireman's Fund performs its audit and recalculates the premium.

35. As stated above, the Workers Compensation Policy does not apply to the 936 Employees in Ohio, who are covered by the state through the BWC and managed by CCI. Approximately \$365,000 in annual premiums is paid to BWC for Ohio workers compensation. CCI in Ohio is paid an annual premium of \$10,000 in quarterly installments. The BWC policy period runs from July 1, 2008 through June 30, 2009, and then renews automatically.

36. The Debtors believe that they have submitted payment through April 2009 for Fireman's Fund and through December 2008 for the BWC. The Debtors seek authority to pay to Fireman's Fund, the BWC and CCI any prepetition premiums due or that may come due under the Workers' Compensation Policy. CCI is paid quarterly and has been paid through June 2009.

37. COBRA Insurance. The Debtors offer COBRA medical continuation coverage (the "COBRA Coverage") to eligible former employees through one COBRA administrator, Ceridian (the "COBRA Administrator"). Upon termination of employment, eligible former Employees are given sixty days to elect COBRA Coverage. Former Employees pay 35% and the Debtors pay 65% of such COBRA coverage. On the Debtors' quarterly tax filings, the Debtors are permitted to deduct such amount from their federal payroll tax filings.

38. As of the Petition Date, three Employees were enrolled in COBRA Coverage for medical coverage, and no Employees were enrolled in COBRA Coverage for dental or vision coverage. However, due to recent reductions in the Debtors' workforce, there are approximately 30 terminated Employees that will be eligible to participate in the Debtors'

COBRA medical continuation coverage. COBRA coverage to terminated Employees is authorized by law and for the avoidance of all doubt, the Debtors request authority to pay its required share of COBRA coverage to any terminated Employee, whether such Employee was terminated prepetition or postpetition.

D. Business and Travel Expenses

39. Business and Travel Expenses. The Debtors pay for reasonable and proper business expenditures incurred by Employees in the course of their employment, including qualified travel, meals and entertainment expenses (collectively, the “Business Expenses”). The Debtors offer all Employees the option of participating in the Debtors’ business expense reimbursement plan (the “Expense Reimbursement Plan”).

40. The Debtors pay approximately \$42,600 per month for Business Expenses under the Expense Reimbursement Plan. These amounts include \$6,000 per year in car allowances provided to all 24 area managers as part of their compensation package. The Debtors estimate that approximately \$32,500 in qualified prepetition Business Expenses have been or will be submitted by approximately 23 Employees seeking reimbursement of prepetition Business Expenses. The Debtors seek authority to pay all outstanding prepetition Business Expenses in the ordinary course of business and to continue to honor the Expense Reimbursement Plan postpetition in accordance with the Debtors’ prepetition practices and policies.

41. Relocation Expenses. In the ordinary course of business, the Debtors from time to time reimburse Employees for certain pre-approved relocation expenses, including moving expenses and rental expenses (the “Relocation Expenses”). There have been no relocations since mid-2008.

42. On a postpetition basis, the Debtors request authority to continue to honor

any Relocation Expenses in the ordinary course of business. Specifically, the Debtors are requesting authority to pay postpetition monthly rental and storage expenses for relocated Employees that become due and payable postpetition, in the ordinary course of business, in an aggregate monthly amount not to exceed \$10,000.

G. Prepetition Deductions and Withholdings

43. In the ordinary course of business, the Debtors deduct or withhold from each bi-weekly payroll certain amounts, including: (a) state and federal income taxes and other amounts owing to governmental agencies, including Employee Social Security and Medicare obligations, (b) Employee obligations for certain Employee Benefits, and (c) legally ordered deductions such as wage garnishments, child support and tax levies (collectively, the “Employee Withholdings”). Approximately \$149,000 bi-weekly is deducted by the Debtors for Employee withholdings to field Employees, and \$15,000 biweekly is deducted for home office Employees.

44. As of the Petition Date, approximately \$210,000 remains outstanding on account of the Employee Withholdings from field and home office Employees. By this Motion, the Debtors seek authority, on behalf of themselves and their agents, to forward any remaining prepetition Employee Withholdings to the appropriate taxing authorities.

REQUEST FOR RELIEF

45. To minimize the personal hardship that the Employees will suffer if prepetition Employee-related obligations are not paid when due or as expected, as well as to maintain morale and an essential workforce during this critical time, the Debtors, by this Motion, seek entry of an order pursuant to sections 105(a), 363(b), 507(a)(4), and 507(a)(5) of the Bankruptcy Code authorizing but not requiring the Debtors to: (a) pay all prepetition Employee compensation, benefits and other Employee-related obligations, subject to the limitations discussed above; (b) honor all prepetition obligations under or related to, and take all necessary

actions to continue until further notice, the Employee Benefits that were in effect as of the filing of these chapter 11 cases; (c) make and remit to the appropriate parties all normal and customary Employee Withholdings; and (d) issue new checks on account of any authorized Employee obligations to replace any prepetition check or electronic fund transfer requests that may be dishonored or denied. In order to limit the disruption to both the Debtors and their Employees, the Debtors also request that the Court authorize and direct the Debtors' banks to honor and pay any outstanding checks or other transfers related to the prepetition Employee obligations discussed herein.

46. The Debtors do not at this time request authorization as part of this Motion to: (a) assume any executory contracts with Employees or any other party; (b) to pay compensation or other amounts to the Debtors' officers and directors, other than (i) prepetition amounts, if any, that may be due for Unpaid Wages, Salaries, Commissions and Bonuses and PTO that accrued prepetition (subject to the \$10,950 cap) and (ii) pre- and postpetition amounts due under or in connection with the continuation of the Employee Benefits, all in accordance with the Debtors' prepetition plans, policies, and practices.

BASIS FOR RELIEF REQUESTED

47. As a result of the commencement of these chapter 11 cases, and in the absence of an order of this Court providing otherwise, the Debtors will be prohibited from paying or otherwise satisfying prepetition obligations owed to their Employees, and the checks and other transfers initiated in respect of the prepetition Employee obligations may be dishonored.

48. The relief requested in this Motion should be granted and is justified under sections 105(a) and 363 of the Bankruptcy Code and the well-established "necessity of payment

doctrine.” Courts in this District and in other districts have consistently permitted the immediate payment of prepetition obligations where necessary to preserve or enhance the value of a debtor’s estate for the benefit of all creditors, including prepetition obligations owed to employees. *See, e.g., Miltenberger v. Logansport, C. & S.W. Ry. Co.*, 106 U.S. 286, 312 (1882) (stating that payment of pre-receivership claim prior to reorganization permitted to prevent “stoppage of...[crucial] business relations”); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175-76 (Bankr. S.D.N.Y. 1989) (authorizing payment of prepetition wages, salaries, reimbursable business expenses and health benefits to active employees of debtor airline); *In re Chateaugay Corp.*, 80 B.R. 279, 286-88 (S.D.N.Y. 1987), *appeal dismissed*, 838 F.2d 59 (2d Cir. 1988) (approving lower court order authorizing debtor to pay prepetition wages, salaries, expenses and employee benefits).

49. The success of these cases depends on the continued efforts and motivation of the Employees. Any disruption in the Debtors’ operations due to Employee resignations or lack of morale could have significant negative effects on the Debtors’ efforts to maximize value for the benefit of the Debtors’ estates and creditors.

50. Most of the Debtors’ Employees (and in many cases, their families) are dependent upon the wages, salaries, reimbursements and other benefits they receive from the Debtors. If amounts owed are not received or are delayed, Employees may suffer extensive personal hardship and may be unable to meet “basic living” needs, causing harm to them and their families and potentially making it difficult or impossible for them to continue working for the Debtors. Further, Employees may be exposed to significant financial and health-related problems if the Debtors are not permitted to pay for Employee Benefits, such as medical and dental benefits. Employees risk having their health care services terminated and may become

primarily obligated for the payment of health care claims if health care insurance providers are not paid by the Debtors.

51. The Debtors believe that such events would cause significant anxiety at a time when the Debtors and all parties in interest need the Employees to perform their jobs at peak efficiency. The relief requested herein is necessary and appropriate to avoid immediate and irreparable harm to the Debtors' business operations and to ensure a smooth transition into bankruptcy. *See* Fed. R. Bankr. P. 6003 (conditioning authorization for payment of prepetition claims in the first 20 days of a bankruptcy case on showing that such relief is necessary to avoid immediate and irreparable harm).

52. Moreover, the Debtors estimate that all or substantially all of the amounts they seek authority to pay by this Motion are entitled to priority under sections 507(a)(4) and (a)(5) of the Bankruptcy Code. Section 507(a)(4) of the Bankruptcy Code grants priority status to employee claims for "wages, and salaries, including vacation, severance and sick leave pay" earned within ninety days before the bankruptcy filing up to \$10,950 per employee. Similarly, Section 507(a)(5) of the Bankruptcy Code provides that claims for contributions to certain employee benefit plans are afforded priority treatment to the extent of the number of employees covered by each plan multiplied by \$10,950, less any amounts paid to such employees pursuant to section 507(a)(4) of the Bankruptcy Code. Thus, granting the relief sought herein arguably will affect only the timing of payments for prepetition Employee-related obligations.

53. Finally, consistent with the Debtors' request above to honor prepetition Employee-related obligations, and in order to avoid the disruption that would result to the Employees' financial affairs if Employee payroll transfers and checks were not honored, this Court should authorize and direct the Debtors' banks to honor and pay all transfer requests and

checks relating to prepetition Employee compensation and benefits.

54. For these reasons, the Debtors submit that the relief requested herein should be authorized by this Court.

NOTICE

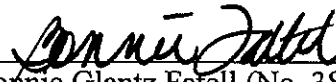
55. Notice of this Motion has been provided to: (a) the Office of the United States Trustee for Region 3; (b) the United States Securities and Exchange Commission; (c) the Office of the United States Attorney for the District of Delaware; (d) the Internal Revenue Service; (e) the Debtors' thirty largest unsecured creditors on a consolidated basis, (f) Textron Financial Corporation; and (g) counsel to Checkers Drive-In Restaurants, Inc. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary or required.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form annexed hereto, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: June __, 2009

BLANK ROME LLP

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*PROPOSED ATTORNEYS FOR THE
DEBTORS AND DEBTORS IN
POSSESSION*

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

In re: : Chapter 11
: :
ALSET OWNERS, LLC, *et al.*,¹ : Case No. 09-____ ()
: (Joint Administration Requested)
Debtors. :

**ORDER GRANTING DEBTORS' MOTION FOR ORDER (I)
AUTHORIZING PAYMENT OF PREPETITION WAGES, COMPENSATION,
EMPLOYEE BENEFITS, EXPENSE REIMBURSEMENT AND RELATED
ITEMS, AND THE CONTINUATION OF CERTAIN EMPLOYMENT
POLICIES, AND (II) AUTHORIZING AND DIRECTING APPLICABLE
BANKS TO HONOR AND PAY ALL CHECKS WITH RESPECT THERETO**

Upon consideration of the motion (the "Motion")² of Alset Owners, LLC, a Delaware limited liability company, and certain of its direct and indirect subsidiaries, the debtors and debtors in possession in the above cases (collectively, the "Debtors"), seeking entry of an order (i) authorizing payment of prepetition wages, compensation, employee benefits, expense reimbursement and related items, and the continuation of certain employment policies, and (ii) authorizing and directing applicable banks to honor and pay all checks with respect thereto, all as described more fully in the Motion; 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 due notice of the Motion having been provided; and it appearing that no other or further notice of the Motion need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and all parties in interest; and upon the Motion, and the

¹ The Debtors and the last four digits of their respective tax identification numbers are: Alset Owners, LLC, a Delaware limited liability company (7520); Altes, LLC, a Delaware limited liability company (6927); Setla, LLC, a Delaware limited liability company (6752); and Checkers Michigan, LLC, a Delaware limited liability company (8016).

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

Declaration of Leonard Levitsky in Support of Chapter 11 Petitions and First Day Relief ; and all of the proceedings had before the Court and the representations and arguments of counsel; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that:

1. The Motion is GRANTED as modified herein.
2. The Debtors are hereby authorized, but not required, in their sole and absolute discretion and in the exercise of their business judgment, to honor and pay in the ordinary course of business all Unpaid Wages and Salaries subject to the \$10,950 priority limit established in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code (the “Caps”).
3. The Debtors are hereby authorized, but not directed, to continue utilizing and pay all prepetition amounts owing to the Payroll Administrator.
4. The Debtors are hereby authorized, but not required, to make all normal and customary withholdings and deductions from wages and other compensation paid to their Employees, and to make all matching payments or contributions required under applicable law or otherwise made in the ordinary course of business, for the purpose of paying all applicable taxes and other obligations normally associated with such payments.
5. The Debtors are hereby authorized, but not directed, to honor all Employee PTO obligations in the ordinary course of business, subject to the Caps, and may continue their PTO Policy in accordance with the Debtors’ prepetition practices and policies.
6. The Debtors are hereby authorized, but not directed, to pay all prepetition amounts relating to the Health Benefit Plans and the Executive Plan, subject to applicable Caps and continue their Health Benefit Plans and Executive Plan in accordance with the Debtors’ prepetition practices and policies.

7. The Debtors are hereby authorized, but not directed, to pay all prepetition amounts owed in connection with the Group Insurance Plans and continue making payments under the Group Insurance Plans, subject to any applicable Cap.

8. The Debtors are hereby authorized, but not directed, to continue the Group Insurance Plans in accordance with prepetition practices.

9. The Debtors are hereby authorized, but not directed, to pay prepetition obligations under the Expense Reimbursement Plan and continue the Expense Reimbursement Plan in accordance with prepetition practices.

10. The Debtors are hereby authorized, but not directed, to pay Business Expenses for Relocation Expenses and continue to honor the relocation program in accordance with prepetition practices as requested in the Motion; provided, however, that all such payments and practices shall be subject to the Caps pending further order of the Court, without prejudice to any parties' rights with respect to the applicability of the Caps to Relocation Expenses.

11. The Debtors are hereby authorized to pay all Employee Withholdings.

12. The Debtors are hereby authorized, but not required, to honor and take such actions as may be appropriate or necessary, in their sole and absolute discretion, to ensure the continuation in the ordinary course of business of the existing programs, policies and plans referenced herein or in the Motion; including, inter alia, paying all administrative fees and other premiums and expenses customarily associated with such programs, policies and plans.

13. The Debtors are hereby authorized, but not required, to issue new post-petition checks or make new money transfers to replace any prepetition checks or fund transfer requests that may have been dishonored or denied with respect to the Unpaid Wages and Salaries.

14. This Order is without prejudice to any rights that Debtors may otherwise have under applicable law to modify or terminate any programs, policies and plans referenced herein or in the Motion at any time.

15. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall constitute, nor is it intended to constitute, an assumption of any contract under section 365 of the Bankruptcy Code or the waiver by the Debtors or their non-debtor affiliates of any of their rights pursuant to any agreement by operation of law or otherwise.

16. The Debtors, their officers, employees and agents, are hereby authorized to take or refrain from taking such acts as are necessary and appropriate to implement and effectuate the relief granted herein.

17. The Debtors' banks and financial institutions are hereby authorized to process, honor and pay all prepetition or post-petition checks relating to Unpaid Wages and Salaries.

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

Dated: June __, 2009

United States Bankruptcy Judge