

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:))	Chapter 11	
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ATARI, INC., <i>et al.</i> , ¹))	Case No. 13-10176 (JMP)	
))		
Debtors.))	(Jointly Administered)	
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FINAL ORDER (I) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY PREPETITION WAGES, SALARIES AND BENEFITS, (II) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY PREPETITION PAYROLL TAXES, WITHHOLDINGS AND REIMBURSABLE EXPENSES; (III) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO CONTINUE EMPLOYEE BENEFIT PROGRAMS ON A POSTPETITION BASIS; AND (IV) AUTHORIZING ALL FINANCIAL INSTITUTIONS TO HONOR ALL RELATED CHECKS AND ELECTRONIC PAYMENT REQUESTS

Upon consideration of the motion (the "Motion")² of the debtors and debtors-in-possession in the above-captioned chapter 11 cases (the "Debtors") for entry of interim and final pursuant to sections 105(a), 363(b)(1), 507(a)(4), 507(a)(5), 1107(a) and 1108 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code") and Rule 6003(b) and 6004(h) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (a) authorizing, but not directing, the Debtors, in the exercise of their business judgment, to pay the pre-petition wages, salaries and benefits of their employees, (b) authorizing, but not directing, the Debtors, in the exercise of their business judgment, to pay employee-related taxes, withholdings and reimbursable expenses; (c) authorizing, but not directing, the Debtors, in the exercise of their business judgment, to continue employee benefit programs on a postpetition basis; (d) authorizing all financial institutions to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the foregoing; and (e) waiving

¹ The Debtors are Atari, Inc., Atari Interactive, Inc., Humongous, Inc., and California U.S. Holdings, Inc.

² Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Motion.

any applicable stays that would serve to limit the immediate effectiveness of this Order; and upon consideration of the *Declaration of Robert A. Mattes (I) In Support of Chapter 11 Petitions and First Day Motions and (II) Pursuant To Local Bankruptcy Rule 1007-2* (the “First Day Declaration”); and upon the record of the hearing on granting relief sought in the Motion on an interim basis held on January 24, 2013 and the Court having entered an Order [ECF No. 34] (the “Interim Order”); and upon the record of the hearing on granting the relief sought in the Motion on a final basis held On February 14, 2013 (the “Final Hearing”), the Court hereby makes the following findings of fact:

A. The Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.).

B. Venue of these chapter 11 cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

D. Proper and adequate notice of the Motion, the Interim Order and the Final Hearing has been given and that no other or further notice is necessary.

E. The relief requested in the Motion is in the best interest of the Debtors, their estates and their creditors.

The Court having determined that the factual and legal bases set forth in the Motion and the First Day Declaration and at the Final Hearing and all of the proceedings held before the Court in connection with the Motion establish just cause for the relief granted herein,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The Debtors are authorized, in their sole discretion unless otherwise required by law, to honor and pay, in the ordinary course of business, in accordance with the Debtors’

prepetition policies and practices, the Employee Obligations as set forth in the Motion, including, without limitation, prepetition amounts outstanding on account of: (a) Unpaid Wages; (b) Unpaid Reimbursable Expenses; (c) unpaid Independent Contractor Compensation; (d) Health and Welfare Benefits; (e) Unremitted Other Employee Deductions; (f) Unpaid Payroll Taxes; and (g) administration of the 401(k) Plan.

3. The Debtors are authorized, in their sole discretion unless otherwise required by law, to continue the Health and Welfare Benefits, Workers' Compensation Coverage, and 401(k) Plan in accordance with the Debtors' prepetition policies and practices.

4. The Debtors are authorized, but not directed, to honor the liabilities owed to the Employees with respect to PTO that arose prior to the Petition Date, except for the liabilities owed to those Employees who are deemed to be "insiders" within the meaning of section 101(31) of the Bankruptcy Code, and to continue their PTO policies after the Petition Date.

5. The Debtors are authorized, but not directed, to pay all postpetition costs and expenses incidental to the payment of the Employee Obligations, including all administrative and processing costs and payments to outside service providers in the ordinary course of business.

6. The Debtors are authorized, but not directed, to issue postpetition checks, or to effect postpetition trust fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed to the Employees and on account of the Employee Obligations.

7. All applicable banks and other financial institutions are authorized to receive, process, honor, and pay any and all checks or fund transfer requests evidencing amounts paid by the Debtors under this Order or any other order of this Court whether presented prior to or

after the Petition Date to the extent the Debtors have good funds standing to their credit with such bank or other financial institution. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks or fund transfers are issued or authorized to be paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtors' instructions.

8. Notwithstanding the relief granted herein and any actions taken hereunder, nothing in this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, the creation of an administrative priority claim on account of the Employee Obligations, or the assumption or adoption of any contract or agreement under section 365 of the Bankruptcy Code.

9. Any party receiving payment from the Debtors is authorized and directed to rely upon the representations of the Debtors as to which payments are authorized by this Order without any duty of further inquiry.

10. Pursuant to Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

11. The Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York
February 15, 2013

s/ James M. Peck
Honorable James M. Peck
United States Bankruptcy Judge