

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re: ) Chapter 11  
GULF PACKAGING, INC., )  
 ) Case No. 15-15249 (PSH)  
Debtor. )  
 ) Honorable Pamela S. Hollis  
 )  
 ) **Hearing Date: August 18, 2015**  
 ) **Hearing Time: 10:00 a.m.**  
 ) **Court Room: 644**

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on **August 18, 2015 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Pamela S. Hollis of the United States Bankruptcy Court for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois, Courtroom No. 644, or whomever may be sitting in her place and stead, and then and there present the **Debtor’s Motion for Entry of an Order Extending Period Within Which Debtor Has the Exclusive Right to File a Plan and Solicit Acceptances Thereof**, a copy of which is attached hereto and hereby served upon you.

Dated: August 10, 2015

Respectfully submitted,

GULF PACKAGING, INC.

By: /s/ Joseph D. Frank  
One of its attorneys

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
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In re:	)	
	)	Chapter 11
	)	
GULF PACKAGING, INC., <sup>1</sup>	)	Case No. 15-15249 (PSH)
	)	
Debtor.	)	
	)	

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER EXTENDING PERIOD WITHIN WHICH THE DEBTOR HAS THE EXCLUSIVE RIGHT TO FILE A PLAN AND SOLICIT ACCEPTANCES THEREOF**

Gulf Packaging, Inc., the above-captioned debtor and debtor in possession (the “Debtor” or “GPI”), respectfully requests the entry of an order, pursuant to 11 U.S.C. § 1121(d), extending the exclusivity periods during which only the Debtor may file, and solicit votes for, a plan of reorganization in this case. In support of this motion (the “Motion”), the Debtor states as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The relief sought is appropriate and proper pursuant to 11 U.S.C. § 1121.

**INTRODUCTION**

4. On April 29, 2015 (the “Petition Date”), the Debtor filed with this Court its petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtor continues to operate its business and manage its properties as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

<sup>1</sup> The last four digits of the Debtor’s tax identification number are 5030.

5. On May 11, 2015, the Office of the United States Trustee appointed an official committee of unsecured creditors (the “Committee”). No request has been made for the appointment of a trustee or examiner.

### **BACKGROUND**

6. The Debtor is a national distributor of packaging equipment and supplies, which sells its product by and through several independent entities (“Affiliates”).<sup>2</sup> As of the Petition Date, there were over twenty (20) warehousing locations to better serve the Debtor’s customer base. Additional information about the Debtor, its business and corporate and capital structure is set forth in the *Declaration of Edward T. Gavin, CTP in Support of Chapter 11 Petition and First Day Pleadings* [Docket No. 14] (the “Gavin Declaration”), filed on the Petition Date.

7. As set forth in the Gavin Declaration, the Debtor is liquidating and winding down its business. To that end, the Debtor has explored several avenues for the sale of its inventory and other assets. At the same time, the Debtor has been working to prepare a chapter 11 plan of liquidation (the “Plan”) and related disclosure statement (the “Disclosure Statement”). In connection therewith, the Debtor anticipates seeking input from the Committee and its secured lender, FCC, LLC d/b/a First Capital (“FCC”).

8. Pursuant to section 1121 of the Bankruptcy Code, the Debtor’s exclusive right to file a chapter 11 plan in its case is set to expire on August 27, 2015. Although the Debtor is working diligently to complete its Plan in accordance with this deadline, as a protective measure, the Debtor

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<sup>2</sup> As used herein, “Affiliate” means a company that has a relationship – formal or informal – to the Debtor, and sells packaging products under a variation of the Gulf name. Unless otherwise set forth, use of the term “Affiliate” is not intended to have the same meaning as the “affiliate” term of art defined in section 101(2) of the Bankruptcy Code. All rights with respect to this issue are reserved.

seeks an extension of the exclusive period within which to file a chapter 11 plan and solicit acceptances thereof.

### **RELIEF REQUESTED**

9. By this Motion, the Debtor requests the entry of an order, pursuant to section 1121(d) of the Bankruptcy Code, extending the Debtor's exclusive right to file a chapter 11 plan for an additional sixty-four (64) days through and including October 30, 2015, and extending the Debtor's exclusive right to solicit acceptances of such plan through January 29, 2016.

### **BASIS FOR THE RELIEF SOUGHT**

1. Subject to certain limitations, a debtor is afforded the exclusive right to propose a plan of reorganization pursuant to 11 U.S.C. § 1121(c). Under that section, only the debtor may file a plan unless –

- (1) A chapter 11 trustee has been appointed;
- (2) The debtor has not filed a plan within 120 days after the entry of an order for relief; or
- (3) The debtor has not filed a plan that has been accepted, before 180 days after the entry of the order for relief, by each class of claims or interests that is impaired under the plan.

13. Pursuant to 11 U.S.C. § 1121(d), upon the request of a party in interest within the time periods set forth in 11 U.S.C. § 1121(b) and (c), the Court may extend the plan exclusivity periods set forth therein “for cause,” provided that, among other things, the 180-day period may not be extended beyond 20 months after the entry of the order for relief. 11 U.S.C. §§ 1121(d)(1) and (d)(2)(B). Although the Bankruptcy Code does not define “cause,” the statute’s legislative history indicates that “[e]xclusivity is intended to promote an environment in which the debtor’s business may be rehabilitated and a consensual plan may be negotiated.” 140 Cong. Rec. H. 10765 (Oct. 4, 1994). *See also In re UNR Indus., Inc.*, 72 B.R. 789, 792 (Bankr. N.D. Ill. 1987) (approving

extension based on recognition that “a negotiated, consensual plan of reorganization is the best route to take,” and that “[t]he alternative which might be brought on if the exclusive period were ended could be disastrous.”).

14. Courts have examined a variety of factors to determine whether “cause” exists to extend (or to terminate) the exclusivity period contemplated by section 1121 of the Bankruptcy Code. Although courts in this District and Circuit have not agreed upon a set list of factors to be considered, several courts in other districts have looked to the list of factors identified in *In re Adelpia Communications Corp.*, 336 B.R. 610, (Bankr. S.D.N.Y. 2006):

- a. the size and complexity of the case;
- b. the need for sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information;
- c. whether the debtor has made progress in negotiations with its creditors;
- d. the existence of good faith progress toward reorganization;
- e. whether the debtor is seeking to extend exclusivity to pressure creditors to accede to the debtor’s reorganization demands;
- f. whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- g. the fact that the debtor is paying its bills as they become due;
- h. the amount of time which has elapsed in the case; and
- i. whether an unresolved contingency exists.

*Id.* at 674.

15. Almost all of the aforementioned factors are applicable to the Debtor’s bankruptcy case, and all of those that are applicable support an extension. The Debtor has made substantial good faith progress in its efforts to liquidate its assets and prepare its Plan.

16. The Debtor is not seeking an extension of exclusivity in order to force creditors to accede to the Debtor's reorganization demands. The Debtor is not in negotiations with any creditor for which extended exclusivity would provide an advantage to the Debtor. The Debtor intends to file its Plan well before the expiration of the requested October 30, 2015 filing exclusivity extension and to solicit votes well in advance of the January 29, 2016 deadline for solicitation. The Debtor seeks to extend its exclusivity deadlines in order to allow sufficient time to complete its proposed plan, and to avoid the confusion, distraction and expense that would arise if a completing plan were filed.

**NOTICE**

17. Notice of this Motion has been provided to: (i) the Office of the United States Trustee; (ii) counsel to the Committee; (iii) counsel to FCC; and (iv) those other parties who have requested service of papers in this case pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

**NO PRIOR REQUEST**

18. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order (i) extending the exclusive period during which only the Debtor may file a plan of reorganization in this case through October 30, 2015; (ii) extending the exclusive period during which only the Debtor may solicit acceptances of a plan through January 29, 2016, and granting such other and further relief as this Court deems just.

Respectfully submitted this 10<sup>th</sup> day of August, 2015.

**FRANKGECKER LLP**

/s/ Joseph D. Frank

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-and-

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**COUNSEL TO THE DEBTOR**