

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
JRV GROUP USA L.P., a Delaware limited) Case No.: 19-11095 (____)
partnership,¹)
)
Debtor.)

**DECLARATION OF ANDREW DE CAMARA
IN SUPPORT OF FIRST DAY MOTIONS**

I, Andrew De Camara, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I am a Senior Managing Director of Sherwood Partners Inc. (“Sherwood”). I became the Chief Restructuring Officer (“CRO”) of JRV Group USA L.P., a Delaware limited partnership and the above-captioned debtor and debtor-in-possession (the “Debtor”), upon the filing of its voluntary petition under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). I submit this declaration (the “Declaration”) in support of the Debtor’s petition and “first day” motions and pleadings, described further below (collectively, the “First Day Motions”).

2. I have 25 years of experience in strategic planning and financial planning including corporate restructurings, mergers and acquisitions and financial forecasting. In 2001, I joined Sherwood. Sherwood has significant qualifications and experience in providing the services contemplated herein. Sherwood’s practice consists of senior financial, management consulting, and other professionals who specialize in providing financial, business, and strategic

¹ The Debtor’s last four digits of its taxpayer identification number are (5218). The headquarters and service address for the above-captioned Debtor is 1945 Burgundy Place, Ontario, CA 91761.

assistance typically in distressed business settings. Sherwood serves troubled companies, debtors, and secured and unsecured creditors, equity holders, and other parties in both in-court and out-of-court engagements similar to the Debtor in the State of Delaware and elsewhere. Sherwood's professionals have experience working on cases with similar fact scenarios in which they were presented with issues and performed analyses similar to the work at hand in this case. While at Sherwood, I have successfully restructured companies through out-of-court restructurings as well as through chapter 11 reorganizations. Also, I have successfully restructured hundreds of millions of dollars of debt in a way that provides improved returns for creditors while allowing a company to continue operations. In addition, I have served as a receiver in both State and Federal Courts and have helped maximize value of assets through Assignments for the Benefit of Creditors under various state laws. Prior to joining Sherwood, I was Vice-President of a B2B exchange for an Internet start-up and I previously worked at a major Hollywood studio. I have assisted in fundraising activities for various privately held companies and have arranged for new senior secured and mezzanine financings as appropriate.

3. Except as otherwise indicated, all statements in this Declaration are based upon my personal knowledge based solely on my review of the Debtor's books and records made available to me by the Debtor, relevant documents and other information prepared or collected by the Debtor's employees, or my opinion based on my experience since February 19, 2019 with the Debtor's operations and financial condition. In making my statements based on my review of the Debtor's books and records, relevant documents and other information prepared or collected by the Debtor's employees, I have relied upon these employees accurately recording, preparing or collecting such documentation and other information. I have also reviewed and

relied upon the statements of fact made in the application that initiated the receivership of Erwin Hymer Group North America, Inc. (“EHG NA”), a Canadian affiliate of the Debtor, which was put into receivership on February 15, 2019 with Alvarez & Marsal Canada Inc. appointed as its receiver (the “Canadian Receiver”). If I were called to testify as a witness in this matter, I could and would competently testify to each of the facts set forth herein based upon my personal knowledge, review of documents, or opinion (as referenced above). I am authorized to submit this Declaration on behalf of the Debtor.

4. Part I of this Declaration describes the business of the Debtor and the developments that led to its filing for relief under the Bankruptcy Code. Part II sets forth the relevant facts in support of the First Day Motions filed by the Debtor concurrently herewith in support of its chapter 11 case. Capitalized terms not defined herein have the meanings ascribed to them in the First Day Motions.

PART I

Background

A. Description and History of the Debtor

5. The Debtor is based at 1945 Burgundy Place, Ontario, California 91761. It was established on January 30, 2015 to carry out the United States business of Erwin Hymer Group, a Germany-based recreational vehicle company (“EHG Global”). However, in 2016, all business activities of the Debtor were stopped, and it became a shelf company while EHG Global built out its Canadian operations through EHG NA. The Debtor resumed operating activities in November 2017 as described in paragraph 7 below and continued to be owned indirectly by EHG Global until January 31, 2019, comprising a portion of its North American operations.

6. On February 15, 2017, the Debtor acquired its direct and indirect equity interests in Best Time RV, which is based in Las Vegas, Nevada and rented and sold recreational vehicles. On March 3, 2017, the Debtor distributed such equity interests to its 99% limited partner JRV Group Holding USA L.P., then known as Erwin Hymer Group Holding USA L.P., a Delaware limited partnership (“ Holding ”).²

7. Between November 2017 and March 2018, the Debtor acquired various assets in four asset acquisition transactions. These assets included Jeeps, accessories, molds, some inventory and intellectual property (particularly trade names, trademarks and design patents).

8. Beginning in March 2018, the Debtor operated as a second-tier original equipment manufacturer and alterer (*i.e.*, “upfitter”) of Jeep Wranglers made by FCA US LLC (“ FCA ”), an affiliate of Fiat Chrysler Automobiles N.V. The Debtor’s business typically focused on adding features to the vehicles, such as a tent for camping, that would make them more desirable for recreational vehicle dealers to sell to end users/consumers. To do so, the Debtor would remove FCA-certified parts and replace them with the Debtor’s manufactured or purchased parts.

9. The Debtor currently owns approximately 323 Jeep Wranglers that it modified prepetition. The Debtor currently possesses approximately 316 Jeep Wranglers and is in the process of obtaining the return of approximately seven additional “demo units”.³ However, the great majority of the modified Jeeps are not in compliance with United States

² On March 12, 2019, Holding changed its name to JRV Group Holding USA L.P.

³ Two of the “demo units” are in transit to the Debtor, holders of four units are currently refusing to return them to the Debtor and one unit has been reported as stolen.

regulations because they exceed applicable gross vehicle weight ratings (“GVWR”). It is possible that a portion of the Jeeps (i.e. approximately 96 Jeep Wranglers) may not exceed GVWR but additional research is required. Through funds provided pre-petition (directly or indirectly) by Corner Flag, the Debtor has secured all Jeeps in its possession and has hired security at its facilities to maintain possession of the Jeeps.

10. On March 7, 2019, the Debtor notified the National Highway Transportation Safety Administration (“NHTSA”) that certain of the Assignor’s non-compliant modified Jeeps had been delivered to dealers (collectively, the “Dealers”). It is my understanding that the Dealers have an additional approximate 145 modified Jeeps in their possession. Beginning on March 8, 2019, the Debtor notified the Dealers not to sell any of the modified Jeeps.

11. In addition, it is my understanding that the Debtor notified NHTSA that certain vehicles had been previously sold to consumer purchasers. It is my understanding that 11 vehicles had previously been sold to consumer purchasers. Beginning on March 15, 2019, the Debtor has been able to contact eight consumer purchasers and inform them that they must stop driving the vehicles. The status of the three remaining Jeeps owned by consumers and three missing Jeeps is detailed in a footnote below.⁴

12. To confirm that the Debtor holds title to the aforementioned Jeeps, the Debtor entered into a Confirmation & Release Agreement, dated as of May 9, 2019 with the

⁴ The Debtor plans to notify the remaining three consumer owners not to drive their modified Jeeps after it receives their names and addresses from the California Department of Motor Vehicles. Also, in February 2019, three modified Jeeps that had been previously returned by dealers are no longer on premises. The Debtor is investigating the disappearance of these three Jeeps, and when it identifies the person or entity in possession of them it will (at a minimum) notify them that such Jeeps should not be driven. These three modified Jeeps are not included in the eleven Jeeps previously sold to consumers referenced in the text above.

Canadian Receiver in which the Canadian Receiver agreed that such Jeeps, as well as their Manufacturer's Certificates of Origin ("MSOs"), do not form any part of the property of EHG NA in receivership and quitclaimed any and all interests and/or ownership right, if any, in the Jeeps and their MSOs to the Debtor. In such agreement, the Debtor released EHG NA and the Canadian Receiver from any claims in respect of such Jeeps and MSOs and the NHTSA recall process.

13. Prior to commencement of this proceeding, the Debtor had an additional approximately 332 Jeeps on its premises, which were not property of the Debtor. Such vehicles were the property of dealer Beaver Motors Inc. ("Beaver Motors") subject to a bailment agreement. The Debtor returned these Jeeps to Beaver Motors prepetition.

14. In March of this year, the Debtor terminated approximately 46 employees reducing the total employee count from approximately 73 to 28 employees. Some additional employees have been terminated or resigned prior to the Petition Date. Thus, the current headcount of the Debtor is 26. The Debtor plans to employ the remaining employees to assist in winding-down the Debtor's business and disposing of its assets, including monetizing its saleable assets.

15. I have been informed that the Debtor had an arrangement with a manufacturing facility in Mexico that provided certain fiberglass services. Additional research is required to clarify the relationship between the Debtor and the Mexican manufacturer and to determine if certain company assets, such as fiberglass molds, are located at the facility.

16. The Debtor does not own any real property. The Debtor will temporarily continue possession of the Debtor's leased properties in cooperation with the Debtor's landlords.⁵

17. Prior to the receivership of EHG NA, certain of the Debtor's overhead functions, such as invoicing, had been performed in part by EHG NA. The Debtor and the Canadian Receiver have been cooperating, and the Debtor plans to continue cooperating with the Canadian Receiver.

18. On the date hereof (the "Petition Date"), the Debtor filed its voluntary chapter 11 petition in this Court.

B. Prepetition Capital Structure

19. Prepetition, the Debtor borrowed approximately \$3.0 million from Holding and \$490,000 from Corner Flag (as defined below) under secured promissory notes. The Debtor has no other secured obligations.⁶

20. Other than any claims of the Dealers, the Debtor estimates it has approximately \$1.1 million of unpaid unsecured vendor and other claims against it.

21. The owners of equity in the Debtor are shown in Exhibit A to this Declaration.

⁵ The Debtor has hired a contractor to clean up the three facilities, including collection, packaging, removal and disposal of unused product (*e.g.*, paint, cleaning supplies) and universal waste such as batteries, refrigerants, etc. The cleanup will also include the removal of remaining fire extinguishers, electronic waste (monitors, computer equipment, microwaves) and disposal of remaining small equipment, including painting materials and fiberglass residuals. Additionally, all surfaces and floors will be cleaned in advance of exiting any of the facilities.

⁶ Beaver Motors filed Uniform Commercial Code financing statements as a bailor of Jeeps that (as discussed above) were returned to it prepetition.

C. Events Leading to the Bankruptcy Filing and Commencement of the Chapter 11 Case

22. As stated above, from January 2015 until January 2019 the Debtor was indirectly owned by EHG Global and comprised a portion of its U.S. operations, the vast majority of which were acquired in four separate asset acquisitions between November 2017 and March 2018.

23. In September 2018, the parties publicly announced an agreement to sell the entire EHG Global business, including the Debtor, to Thor Industries, Inc. (“Thor”), a publicly traded U.S. company. In January 2019, Thor publicly announced that the parties to the transaction had agreed to exclude from the sale the North American businesses of EHG Global, including the Debtor (the “Carveout Transaction”).

24. I am informed and believe that to facilitate the Carveout Transaction, on January 28, 2019, Corner Flag LLC (“Corner Flag”) was newly formed and acquired the North American businesses of EHG Global, including the Debtor, on January 31, 2019.

25. I am informed and believe that with the goals of minimizing risk to public safety; ensuring an efficient disposition of the Debtor’s vehicle inventory following the Carveout Transaction and otherwise maximizing value for creditors and other stakeholders, prepetition Corner Flag provided secured funding (with by itself or through Holding) to pay for advisors, satisfy the Debtor’s near term liquidity needs, evaluating potential wind-down alternatives (in or out of Court) and initiate the recall process for the non-compliant vehicles described above. I am informed and believe that, following the Carveout Transaction, the Debtor determined to retain Sherwood as an advisor to assess the operations and financial condition of the Debtor, which

assessment ultimately led to the decision to wind-down the Debtor's affairs in chapter 11.

Corner Flag has agreed to fund this wind-down in chapter 11, subject to the terms of the DIP Financing Motion (defined below) filed concurrently herewith, in order to continue to meet the goals of minimizing any harm from non-compliant vehicles and maximizing value for creditors and other stakeholders (including through efficient disposition of the Debtor's inventory).

PART II

First Day Motions and Applications

26. In order to enable the Debtor to minimize the adverse effects of the commencement of the chapter 11 case, the Debtor has requested various types of relief in the First Day Motions filed simultaneously with this Declaration. A summary of the relief sought in each First Day Motion is set forth below.⁷

27. I have reviewed each of these First Day Motions (including the exhibits and schedules thereto). The facts stated therein are true and correct to the best of my knowledge, information and belief, and I believe that the type of relief sought in each of the First Day Motions: (a) is necessary to enable the Debtor to operate in chapter 11 with minimal disruption; and (b) is essential to maximizing the value of the Debtor's assets for the benefit of its constituencies.

⁷ Capitalized terms used below that are not defined below have the meanings ascribed to such terms in the applicable motion or application.

A. Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507 (i) Approving Postpetition Financing, (ii) Authorizing Use of Cash Collateral, (iii) Granting Liens and Providing Superpriority Administrative Expense Status, (iv) Granting Adequate Protection, (v) Modifying Automatic Stay, (vi) Granting Related Relief, and (vii) Scheduling a Final Hearing (the “DIP Financing Motion”)

28. As stated above, prepetition, the Debtor borrowed approximately \$3,000,000 from Holding and \$490,000 from Corner Flag under secured promissory notes. The Debtor has no other secured obligations. By the DIP Financing Motion, the Debtor seeks authority to enter into a new \$3,300,000 senior secured, superpriority debtor-in-possession multi-draw term credit facility with the DIP Lender, on the terms set forth in the DIP Term Sheet. The proceeds of the DIP Facility will be used to fund the Debtor’s projected business wind down expenditures expressly approved under and pursuant to the terms, conditions and limitations of the Interim Order and the Final Order, consistent with the Approved Budget (subject to the Permitted Variance), respecting amount and timing, and the DIP Loan Documents. The DIP Facility will consensually prime the Prepetition Liens.

29. The DIP Facility presents the estate with the best economic terms available that will provide the Debtor liquidity to effectively wind down its affairs, remove unsafe vehicles from the road and reimburse consumers accordingly, and satisfy ongoing administrative expenses associated with this chapter 11 case. This chapter 11 case, and, accordingly the DIP Facility itself, is providing a mechanism by which consumers can be reimbursed for their vehicles and overweight/non-compliant vehicles can be efficiently taken off the road.

30. After careful review of its financing options, the Debtor concluded that the DIP Lender’s proposed terms would allow the Debtor to meet its goals and provide the Debtor

with sufficient liquidity on the best available economic terms. The outcome of such negotiations is the DIP Term Sheet pending before this Court. Accordingly, the Debtors seek the entry of an Interim Order and a Final Order, *inter alia*:

a. authorizing the Debtor to obtain postpetition financing pursuant to a senior secured, superpriority debtor-in-possession multi-draw term credit facility in an aggregate principal amount of up to \$3,300,000 on the terms and conditions set forth in the term sheet attached as Exhibit A to the proposed Interim Order, by and among the Debtor and Corner Flag LLC, a Delaware limited liability company;

b. authorizing the Debtor to execute and deliver the DIP Term Sheet and other documentation, including Long-Form Documentation⁸, security agreements, pledge agreements, mortgages, guaranties, promissory notes, certificates, instruments, and such other documentation which may be necessary or required to implement the DIP Facility and perform thereunder and/or that may be reasonably requested by the DIP Lender, in each case, as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and the Orders (collectively, together with the DIP Term Sheet, the “DIP Loan Documents”; all loans, advances, extensions of credit, financial accommodations, fees, costs, expenses and other liabilities, all other obligations (including indemnities and similar obligations, whether contingent or absolute) and all other amounts due or payable under the DIP Loan Documents, collectively, the “DIP Obligations”), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

c. granting to the DIP Lender allowed superpriority administrative claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all Obligations, and valid, enforceable, non-avoidable and automatically perfected liens on and security interests in all Collateral, pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code, to secure the Obligations, in each case as and to the extent, and subject to the relative ranking and priorities (and, in any event, junior to the Carve-Out), set forth in the Orders;

d. authorizing the Debtor to use proceeds of the DIP Facility and all Cash Collateral, solely in accordance with the Approved Budget, attached to the DIP Term Sheet as Schedule 1) (subject to the Permitted Variance), the Orders and the DIP Loan Documents;

⁸ To the extent that Long-Form Documentation is entered into pursuant to and in accordance with the terms of the DIP Term Sheet, all references herein to “DIP Term Sheet” shall be deemed references to such Long-Form Documentation.

e. providing contingent adequate protection to the Prepetition Lenders (as defined below) for any Diminution in Value of their interests in the Prepetition Collateral (as defined below), including Cash Collateral, in each case, as and to the extent set forth in the Orders;

f. authorizing the Debtor to pay all costs and expenses due pursuant to the DIP Term Sheet and the other DIP Loan Documents;

g. vacating or modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Orders;

h. scheduling the Final Hearing to consider entry of the Final Order granting the relief requested in the Motion on a final basis and approving the form of notice with respect to the Final Hearing and the transactions contemplated by the Motion; and

i. waiving any applicable stay (including under Bankruptcy Rule 6004) with respect to the effectiveness and enforceability of the Orders and providing for the immediate effectiveness of the Orders.

31. The Debtor, in consultation with its advisors, concluded that the DIP Facility represents the best available financing under the circumstances. While the DIP Lender is an affiliate, the DIP Term Sheet and the other DIP Loan Documents were negotiated in good faith and at arm's length among the Debtor and the DIP Lender. The terms and conditions of the DIP Facility, the DIP Term Sheet and the other DIP Loan Documents are fair, reasonable, and the best available under the circumstances, reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties, and constitute reasonably equivalent value and consideration.

B. Motion for Entry of an Order Authorizing the Debtor to (I) Pay and/or Honor Prepetition Wages, Salaries, Employee Benefits, and Other Compensation; (II) Remit Withholding Obligations and Deductions; (III) Maintain Employee Compensation and Benefits Programs and Pay Related Administrative Obligations; and (IV) Have Applicable Banks and Other Financial Institutions Receive, Process, Honor, and Pay Certain Checks Present for Payment and Honor Certain Fund Transfers Requests (the “Wage Motion”)

25. As of the Petition Date, the Debtor employed 26 Employees, all of which are employed full-time. The Debtor represents that it will have sufficient funds available postpetition, through the use of the cash collateral and postpetition financing, to pay or honor all Wages and Benefits and other amounts detailed in the Wage Motion to the extent described therein, on an ongoing basis and in the ordinary course of its wind-down and subject to the applicable limits under section 507(a) of the Bankruptcy Code. Consequently, there is no reason for the regular payment of Wages and Benefits to be disrupted, which would directly harm the Debtor and its Employees.

26. The Debtor’s Employees are paid one week in arrears. Salaried Employees and Hourly Employees are each paid twice per month. The next Pay Date will be on May 15, 2019, which has been funded prepetition. As of the Petition Date, the Debtor does not owe any accrued wages (including taxes) for both Hourly Employees and Salaried Employees.

27. Payroll is paid twice a month, on the 15th and last day of the month, one week in arrears. Under this process, there are 24 payrolls per year. The cut-off periods are as follows: (a) from the 11th to the 25th of the month is paid at the end of the month (if the end of the month falls on a weekend, payroll will be processed on the next business day of the following month); and (b) from the 26th of the current month to the 10th of the following month is paid on the 15th of the following month (if that date falls on weekend, payroll will be processed on the

next business day). A few days before the applicable Pay Date, the Debtor's processor, The Platinum Group ("TPG"), pulls funds from the Debtor's operating account and then pays Employees on the applicable Pay Date. TPG remits to Employees their net wages via direct deposit. TPG also remits the applicable tax payments and involuntary deductions (*e.g.*, garnishments and judgments) that have been withheld by the Debtor's on behalf of the applicable Employees to the appropriate taxing, governmental jurisdictions and other third-party payees on the applicable Pay Date.⁹

28. As part of the relief requested in the Wage Motion, the Debtor seeks authority to permit TPG to continue to process the Debtor's payroll obligations in the ordinary course of its wind-down. On a monthly basis, the Debtor pays approximately \$570 of fees, in arrears, to process its payroll. The Debtor believes that they are current in fees owing to TPG relative to payroll processing.¹⁰ In an abundance of caution, to the extent that any prepetition fees are still outstanding to TPG as of the Petition Date, the Debtor requests authority, but not the direction, to remit such amounts, not to exceed \$1,000.

29. The Debtor seeks authority to pay Employees any Unpaid Wages up to the Prepetition Wages and Benefits Limit, subject to the Interim Caps and Final Caps, and to continue to pay Wages that are due after the Petition Date in the ordinary course of its wind-down.

⁹ As noted below, 401(k) deductions are processed by TPG and then deposited into the Employees' respective 401(k) accounts generally within the following two days after each applicable Pay Date and are included in the Payroll Taxes amount above. The Debtor's matching contributions are deposited within ten days following the calendar month.

¹⁰ TPG asserts a prepetition claim against the Debtor arising from certain unpaid disputed human resources services. The Debtor does not seek authority to pay such amount.

30. In addition, the Debtor seeks authority to pay all gross payroll deductions and payroll taxes, certain customary reimbursable expenses incurred in the ordinary course of business. The Debtor also seeks authority to pay unpaid prepetition Reimbursable Expenses owed as of the Petition Date, not to exceed \$1,500, and to continue to honor, reimburse, and pay postpetition Reimbursable Expenses in the ordinary course of business in their discretion.

31. The Debtor offers all Employees and dependents medical and health insurance (the “Health Plans”). The Debtor pays approximately \$29,000 in monthly premiums on account of the Health Plans. The Debtor is current on the payment of premiums. The Debtor seeks authority, but not the direction, to continue to pay postpetition amounts under the Health Plans upon the entry of the Interim Order, in the ordinary course of its wind-down.

32. The Debtor provides holiday pay for full-time Employees. The Debtor also provides its full-time Employees vacation time (“PTO”)¹¹ as follows:

Continuous Employment	Maximum Hours Accrued Per Year	Maximum Total Accrual Hours
Year 1	Ranging from 80-160	Capped at 240
Years 2-5	Ranging from 80-160	Capped at 240
Year 6 and thereafter	Ranging from 80-160	Capped at 240

33. The Debtor also offers full-time Employees paid sick time (“Sick Time”).¹² The Debtor’s Sick Time benefits consist of three days per year given every first day of the calendar year. Unused Sick Time may not be accumulated from year to year. Unused Sick Time is not paid at the time of termination.

¹¹ PTO is an acronym for paid time off.

¹² The Debtor complies with all applicable laws with regard to its sick time policies.

34. By the Wage Motion, the Debtor seeks authority, but not the direction, to continue to honor its PTO and Sick Time programs upon the entry of the Interim Order, in the ordinary course of its wind-down by allowing Employees to use accrued prepetition PTO and Sick Time postpetition. The Debtor also seeks authority, but not the direction, to pay out any accrued and prepetition PTO amounts that are owed to Employees solely to the extent their employment with the Debtor is terminated postpetition, provided that no Employee shall be paid more than the Prepetition Wages and Benefits Limit, subject to the Interim Caps and Final Caps, on account of all payments of accrued and prepetition amounts owing to such Employee for wages and benefits including such PTO upon the entry of the Interim Order.

35. The Debtor provides full-time Employees with a 401(k) retirement plan (the "401(k) Plan"). The Debtor also matches, depending on Employee tenure, 100% of the first 3% of Employee contributions then 50% of Employee contributions in excess of 3% but up to a maximum of 5% of gross Employee compensation. Employee contributions are withheld from paychecks as Deductions. The Debtor's matching contributions are made to the 401(k) Plan in connection with each applicable payroll and are subsequently deposited to the participating Employees' respective 401(k) accounts within 10 days of the following month. In 2018, the Debtor matched approximately \$10,596.64 of Employee contributions to the 401(k) Plan. To the extent any prepetition 401(k) Deductions have not yet been made, the Debtor seeks authority to process those Deductions upon the entry of the Interim Order. The Debtor also seeks authority, but not the direction, to continue to its 401(k) Plan postpetition in the ordinary course of its wind-down, including continuing to match Employee contributions to the 401(k) Plan consistent with its 401(k) Plan policy upon the entry of the Interim Order.

36. The Debtor is required to maintain workers' compensation insurance to provide Employees with coverage for injury claims arising from or related to their employment with the Debtor (the "WC Claims"). The Debtor's workers' compensation program is fully insured ("WC Program"). For the current coverage year, the Debtor has paid prepetition an estimated upfront annual premium to in the amount of approximately \$100,000.

37. In addition, for the claims administration process to operate in an efficient manner and to ensure that the Debtor complies with its contractual obligations, the Debtor must continue to assess, determine, and adjudicate WC Claims during this chapter 11 Case. Thus, the Debtor requests that the automatic stay be modified, pursuant to the Interim Order and the Final Order to allow them to continue to assess, determine and adjudicate unpaid WC Claims in the ordinary course of the Debtor's business. In addition, to the extent any Employees assert claims under the WC Program, the Debtor requests that the Court modify the automatic stay under section 362 of the Bankruptcy Code to permit the Employees to proceed with their claims under the WC Program and to allow an in-house or outside administrator to administer, handle, defend, settle and/or pay a claim covered by the WC Program and the costs related thereto in accordance with the WC Program.

C. Motion for Interim and Final Orders (A) Approving the Debtor's Proposed Adequate Assurance of Payment for Future Utility Services, (B) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, (C) Approving the Debtor's Proposed Procedures for Resolving Adequate Assurance Requests, and (D) Granting Related Relief (the "Utility Motion")

38. Uninterrupted Utility Services are essential to the Debtor's ongoing business operations. The Debtor's operations require electricity and gas for lighting, heating, trash, sewer services, air conditioning, and telecommunications (including telephone and

internet/data). Should any Utility Provider refuse or discontinue service, even for a brief period, the Debtor's business operations could be severely disrupted, and such disruption would jeopardize the Debtor's ability to operate its business. Accordingly, it is essential that the Utility Services continue uninterrupted during the chapter 11 Case.

39. To the best of the Debtor's knowledge, there are no defaults or arrearages with respect to the Debtor's undisputed invoices for prepetition Utility Services. On average, the Debtor pays approximately \$24,000.00 each month for third party Utility Services.

40. The Debtor intends to pay postpetition obligations owed to the Utility Companies in a timely manner. Cash held by the Debtor, cash generated in the ordinary course of business, and cash available to the Debtor through its debtor in possession financing facility, will provide sufficient liquidity to pay the Debtor's Utility Service obligations in accordance with prepetition practice.

41. To provide additional assurance of payment, the Debtor proposes to deposit into a segregated account \$10,000 (the "Adequate Assurance Deposit"), which represents an amount equal to approximately one half of the Debtor's average monthly cost of Utility Services. The Adequate Assurance Deposit will be held in the segregated account in accordance with the Adequate Assurance Procedures. The Debtor submits that the Adequate Assurance Deposit, in conjunction with the Debtor's ability to pay for future utility services in accordance with prepetition practice, constitutes sufficient adequate assurance to the Utility Companies in full satisfaction of section 366 of the Bankruptcy Code.

D. Application for Entry of An Order, Pursuant to 28 U.S.C. § 156(c), Approving the Retention and Appointment of BMC Group, Inc. as Claims and Noticing Agent for the Debtor, Nunc Pro Tunc to the Petition Date (the “Claims Agent Application”)

42. The Debtor requests authority to retain BMC Group, Inc. (“BMC”) as claims and noticing agent for the Debtor on the terms set forth in the Services Agreement attached as Exhibit 1 to the proposed Order.

43. The Debtor anticipates that several hundred entities and/or individuals will be noticed during the course of this chapter 11 Case. In view of the number of anticipated claimants and the complexity and scope of the Debtor’s business, the Debtor submits that BMC’s appointment as the claims and noticing agent is both necessary and in the best interests of the Debtor’s estate and its creditors because the Debtor and the Clerk will be relieved of the burdens associated with the Claims and Noticing Services. Accordingly, the Debtor will be able to devote its full attention and resources to its chapter 11 process.

44. Although the Debtor has not filed its schedules of assets and liabilities, it is anticipated that there will be in excess of 200 entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtor’s businesses, I believe that the appointment of a claims and noticing agent is both necessary and in the best interests of both the Debtor’s estate and its creditors.

E. Motion for Entry of an Order Authorizing the Employment and Retention of Sherwood Partners, Inc. as Chief Restructuring Officer for the Debtor, Nunc Pro Tunc to the Petition Date, and Waiving Certain Information Disclosure Requirements (the “CRO Motion”)

45. The Debtor requests authority to (i) retain and employ Sherwood to provide the Debtor with a CRO and Additional Personnel and (ii) designate myself as CRO, *nunc pro tunc* to the Petition Date.

46. Based on the complexities associated with administering chapter 11 cases, the Debtor has determined that it requires the assistance of a CRO with the support of Additional Personnel with specialized experience in bankruptcy and financial advisory services. Accordingly, the Debtor seeks to retain myself as CRO and Additional Personnel from Sherwood because, among other things, the Debtor understands I and Sherwood have a wealth of experience in providing financial consulting services in distressed scenarios and enjoy an excellent reputation for services we have rendered in large and complex chapter 11 cases on behalf of debtors and creditors.

47. I have worked closely with the Debtor's management and other professionals since Sherwood was retained in February 2019, and have become well acquainted with the Debtor's operations, debt structure, creditors, business, and related matters. Consequently, the Debtor believes that I and certain other Sherwood employees have developed significant relevant experience and expertise regarding the Debtor and the circumstances of this Case, and have the skills, qualifications, and expertise necessary to continue to assist the Debtor in an efficient and cost-effective manner.

48. Among other things, I and the Additional Personnel will provide the following interim management and advisory assistance to the Debtor:¹³

- a. Provide advice with respect to the Debtor's initiation of a formal federal insolvency proceeding under Chapter 11 of the bankruptcy code;

¹³The summaries of the Engagement Agreement contained in the CRO Motion are provided for purposes of convenience only. Certain of the work streams provided in the Engagement Agreement were completed prior to the Petition Date or are superseded by the filing of the Case. In the event of any inconsistency between the summaries contained herein and the terms and provisions of the Engagement Agreement, the terms of the Engagement Agreement shall control unless otherwise set forth herein. Capitalized terms used in such summaries but not otherwise defined herein shall have the meanings set forth in the Engagement Agreement.

- b. Assist in the operation of the Debtor in the Chapter 11 bankruptcy proceeding;
- c. Communicate with employees, vendors and other key stakeholders;
- d. Assist in the preparation of Schedules and Statement of Financial Affairs;
- e. Prepare cash flow projections including Debtor-in-Possession budgets and declarations required for filing;
- f. Such other services as mutually agreed upon by the CRO, Sherwood and the Debtor; and
- g. Assist the Debtor with Monthly Operating Reports and other bankruptcy requirements.

49. Subject to approval by the Court, the Debtor proposes to retain Sherwood to provide myself as CRO and to provide the Additional Personnel on the terms and conditions set forth in the Engagement Agreement attached as Exhibit A to the CRO Motion.

F. Debtor's Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 for Authorization to Employ and Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession *Nunc Pro Tunc* to the Petition Date ("PSZ&J Retention Application")

50. By the PSZ&J Retention Application, the Debtor seeks to employ and retain PSZ&J as its bankruptcy counsel with regard to the filing and prosecution of this chapter 11 Case and all related proceedings.

51. Subject to Court approval in accordance with section 330(a) of the Bankruptcy Code, compensation will be payable to PSZ&J on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by PSZ&J.

52. PSZ&J has received payments from the Debtor during the year prior to the Petition Date in the amount of \$294,311.50, including the Debtor's filing fee for this case, in connection with its prepetition representation of the Debtor.

53. The Debtor understands that PSZ&J hereafter intends to apply to the Court for allowances of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and orders of this Court for all services performed and expenses incurred after the Petition Date.

G. Debtor's Motion for an Order Pursuant to Bankruptcy Code Sections 105 and 521, Bankruptcy Rule 1007(c), and Local Bankruptcy Rule 1007-1(b) Extending Deadline for Debtor to File Schedules and Statements (the "Schedule Extension Motion")

54. By the Schedule Extension Motion, the Debtor seeks entry of an order extending the time by which the Debtor must file its Schedules to thirty (30) days after the current deadline imposed by Local Bankruptcy Rule 1007-1(b), from June 10, 2019 to July 10, 2019, without prejudice to the Debtor's right to request additional time should it become necessary.

55. On the Petition Date, the Debtor filed a creditor matrix listing the Debtor's creditors and their addresses in accordance with Local Bankruptcy Rule 1007-2, which includes more than 200 creditors. Accordingly, by operation of Local Bankruptcy Rule 1007-1(b), the deadline for the Debtor to file its Schedules is automatically extended to twenty-eight (28) days from the Petition Date.

56. Given the substantial burdens already imposed on the Debtor's management by the commencement of this Case, the limited number of employees available to

collect the information (the Debtor currently employs 26 employees), the competing demands upon such employees, and the time and attention the Debtor must devote to the chapter 11 process, the Debtor believes it may be unable to complete its Schedules by the current deadline imposed by the Bankruptcy Rules and the Local Bankruptcy Rules.

57. Accordingly, the Debtor seeks an extension of the deadline to file its Schedules imposed by Bankruptcy Rule 1007(c).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of May, 2019 at Ontario , California.

A handwritten signature in black ink, appearing to read 'AUC', written above a horizontal line.

Andrew De Camara

EXHIBIT A
Organizational Chart

