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Proposed Counsel for Debtors and Debtors-in-Possession

7
8
9 **UNITED STATES BANKRUPTCY COURT**
SOUTHERN DISTRICT OF CALIFORNIA
10

11 In re:

12 STEAKHOUSE PARTNERS, INC., a Delaware
corporation,

13 Debtor.

Case No. 08-04147-11

Chapter 11

14
15 In re:

16 PARAGON STEAKHOUSE RESTAURANTS, a
Delaware corporation,

17 Debtor.

Case No. 08-4152-11

Chapter 11

18 In re:

19 PARAGON OF MICHIGAN, INC., a Wisconsin
corporation,

20 Debtor.

Case No. 08-4153-11

Chapter 11

21 **FIRST DAY MOTION NO. 4;**
22 **MOTION FOR ORDER (1) AUTHORIZING**
23 **CONTINUED USE OF EXISTING BUSINESS**
24 **FORMS AND RECORDS AND (2)**
AUTHORIZING MAINTENANCE OF EXISTING
CORPORATE BANK ACCOUNTS AND CASH
MANAGEMENT SYSTEM

25 Date: TBD

26 Time: TBD

27 Courtroom: 218

Judge: The Honorable James W. Meyers
28

Case No. 08-04147-11

MOTION FOR ORDER (1) AUTHORIZING CONTINUED USE OF EXISTING BUSINESS FORMS & RECORDS & (2)
AUTHORIZING MAINTENANCE OF EXISTING CORPORATE BANK ACCOUNTS & CASH MANAGEMENT SYSTEM

1 PLEASE NOTE THAT THIS IS A FIRST-DAY MOTION FILED PURSUANT TO APPENDIX D1 OF THE
2 LOCAL BANKRUPTCY RULES OF THE SOUTHERN DISTRICT OF CALIFORNIA ("LOCAL
3 BANKRUPTCY RULES"). ANY PARTY IN INTEREST WHO OPPOSES THE FIRST-DAY MOTION MUST
4 IMMEDIATELY NOTIFY THE JUDGE'S LAW CLERK, KATHY YOST, BY CALLING (619) 557-3455. NO
5 WRITTEN OPPOSITION SHALL BE FILED TO THE FIRST-DAY MOTION UNLESS THE COURT
6 OTHERWISE DIRECTS.

7
8 TO THE HONORABLE JAMES W. MEYERS, UNITED STATES BANKRUPTCY JUDGE, SECURED
9 CREDITORS, THE TWENTY LARGEST UNSECURED CREDITORS AND THE UNITED STATES
10 TRUSTEE::

11 PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively the
12 "Debtors") hereby file this First Day Motion for an order of this Court pursuant to sections 105(a) and 345(b) of
13 title 11 of the United States Code (the "Bankruptcy Code") (1) authorizing the Debtors' continued use of their
14 existing business forms and records and (2) authorizing the Debtors to maintain their existing bank accounts
15 and their cash management system and waiving compliance with the United States Trustee's guidelines
16 regarding approved depositories.

17 PLEASE TAKE NOTICE that pursuant to Local Bankruptcy Rule 9014-5 and the "Guidelines for First
18 Day Motions" any party who opposes this Motion shall notify the judge's law clerk of its position by telephone.
19 No opposition shall be filed to a First Day Motion unless the Court otherwise directs. Pursuant to the
20 "Guidelines for First Day Motions" the Court reserves discretion to grant or deny a First Day Motion without a
21 hearing unless the Court otherwise directs.

22
23 PLEASE TAKE FURTHER NOTICE that the Motion is based upon the accompanying Memorandum
24 of Points and Authorities and the Declaration of Joseph L. Wulkowicz in support thereof filed under separate
25 cover concurrently herewith. In addition, the Debtors request that the Court take judicial notice of all
26 documents filed with the Court in these cases.

27 WHEREFORE, the Debtors respectfully request that this Court enter an order authorizing the Debtors
28 to:

1. Continue to use their existing business forms and records;
2. Maintain their existing corporate bank accounts and cash management system;
3. Granting such other and further relief as is necessary and appropriate in the circumstances.

Dated: May 15, 2008

LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

By: /s/ Enid M. Colson

Julia W. Brand
Enid M. Colson
Proposed Counsel for Debtors and
Debtors-In-Possession

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **STATEMENT OF FACTS¹**

4 **A. Jurisdiction and Venue**

5 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core
6 proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of the chapter 11 cases is proper pursuant to 28
7 U.S.C. §§ 1408 and 1409 as the Debtors' executive offices are located in San Diego County. The statutory
8 predicate for the relief sought herein are sections 105(a) and 345(b) of the Bankruptcy Code and this Court's
9 "Guidelines for First Day Motions."

10 **B. Background Facts**

11 1. History of the Debtors

12 The three Debtors are related corporations engaged in the operation of 21 full service steakhouse
13 restaurants located in the seven states of Arizona, California, Indiana, Michigan, North Carolina, Ohio and
14 Utah. These restaurants principally operate under the brand names of Hungry Hunter, Hunter Steakhouse,
15 Mountain Jack's and Carvers.

16 Debtor Steakhouse Partners, Inc. ("Steakhouse Partners") is publicly traded over the counter under
17 the symbol "STKP." In December, 1998, Steakhouse Partners acquired its wholly owned subsidiary, Debtor
18 Paragon Steakhouse Restaurants, Inc. ("Paragon Steakhouse"), which owns and operates the restaurant
19 businesses. Paragon Steakhouse has one wholly owned subsidiary, Debtor Paragon of Michigan, Inc.,
20 ("Paragon of Michigan") through which it conducts its restaurant operations in the state of Michigan and holds
21 its intellectual property and trade names. The structural maintenance of Paragon of Michigan is dictated by
22 state alcohol laws; however, the subsidiary operations and financial results are consolidated at the Paragon
23 Steakhouse level.

24 The Debtors' business income is generated from food and beverage sales from each of the 21
25 restaurants, which during the Debtors' Fiscal Year 2007 (ending December 25, 2007) generated
26 approximately \$45,000,000 in gross revenue (as of the first quarter 2008, two restaurants are no longer

27 ¹ The facts set forth in this Motion are verified in the Omnibus Declaration of Joseph L. Wulkowicz in
28 Support of Chapter 11 Petitions and First Day Motions filed concurrently herewith under separate cover.

1 operated by the Debtors). Like other restaurant businesses, the Debtors' operations are seasonal, with the
2 overall performance peaking in the 4th quarter.

3 The Debtors' 21 steakhouses specialize in complete steak and prime rib meals, and also offer fresh
4 fish and other lunch and dinner dishes. The average restaurant check is \$27.30 per guest (including alcoholic
5 beverages) and the 21 restaurants serve approximately two million meals annually. Most restaurants are
6 open daily from 4:30 to 9:30 p.m. on weekdays and from 4:00 to 11:00 p.m. on the weekends. Some
7 restaurants are also open for lunch, typically beginning at 11:00 a.m.

8 Paragon Steakhouse and Paragon of Michigan, as of January 8, 2008 employ in excess of 1,325 full
9 and part time employees, approximately 1,200 of which perform services during any two-week period, and of
10 which approximately 55% are part-time.

11 Paragon manages six restaurants known as Sirloin Saloon and Dakota Steakhouses in the states of
12 Vermont, Massachusetts, Connecticut and New York pursuant to a Management and Services Agreement
13 between Paragon and the restaurant owners, DWH, I, Pittsfield DWH and Saloon beverages, Inc., entered
14 into effective November, 2007. This Management Agreement provides for termination of Paragon's
15 management services in the event that Paragon's acquires the membership interests in the referenced
16 corporations pursuant to a Membership Purchase Agreement or terminates the transaction pursuant to its
17 terms.

18 The Debtors maintain an internet website at www.paragonsteak.com. This website offers free access
19 to the Debtors' press releases and Steakhouse Partners' filings with the U.S. Securities and Exchange
20 Commission (the "SEC"), including its annual report on Form 10-K, quarterly reports on Form 10-Q, current
21 reports on Form 8-K and amendments to those reports, as soon as reasonably practicable after these reports
22 are filed with or furnished to the SEC.

23 2. The Debtors' Prior Bankruptcy Cases

24 On February 15, 2002, Steakhouse Partners filed a voluntary petition for relief under Chapter 11 of
25 the Bankruptcy Code in the United States Bankruptcy Court for the Central District of California (the
26 "Bankruptcy Court"). On February 19, 2002, Paragon Steakhouse and Paragon of Michigan also filed
27 voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court (together, the
28 "Initial Filing"). Effective December 31, 2003, the Debtors confirmed a Joint Plan of Reorganization (the "2003

1 Plan"), and on December 28, 2007 the Court entered an Order Regarding Final Report, Accounting and Final
2 Decree.

3 The Initial Filing was made in response to the maturing of certain notes aggregating \$1,734,285,
4 which the Debtors were unable to pay. Throughout the course of the Reorganization, the Debtors sought to
5 retain core locations, eliminate non-competitive leases, restructure their debt, and withdraw from under-
6 performing markets.

7 The 2003 Plan provided for the creation of the Class 4 Creditor Trust (the "Trust") for general
8 unsecured claimants with claims in excess of \$4,000 with a trustee (the "Trustee") for the purpose of
9 collecting, maintaining and distributing the Steakhouse Partners Class 4 Creditors Trust Assets. As part of
10 the Plan, the Trust was granted a lien on the Debtors' leasehold interests. Today, the Trust is the principle
11 secured creditor of the Debtors.

12 3. Post Plan Confirmation

13 Since confirmation of the 2003 Plan, the Debtors have experienced difficulty generating sufficient
14 cash to cover operating expenses, deferred maintenance and the extraordinary costs to satisfy reorganization
15 commitments. This inability remained an impediment to implementing long-term strategic changes required
16 to enhance the Debtors' intrinsic value, to increase top line revenue and resulting profit, and to pay long-term
17 debt. As a result, the Debtors' post-confirmation business plans focused on generating increased revenue
18 and profit, but directed attention to programs producing a longer-term focus through debt restructuring and
19 acquisition. Post confirmation, the Debtors sought and reached agreements with both public and private
20 financial institutions to complete certain acquisitions and private equity placements in order to strengthen the
21 core business and provide capital for debt repayment.

22 Although the Debtors had originally made total payments of approximately \$1,200,000 to the Trust,
23 they failed to make certain further payments as required by the 2003 Plan. As a result, the Trustee and the
24 Debtors negotiated a settlement agreement approved by the Court on August 10, 2006 (the "Settlement
25 Agreement"). Under the Settlement Agreement, the Debtors became obligated to make an alternative
26 payment of \$5,200,000 (the "Alternative Payment") of which \$1,100,000 was to be paid immediately.

27 In early 2007, the Debtors began a real estate liquidation plan designed to make structured payments
28 on their debt to the Trust. However, because the Debtors had not made the \$1,100,000 payment, on or about

1 May 18, 2007, the Debtors received the Trustee's notice of default as to the Alternative Payment. As a result,
2 the Debtors agreed to enter into a forbearance agreement (the "Forbearance Agreement") with the Trust,
3 which formalized the real estate sale plan already being marketed. The Debtors discuss their efforts and the
4 status of the sales with the Trustee of the Trust on a regular basis.

5 4. The Debtors' Situation in 2008

6 Although the Debtors have attempted to complete all of the sales contemplated by their agreement
7 with the Trust, a combination of variables causing deteriorating financial performance and third-party reticence
8 to consent to transfers have stymied the Debtors' efforts to live up to their commitments to the Trust.

9 Since mid-2007, the Debtors' financial results have deteriorated as a result of a combination of rising
10 costs and declining sales and guest frequency. By the end of March 2008, the deterioration rapidly
11 accelerated. Specifically, cost increases have been unprecedented. By way of example:

- 12 • The price of prime rib alone has increased by around 5%, chiefly as a result of the Midwest
13 diversion of corn products from the cattle feed market to the production of alternate fuel
14 sources such as ethanol. Thus, the feed available to ranchers has spiked in price, forcing
15 them to charge more per pound of beef. Further, in response to their own cost pressures, the
16 ranchers have reduced herd sizes, further driving up commodity costs due to lack of available
17 product. The Debtors only serve corn fed beef as it is the over whelming preference of their
18 core guests.
- 19 • Similarly, the nationwide oil and gas price increases have forced purveyors to assess "fuel
20 charges" on all products (whether produce, dairy, staples or alcohol), adding almost \$500,000
21 annually to the Debtors' operating cost.
- 22 • During 2007, the Debtors incurred increased payroll costs of around \$400,000 as a direct
23 result of state minimum wage increases. During first quarter 2008, an additional \$100,000 in
24 increased wages were paid as new minimum wage increases took effect.

25 Administrative and accounting costs necessary to comply with new federal regulations, public
26 company filing requirements and the increases in medical benefit and workman's compensation costs added
27 another \$100,000 to the costs of business.

28 Unfortunately, the above cost increases come in the middle of an economic downturn in which
Americans are spending less on "elective items" such as dining out, making it nearly impossible to raise menu
prices. According to the restaurant industry reports, unemployment, economic uncertainty and instability in
the housing market are the greatest contributors to declining restaurant revenue in all segments.

1 As a result of this reduced revenue-increased cost environment, the Debtors have been unable to
2 generate sufficient cash to timely pay their bills on an ongoing basis and still sell real estate to satisfy the
3 Trust obligations. As the spiral has accelerated, landlords are unwilling to consent to transfers when
4 payments are not current, and state authorities will not allow transfer of single units until all state obligations
5 are current.

6 As such, the Debtor seeks to complete its liquidation commitments within the protection of chapter 11
7 cases to gain sufficient time to sell assets for their highest and best price as going concerns. In the past six
8 years, the Debtors have sold and assigned more than 20 restaurants. In each case, the Debtors were able to
9 sell its leasehold interest, alcohol license, personal property and inventory for cash. In contrast, two
10 restaurants have been closed and offered for sale. In each case, no sale has been consummated because
11 the building offers no "going concern" value. A restaurateur does not want the property, because the
12 inventory and operating licenses (including liquor) are not available, and the "dark building" offers no built in
13 customer base. Alternate use buyers have shied away from purchase, because a restaurant building requires
14 extensive remodeling (especially with approximately 40% of the square footage allocated to the kitchen) or
15 razing to be suitable for alternative use.

16 Beginning in the week of May 11, 2008, the Debtors have started to receive 3-day notices from some
17 of their landlords. Other landlords have made statements to the Debtors that they may commence eviction
18 proceedings but have not yet served formal 3-day notices.

19 The Debtors believe that they can maximize cash available for distribution to creditors by offering for
20 sale their assets as operating "going concerns" while under the court's protection. They believe this can be
21 accomplished expeditiously and efficiently given the sales programs and leads already in place. However, it
22 cannot be accomplished without this Court's protection from parties seeking to block sales by seeking
23 preferential payment in front of senior creditors.

24 The remaining units will produce sufficient cash to support operations until sold. During the coming
25 ninety days, the restaurants the Debtor expects to continue to operate until sales are consummated should
26 produce a positive EBITDA.

27
28

1 **C. Relief Requested**

2 The Debtors seek (1) a waiver of the requirements that, as of the Petition Date, they close existing
3 and open new "debtor-in-possession" books and records, bank accounts and, in connection therewith (2) that
4 the Debtors be authorized to maintain their cash management system. (The Debtors do not have any
5 business credit card accounts and therefore do not seek to maintain such accounts.)

6 **D. Factual Basis for Relief Requested**

7 1. The United States Trustee Requirements

8 The United States Trustee (the "U.S. Trustee") has established its "Operating and Reporting
9 Requirements for Chapter 11 Cases" ("UST Requirements") for debtors-in-possession in order to supervise
10 the administration of chapter 11 cases. Upon the filing of a petition, the UST Requirements mandate chapter
11 11 debtors, among other things, to:

12 A. Close all books and records and open new books and records to cover the postpetition
13 period;

14 B. Close all prepetition bank accounts and other deposits of which the debtors have possession,
15 custody, control, ownership, use or access and open three new debtor-in-possession accounts: the general,
16 payroll and tax accounts;

17 C. Establish and maintain additional cash collateral accounts (if the debtors possess cash
18 collateral);

19 D. Obtain new bank signature cards and checks bearing the words "debtor-in-possession" and
20 the case number;

21 E. Deposit funds into one of the fourteen depositories approved by the U.S. Trustee; and

22 F. Close all business credit card accounts.

23 ("Operating and Reporting Requirements for Chapter 11 Cases", U. S. Trustee, Southern District of California,
24 January 2008, pp. 2-3.)

25 These requirements are designed to provide a clear line of demarcation between prepetition and
26 postpetition transactions and operations and to prevent the inadvertent postpetition payment of prepetition
27 claims. The Debtors believe they can achieve the same objectives without having to comply with all of these
28

1 requirements with regard to their current accounts and, for the reasons set forth below, the Debtors request a
2 waiver of the UST Requirements as to the Debtors' accounts.

3 2. The Debtors' Existing Business Forms

4 The Debtors, in the ordinary course of their business, use many checks, invoices, stationery and
5 other business forms. Additionally, the Debtors have a computerized record-keeping system that is supported
6 by various reporting and detailed ledger packages. By virtue of the nature and scope of the business in which
7 the Debtors are engaged, and the numerous other parties with whom the Debtors deal, the Debtors need to
8 be permitted to use their existing business forms without alteration or change. A substantial amount of time
9 and expense would be required in order to print new checks and other business forms. In addition, many of
10 the forms that are used by the Debtors are preprinted from a computer draft copy. Although it would be
11 possible to change these forms, the Debtors submit that this would create confusion and delay among their
12 employees, customers and other third parties. Accordingly, the Debtors respectfully request that they be
13 authorized to continue to use their existing business forms.

14 3. The Debtors' Existing Bank Accounts

15 The Debtors maintain sixteen active bank accounts to fund their operations as well as certain other
16 bank accounts described herein and as shown on Exhibit "A". The Debtors seek a waiver of the requirement
17 that these accounts be closed and new ones opened as of the Petition Date. The Debtors also seek a waiver
18 of the requirement that certain of their accounts be with banks appearing on the U.S. Trustee's approved
19 depository list. The Debtors believe that compliance with these requirements would unnecessarily disrupt the
20 Debtors' business and impair their efforts to preserve the value of their estates. For example, if the Debtors
21 were required to substitute new debtor-in-possession payroll accounts for the existing payroll account, the
22 Debtors' employees would be caused hardship and suffer the attendant delays, confusion and disruptions that
23 would necessarily result. One of the Debtors' main objectives is to preserve the morale of their employees
24 and, correspondingly, the value of their operations².

25 Furthermore, the Debtors believe that only if their accounts are continued in their current form can the
26 chapter 11 process be smooth and orderly, thereby creating a minimum amount of interference with

27 ² By a separately filed First Day Motion, the Debtors are also requesting authority to honor prepetition
28 wage claims of non-insider employees.

1 continuing operations. To the extent there are any prepetition obligations that are processed for payment
2 postpetition, the Court can take comfort in the fact that the Debtors' personnel can readily distinguish between
3 prepetition and postpetition obligations without closing the Debtors' bank accounts and opening new ones.
4 Indeed, this capability is an unintended benefit of the Debtors' electronic accounting and reporting systems,
5 which includes special notation fields which identify the dates in which a liability is incurred, processed and, if
6 applicable, paid. The Debtors' accounting system automatically records a written notation on checks, and
7 more importantly, puts notations on electronic vouchers created when an invoice is entered into the accounts
8 payable system. The Debtors utilize the "Positive Pay" system for all of the Debtors' disbursement accounts,
9 which requires the Debtors to send a file of issued checks to the bank each day checks are written. When
10 those issued checks are presented for payment at the bank, they are compared electronically against the list
11 of transmitted checks. The check-issue file sent to the bank contains the check number, account number,
12 issue date, and dollar amount. When a check is presented that does not have a "match" in the file, it becomes
13 an "exception item". The bank sends a fax or an image of the exception item to the Debtors. The Debtors
14 review the image and have the opportunity to instruct the bank to pay or return the check. This system will
15 ensure that no prepetition debts are paid postpetition except for those specifically authorized by this Court.

16 Accordingly, the Debtors respectfully request that they be permitted to maintain their existing
17 accounts in the ordinary course of business, provided that no prepetition checks, drafts, wire transfers or other
18 forms of tender which have not yet cleared the relevant drawee bank as of the Petition Date will be honored
19 unless authorized by separate order of this Court. Ultimately, there is no benefit in requiring the existing
20 accounts to be closed and reopened as debtor-in-possession accounts. The Debtors seek to be spared this
21 administrative burden, and accordingly, seek a waiver of the requirement.

22 4. The Debtors' Existing Cash Management System

23 The Debtors, likewise, require the ability to continue to utilize their cash management system so that
24 they may continue the uninterrupted operation of their business. As shown on Exhibit "B" attached hereto, the
25 Debtors maintain a centralized cash management system, involving well-established banking relationships
26 and accounts, to manage and control receipts and disbursements. Generally, the Debtors' corporate
27 accounts are maintained in the name of Paragon Steakhouse Restaurants, Inc. at Union Bank Concentration
28 Account No. 4000153015. This Concentration Account receives deposits from the many sources described

1 below, and funds the disbursements, which is also described below.

2 Deposits to the Concentration Account are received daily from the following sources:

- 3 • Modest direct deposits made by the corporate office, consisting of checks in payment
4 of gift certificates, refund checks, employee paid insurance and the like;
- 5 • Paragon Steakhouse Restaurant Inc.'s Bank of America Deposit Account via daily
6 wires; this account is used primarily for West Coast restaurant cash receipts. No
7 disbursements are made from this account;
- 8 • Direct transfers from Heartland Payment Systems for Visa, MasterCard and Diners
9 Club;
- 10 • Direct transfers from American Express and Discover Card transactions; and
- 11 • Five other banks throughout the country (Chase / Bank One, Comerica Bank,
12 Lafayette Bank and Trust, Wells Fargo Bank and Zions Bank); these accounts are
13 used by the Midwest and eastern restaurants for cash receipt deposits only and are
14 not disbursement accounts. Of these banks, Comerica and Wells Fargo appear on
15 the U.S. Trustee's approved depository list but the others do not. However, because
16 deposits made to these accounts are wired nightly to the Concentration Account at
17 Union Bank, an approved depository, the Debtors existing cash management system
18 substantially complies with the UST Requirements regarding approved depositories.

19 The Concentration Account serves as the funding account for the Accounts Payable Accounts at
20 Union Bank (account numbers 4000153112, 9081001118 and 4000154119), the Payroll Accounts at Union
21 Bank (account numbers 9081001126 and 4000154100), the Field Disbursement Account at Union Bank
22 (account number 9081001134), a Liquor Payment Account at Bank of America (account number
23 000697028275) and for Vendor Payments and Wire Transfers³. The Concentration Account automatically
24 funds the disbursement accounts.

25 Regular Payroll is also paid out of the Concentration Account. Additionally, the Concentration
26 Account automatically funds the payroll disbursement account at Union Bank (account number 4000153023)

27 ³ Liquor purchases for the Debtors' restaurant located in North Carolina must be funded from a separate,
28 dedicated account pursuant to relevant North Carolina statutes and regulations.

1 to fund vacation payments for Debtor Paragon Steakhouse Restaurants, Inc. and Debtor Paragon of
2 Michigan, Inc.

3 The obligations of the Debtors are paid by Debtor Paragon Steakhouse Restaurants and accounted
4 for through intercompany receivables / payables accounts which are reconciled monthly.

5 The Debtors' cash management system allows them to effectively and efficiently run their business.
6 The Debtors believe that the success of their chapter 11 cases demands that there be minimal disruption to
7 their ordinary affairs and that the maintenance of their current cash management system is essential to
8 limiting the disruptions to their business. Absent the relief sought herein, the disruption to the cash
9 management system would have a profound and negative impact on Debtors' ability to maximize the value of
10 their assets for the benefit of all of their creditors and employees.

11 II.

12 LEGAL ARGUMENT

13 A. Courts Have Recognized That Strict Enforcement of UST Requirements Does Not Always 14 Serve the Purposes of Chapter 11

15 Section 345(b) permits a bankruptcy court, "for cause," to exempt a debtor in possession from
16 compliance with specific standards for financial matters. § 345(b) (" . . . unless the court for cause orders
17 otherwise."). Courts have long recognized that strict enforcement of the requirements promulgated by the
18 United States Trustee regarding bank accounts and cash management systems do not always serve the
19 rehabilitative purposes of chapter 11. As such, courts have regularly waived such requirements and permitted
20 debtors in possession to maintain their existing bank accounts and cash management systems and deem
21 requests for such relief as "simple matters." See, e.g., In re Baldwin-United Corp., 79 B.R. 321, 327 (Bankr.
22 S.D. Ohio 1987) (describing debtor's motion to maintain bank accounts and cash management system as
23 "seemingly simple matters"); In re The Colad Group, Inc., 324 B.R. 208, 216 (Bankr. W.D.N.Y. 2005) (allowing
24 debtor in possession to maintain its prepetition cash management system); In re Enron Corp., 279 B.R. 671,
25 677-78 (Bankr. S.D.N.Y. 2002) (referencing prior order granting debtors' motion to continue use of existing
26 bank accounts, cash management system, checks and business forms).

27 Although bankruptcy courts rarely publish their decisions on such requests, the continued use of
28 existing bank accounts and cash management systems is routinely granted. In re UAL Corp., 2002 WL

1 34344255, *1-2 (Bankr. N.D. Ill. Dec. 9, 2002)(order authorizing continued use of existing cash management
2 system, bank accounts, business forms); In re Metabolife Int'l, Inc., Case No. 05-6040-H11 (Bankr. S.D. Cal.
3 2006); In re Sizzler Restaurants Int'l, Inc., Case Nos. 96-16075 through 16079 (Bankr. C.D. Cal. 1996); In re
4 TriValley Growers, Inc., Case No. 00-44089 (Bankr. N.D. Cal. 2000).

5 Moreover, the Court has the discretion to exempt the Debtors from compliance with certain of the
6 UST Requirements as courts have determined that such requirements do not rise to the level of binding law.
7 In re Young, 205 B.R. 894, 897 (Bankr. W.D. Tenn. 1997)("[T]his Court finds that the UST does not have the
8 statutory authority to require the debtor to imprint "Debtor-In-Possession" on his checks"); In re Gold Standard
9 Baking, Inc., 179 B.R. 98, 106 (Bankr. N.D. Ill. 1995) (same).

10 **B. Notice of This Motion Complies With This Court's Requirements and Is Appropriate**

11 Pursuant to this Court's Guidelines for First Day Motions, this Motion has been served by facsimile, or
12 personal service, or email (where consent was granted) or, where necessary, by express or overnight mail on
13 all known secured creditors and the twenty largest unsecured creditors in each of the Debtors' cases and the
14 United States Trustee. Because of the exigent circumstances, the Debtors respectfully submit, and request
15 that this Court so find, that no further notice of this Motion is required.

17 **C. The Court May Grant this First Day Motion Without A Hearing.**

18 Bankruptcy Code section 102(1)(A) provides in pertinent part: "(1) 'after notice and a hearing' . . .
19 means after such notice as is appropriate in the particular circumstances, and such opportunity for hearing as
20 is appropriate in the particular circumstances." Furthermore, section 102(1)(B)(i) of the Bankruptcy Code
21 "authorizes an act without actual hearing if such notice is given properly and such a hearing is not requested
22 timely by a party in interest."

23 This Motion is brought as a First Day Motion in accordance with the Guidelines for First Day Motions
24 which provide that certain matters must be addressed immediately after the commencement of a chapter 11
25 case in order to ensure the least possible disruption to the debtor's ongoing business operations and thereby
26 enhance the chances for success in chapter 11. Pursuant to the Guidelines, the Court reserves discretion to
27 grant or deny a First Day Motion without a hearing unless the Court otherwise directs. The Debtors believe
28

1 that under Bankruptcy Code Section 102(1) and the Guidelines, and with the need for immediate approval of
2 this Motion for the reasons described above, it would be appropriate to dispense with a hearing on the Motion.

3
4 **III.**

5 **CONCLUSION**

6 For the foregoing reasons, the Debtors respectfully request that this Court enter an order authorizing
7 the Debtors to (1) continue to use their existing business forms and records and (2) maintain their existing
8 corporate bank accounts (including those accounts at institutions which the U.S. Trustee has not included on
9 its list of approved depositories) and cash management system.

10
11 Dated: May 15, 2008

LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

12
13 By: /s/ Enid M. Colson

14 Julia W. Brand
15 Enid M. Colson
16 Proposed Counsel for Debtors and
17 Debtors-In-Possession
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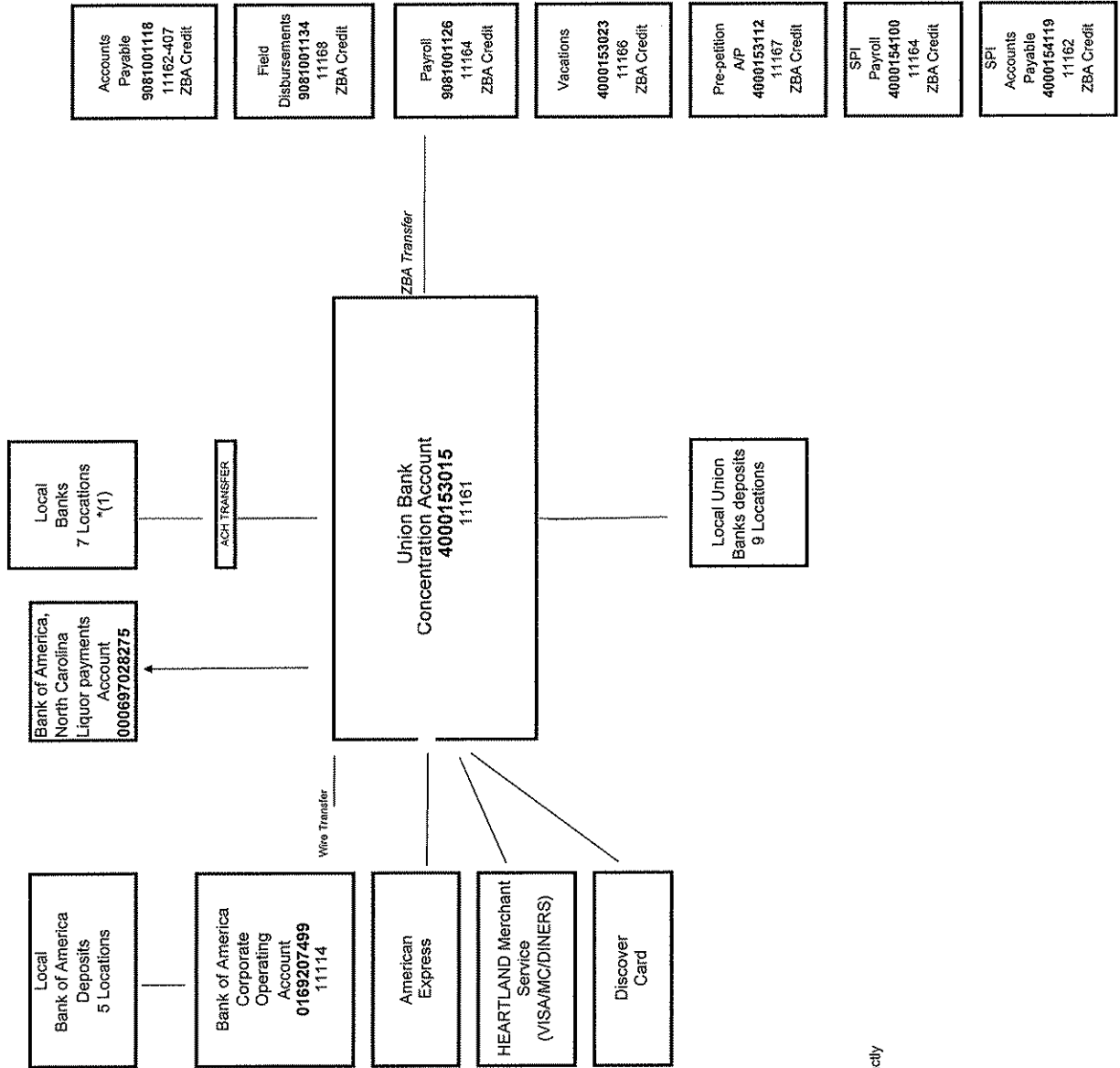
Exhibit A

STEAKHOUSE PARTNERS, INC.
Paragon Steakhouse Restaurants, Inc.
Listing of all Bank Accounts

<u>Bank Name</u>	<u>Purpose For Account</u>	<u>Account #</u>	<u>Contact</u>	<u>Phone #</u>	<u>Address</u>	<u>Address (suite)</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
UNION BANK OF CA.	Main Concentration	4000153015	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	Vacation	4000153023	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	Pre-Petition AP	4000153112	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	SPI Payroll	4000154100	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	SPI AP	4000154119	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	AP Checks	9081001118	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	Payroll	9081001126	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
UNION BANK OF CA.	Field Check	9081001134	Sonja McQueen	619.230.3382	530 B Street	4th Floor	San Diego	CA.	92101
BANK OF AMERICA	Depository	01692-07499	Karen Turner	888.852.5000 x8277	7700 El Camino Real	Suite 204	Carlsbad	CA.	92009
BANK OF AMERICA, NC	Raleigh, North Carolina (for liquor payments)	0006 9702 8275	Karen Turner	888.852.5000 x8277	7700 El Camino Real	Suite 204	Carlsbad	CA.	92009
WELLS FARGO	Consolidated Depositories	700-4134037	Marena Tutankjian	858.566.7263	9996 Scripps Ranch Blvd.		San Diego	CA.	92131
COMERICA BANK	Consolidated Depositories	1840264764	Mike Randall	602.417.1130	611 Anton Blvd.	4th Floor	Costa Mesa	CA.	92626
CHASE /BANK ONE	Consolidated Depositories	275000049625	Phuong Du	937.443.6290	7990 Washington Village Dr		Dayton	OH	45459
CHASE /BANK ONE	Consolidated Depositories	612089466	Customer Service	800.242.7338	1451 Opydke		Auburn Hills	MI	48326.2652
LAFAYETTE BANK & TRUST	Consolidated Depositories	110590	Cathy Elmore	765.423.7142	3901 State Road	26 East	Lafayette	IN	47905
ZIONS BANK	Consolidated Depositories	71014708	Jenny Watts	801.326.5468	462 West 800		North Urem	UT	84057

Exhibit B

STEAKHOUSE PARTNERS, INC.
Paragon Steakhouse Restaurants, Inc.
Bank Flow Chart



*(1) Midwest locations do not deposit directly into Union Bank.

Exhibit C

Name, Address, Telephone No. & I.D. No.

Julia W. Brand, Esq. (SBN: 121760)
Enid M. Colson, Esq. (SBN: 189912)
Liner Yankelevitz Sunshine & Regenstreif LLP
1100 Glendon Ave., 14th Floor
Los Angeles, CA 90024-3503
(310) 500-3500

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

STEAKHOUSE PARTNERS, INC., a Delaware corporation

BANKRUPTCY NO.

08-04147-11

Date of Hearing:

Time of Hearing:

Debtor. Name of Judge: James W. Meyers

**ORDER ON FIRST DAY MOTION NO. 4; MOTION FOR
ORDER (1) AUTHORIZING CONTINUED USE OF EXISTING BUSINESS FORMS
AND RECORDS, ETC.**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court
James W. Meyers

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

Liner Yankelevitz Sunshine & Regenstreif LLP
(Firm name)

By: /s/ Enid M. Colson

Attorney for ☐ Movant ☐ Respondent

Enid M. Colson

The Debtors and Debtors-in-Possession Steakhouse Partners, Inc., Paragon Steakhouse Restaurants and Paragon of Michigan (the "Debtors"), having properly filed and provided the required notice of its First Day Motion No: 4 "Motion for Order (1) Authorizing Continued use of Existing Business Forms and Records and (2) Authorizing Maintenance of Existing Corporate Bank Accounts And Cash Management System" ("Cash Management Motion") and the Omnibus Declaration of Joseph L. Wulkowicz filed in support of the Debtors' First Day Motions, the Court having determined that the legal and factual bases set forth in the Cash Management Motion establish just cause for the relief requested, and it appearing that such relief is in the best interests of the Debtors' estates, and after due deliberation and sufficient good cause appearing therefor,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Debtors' Cash Management Motion is hereby granted:
2. The Debtors are hereby authorized to continue to use their existing business forms and records; and
3. The Debtors are hereby authorized to maintain their existing corporate bank accounts and cash management system.

IT IS SO ORDERED

Name, Address, Telephone No. & I.D. No.

Julia W. Brand, Esq. (SBN: 121760)
Enid M. Colson, Esq. (SBN: 189912)
Liner Yankelevitz Sunshine & Regenstreif LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, California 90024-3503
310.500.3500

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

PARAGON STEAKHOUSE RESTAURANTS, a Delaware
corporation

BANKRUPTCY NO.

08-04152-11

Date of Hearing:

Time of Hearing:

Debtor. Name of Judge: James W. Meyers

**ORDER ON FIRST DAY MOTION NO. 4: MOTION FOR
ORDER (1) AUTHORIZING CONTINUED USE OF EXISTING
BUSINESS FORMS AND RECORDS, ETC.**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court
James W. Meyers

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

Liner Yankelevitz Sunshine & Regenstreif LLP
(Firm name)

By: /s/ Enid M. Colson

Attorney for ☐ Movant ☐ Respondent

Enid M. Colson

The Debtors and Debtors-in-Possession Steakhouse Partners, Inc., Paragon Steakhouse Restaurants and Paragon of Michigan (the "Debtors"), having properly filed and provided the required notice of its First Day Motion No: 4 "Motion for Order (1) Authorizing Continued use of Existing Business Forms and Records and (2) Authorizing Maintenance of Existing Corporate Bank Accounts And Cash Management System" ("Cash Management Motion") and the Omnibus Declaration of Joseph L. Wulkowicz filed in support of the Debtors' First Day Motions, the Court having determined that the legal and factual bases set forth in the Cash Management Motion establish just cause for the relief requested, and it appearing that such relief is in the best interests of the Debtors' estates, and after due deliberation and sufficient good cause appearing therefor,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Debtors' Cash Management Motion is hereby granted:
2. The Debtors are hereby authorized to continue to use their existing business forms and records; and
3. The Debtors are hereby authorized to maintain their existing corporate bank accounts and cash management system.

IT IS SO ORDERED

Name, Address, Telephone No. & I.D. No.

Julia W. Brand, Esq. (SBN: 121760)
Enid M. Colson, Esq. (SBN: 188912)
Liner Yankelevitz Sunshine & Regenstreif, LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, California 90024-3503
310.500.3500

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

PARAGON OF MICHIGAN, INC. a Wisconsin corporation

BANKRUPTCY NO.

08-04153-11

Date of Hearing:

Time of Hearing:

Debtor. Name of Judge: James W. Meyers

**ORDER ON FIRST DAY MOTION NO. 4; MOTION FOR
ORDER (1) AUTHORIZING CONTINUED USE OF EXISTING BUSINESS
FORMS AND RECORDS, ETC.**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court
James W. Meyers

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

Liner Yankelevitz Sunshine & Regenstreif, LLP
(Firm name)

By: /s/ Enid M. Colson

Attorney for ☐ Movant ☐ Respondent

Enid M. Colson

The Debtors and Debtors-in-Possession Steakhouse Partners, Inc., Paragon Steakhouse Restaurants and Paragon of Michigan (the "Debtors"), having properly filed and provided the required notice of its First Day Motion No: 4 "Motion for Order (1) Authorizing Continued use of Existing Business Forms and Records and (2) Authorizing Maintenance of Existing Corporate Bank Accounts And Cash Management System" ("Cash Management Motion") and the Omnibus Declaration of Joseph L. Wulkowicz filed in support of the Debtors' First Day Motions, the Court having determined that the legal and factual bases set forth in the Cash Management Motion establish just cause for the relief requested, and it appearing that such relief is in the best interests of the Debtors' estates, and after due deliberation and sufficient good cause appearing therefor,

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IT IS SO ORDERED