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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

	§	
	§	
In re	§	**Chapter 11**
	§	
PILGRIM'S PRIDE CORPORATION, *et al.*,	§	**Case No. 08-45664 (DML)**
	§	
	§	
Debtors.	§	
	§	
	§	**JOINTLY ADMINISTERED**

DEBTORS' MOTION PURSUANT TO SECTION 107(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9018
<u>FOR AUTHORIZATION TO FILE FEE LETTERS UNDER SEAL</u>

TO THE HONORABLE D. MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE:

Pilgrim's Pride Corporation ("PPC"), and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors"),[1] respectfully represent:

Background

1. On December 1, 2008 (the "Commencement Date"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Pilgrim's Pride's Businesses

3. PPC, together with its debtor and non-debtor subsidiaries (collectively, "Pilgrim's Pride"), has one of the best brand names in the chicken industry. It is one of the largest producers of chicken in the United States and the second largest producer in Mexico. Pilgrim's Pride has operations throughout the continental United States, Puerto Rico, and Mexico. Formed in 1946 as a retail feed store partnership between Lonnie A. "Bo" Pilgrim and his brother, Aubrey E. Pilgrim, PPC has been a publicly traded company since 1986.

4. Through vertical integration, Pilgrim's Pride manages the breeding, hatching and growing of chickens. Pilgrim's Pride also manages the processing, preparation,

[1] The Debtors in these cases are PPC; PFS Distribution Company; PPC Transportation Company; To-Ricos, Ltd.; To-Ricos Distribution, Ltd.; Pilgrim's Pride Corporation of West Virginia, Inc.; and PPC Marketing, Ltd.

packaging, sale and distribution of its product lines, which Pilgrim's Pride believes has made it one of the highest quality, lowest-cost producers of chicken in North America. In the continental United States, Pilgrim's Pride produces both prepared chicken products and fresh chicken products. In Mexico and Puerto Rico, it produces exclusively fresh chicken products. Pilgrim's Pride's products are sold to foodservice, retail and frozen entrée customers, distributed primarily through retailers, foodservice distributors and restaurants.

Jurisdiction

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

6. By this Motion the Debtors request that, pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, the Court authorize the Debtors to file the Fee Letters (as defined below) under seal.

Background

7. Contemporaneously herewith the Debtors have filed their *Motion Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code for Authorization to (A) Enter Into Exit Financing Mandate Letter, Commitment Letter, and Fee Letters and (B) Pay Fees and Expenses Related Thereto* (the "Mandate Letter Motion"). Pursuant to the Mandate Letter Motion, the Debtors seek entry of an order (i) approving (a) a mandate letter (the "Mandate Letter"), dated as of July 21, 2009 by and among PPC, To-Ricos, Ltd., To-Ricos Distribution, Ltd. (collectively, the "Debtor Parties"), CoBank, ACB ("CoBank") and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., "Rabobank International", New York Branch ("Rabobank")

setting forth the terms and conditions upon which CoBank and Rabobank will structure, arrange, and syndicate a credit facility to provide exit financing to the Debtors in connection with a plan of reorganization, (b) a form of commitment letter (the "Commitment Letter") by and among the Debtor Parties, CoBank, and Rabobank which, upon execution, will supersede the Mandate Letter, obligating CoBank and Rabobank to commit a certain amount of funds to an exit financing facility of the Debtors to the extent a syndicate is established, (b) an administrative agent fee letter (the "Administrative Agent Mandate Fee Letter"), dated as of July 21, 2009 by and among Debtor Parties and CoBank, (c) a collateral agent fee letter (the "Collateral Agent Mandate Fee Letter"), dated as of July 21, 2009 by and among the Debtor Parties, CoBank, and Rabobank, (d) a joint lead arranger fee letter (the "Joint Lead Arranger Mandate Fee Letter"), dated as of July 21, 2009 by and among the Debtor Parties, CoBank, and Rabobank, and (e) a joint syndication agent fee letter (the "Joint Syndication Agent Mandate Fee Letter" and together with the Administrative Agent Mandate Fee Letter, Collateral Agent Mandate Fee Letter, and Joint Lead Arranger Mandate Fee Letter, the "Mandate Fee Letters"),[2] dated as of July 21, 2009 by and among the Debtor Parties, CoBank, and Rabobank, (f) forms of fee letters (individually, the "Administrative Agent Commitment Fee Letter", "Collateral Agent Commitment Fee Letter", "Joint Lead Arranger Commitment Fee Letter", and the "Joint Syndication Agent Commitment Fee Letter" and, collectively, the "Commitment Fee Letters" and together with the Mandate Fee Letters, the "Fee Letters") containing substantially the same terms as the Mandate Fee Letters, in connection with the Commitment Letter that will supersede the Mandate Fee Letters upon execution of the Commitment Letter, and (ii) authorizing the Debtors to pay fees

[2] The Debtors have filed a motion contemporaneously herewith requesting authorization to file the Fee Letters under seal to protect the proprietary information contained therein.

and expenses pursuant to the terms set forth in the Mandate Letter, Commitment Letter, and Fee Letters.

8. The Mandate Letter and Commitment Letter[3] provide that in connection with seeking approval of the Mandate Letter, Commitment Letter and Fee Letters, the Debtors must submit the Fee Letters under seal. The Mandate Letter and Commitment Letter further provide that the Debtors may disclose the terms of the Fee Letters to certain parties, including but not limited to (i) the United States Trustee, (ii) counsel to the statutory committees appointed in these chapter 11 cases, (iii) counsel to the Debtors' prepetition secured lenders, and (iv) counsel to the Agent to the Debtors' postpetition lenders (collectedly, the "Limited Disclosure Parties"), and then only to the extent the Limited Disclosure Parties are bound by a confidentiality agreement satisfactory to the Joint Lead Arranger (as defined in the Mandate Letter Motion).

Basis for Relief Requested

9. Pursuant to Section 107(b) of the Bankruptcy Code,

> [o]n request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may – (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; . . .

10. Bankruptcy Rule 9018 sets forth the procedures by which a party in interest may obtain a protective order authorizing the filing of a document under seal. Bankruptcy Rule 9018 states in relevant part:

> On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information.

[3] The Mandate Letter and Commitment Letter are attached as Exhibit A and Exhibit B to the Mandate Letter Motion, respectively.

11. Once the court determines that a party in interest is seeking protection of information that falls within one of the categories enumerated in section 107(b), "the court is required to protect a requesting interested party and has no discretion to deny the application." *Video Software Dealers Ass'n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994).

12. The Debtors submit that sufficient cause exists for this Court to grant the relief requested herein. The Fee Letters contain certain terms that are commercially sensitive to the Lender Parties (as defined in the Mandate Letter), and broad publication of their terms would be inappropriate and materially harmful to the Lender Parties' ability to negotiate in this case and other matters. Disclosure of such information would put the Lender Parties at a competitive disadvantage and may cause them to reconsider syndicating an exit facility pursuant to the terms of the Mandate Letter and providing funding to an exit facility pursuant to the terms of the Commitment Letter.

13. If authorized by the Court, the Debtors will (a) file the Fee Letters under seal, (b) serve the Fee Letters on the Limited Disclosure Parties pursuant to the terms of the Mandate Letter, and (c) file and serve a notice that the Fee Letters have been field under seal upon the parties in interest in accordance with applicable notice procedures.

No Previous Request

14. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: August 4, 2009
Fort Worth, Texas

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