

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

RESTAURANTS ACQUISITION I, LLC,¹

Debtor.

Chapter 11

Case No. 15-12406 (KG)

Related to Docket No. 63

**ORDER ESTABLISHING PROCEDURES FOR INTERIM
COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS**

Upon the Motion (the "Motion")² of Restaurants Acquisition I, LLC (the "Debtor"), the debtor and debtor-in-possession in the above-captioned chapter 11 case (the "Chapter 11 Case"), pursuant to Bankruptcy Code sections 105(a) and 331, Bankruptcy Rule 2016 and Local Rules 2016-1 and 2016-2, seeking entry of an order authorizing, but not directing, the Debtor to establish procedures for the interim compensation and reimbursement of expenses of professionals, all as further described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all proceedings had before the Court related to the Motion; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtor's estate, its creditors and other parties-in-

¹ The Debtor's mailing address is 313 East Main Street, Suite 2, Hendersonville, TN and the last four digits of its tax identification number are 8761.

² Capitalized terms used but not otherwise defined herein have the meanings set forth in the Motion or the First Day Declaration, as applicable.

interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted as set forth herein.
2. Except as otherwise provided in an order of the Court authorizing the retention of a Professional, the Retained Professionals may seek interim payment of compensation and reimbursement of expenses in accordance with the following Compensation Procedures:

- (a) On or after the 20th day, or the next business day if such day is not a business day, of each month following the month for which compensation is sought (the "Compensation Period"), each Professional seeking interim allowance of its fees and expenses may file an application which will include the relevant time entry and description and expense detail for interim allowance of compensation and services rendered and reimbursement of expenses incurred during the preceding month (a "Monthly Fee Application") with the Court, pursuant to Bankruptcy Code section 331, for interim approval and allowance of compensation for services rendered and reimbursement of expenses incurred during the Compensation Period. Each Professional shall serve the Monthly Fee Application on the following parties (the "Notice Parties"):
 - (i) the Debtor, 313 East Main Street, Suite 2, Hendersonville, TN, Attn: Phillip Purcell, General Counsel;
 - (ii) proposed counsel to the Debtor, Duane Morris LLP, 222 Delaware Avenue, Suite 1600, Wilmington, DE 19801-1659, Attn: Sean J. Bellew, Esq. and Sommer L. Ross, Esq.;
 - (iii) counsel to CNL Financial Group, Inc., Blank Rome LLP, One Logan Square, Philadelphia, PA 19103, Attn: John Lucian, and 1201 N. Market St., Suite 800, Wilmington, DE 19801 Attn: Alan M. Root;
 - (iv) counsel to American Express Bank, FSB, Arnall Golden Gregory LLP, 171 17th Street NW, Suite 2100, Atlanta, GA 30363, Attn: Darryl Laddin and Frank N. White and Smith, Katzenstein & Jenkin LLP, 1000 West Street, Suite 1501, P.O. Box 410, Wilmington, DE 19899, Attn: Kathleen M. Miller;

- (v) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Mark Kenney; and
 - (vi) counsel to any statutory committee that may be appointed in the Chapter 11 Case.
- (b) The first Monthly Fee Application submitted by each Retained Professional shall cover the period from the effective date of such Retained Professional's retention through and including the last day of the first full month following such date.
 - (c) Any Retained Professional who fails to file a Monthly Fee Application for a particular month(s) may subsequently submit a consolidated Monthly Fee Application for a particular month(s). All Monthly Fee Applications shall comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and applicable Third Circuit law.
 - (d) Each Notice Party will have 21 calendar days, or the next business day if such day is not a business day, after service of a Monthly Fee Application to object thereto (the "Objection Deadline"). Upon the expiration of the Objection Deadline: (i) if no objections have been filed, each Retained Professional shall file a certificate of no objection, or a certificate of partial no objection with the Court, whichever is applicable, after which the Debtor shall be authorized to pay such Retained Professional an amount equal to 80% of the fees and 100% of the expenses requested in its Monthly Fee Application (the "Maximum Interim Payment"); or (ii) if an objection is properly filed, the Retained Professional shall be entitled to 80% of the fees and 100% of the expenses not subject to an objection (the "Actual Interim Payment").
 - (e) If any Notice Party objects to a Retained Professional's Monthly Fee Application (the "Affected Professional"), it must, on or before the expiration of the Objection Deadline, file with the Court and serve on the Affected Professional and each other Notice Party a written objection (an "Objection") so as to be received on or before the Objection Deadline. The Objection shall specifically identify the objectionable fees and expenses, including the amount of the applicable fees and expenses, and the basis for the Objection. Thereafter, the objecting party and the Affected Professional may attempt to resolve the Objection on a consensual basis. If the parties are able to resolve their dispute, the Affected Professional shall serve on the Notice Parties a statement indicating that the Objection has been withdrawn or settled, and the Debtor shall promptly pay, in accordance with subparagraph (d) that portion of the Monthly Fee Application which is no longer subject to an Objection up to the Maximum Interim Payment. If the parties are unable to resolve their dispute within 21 calendar days, or the next business day if

such day is not a business day, after service of the Objection, the affected Retained Professional may either: (i) file a response to the Objection with the Court, together with a request for payment of the difference, if any, between the Maximum Interim Payment and the Actual Interim Payment made to such Affected Professional (the “Incremental Amount”); or (ii) forego payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and rule on the Objection if necessary.

- (f) Approximately 120 calendar days, but no more than 150 calendar days, after the Petition Date, and for each subsequent three-month period (each, an “Interim Fee Period”), each Retained Professional shall file with the Court and serve on the Notice Parties an application (an “Interim Fee Application”) for interim approval and allowance of compensation and reimbursement of expenses sought in the Monthly Fee Applications, including any holdbacks, filed during the Interim Fee Period, pursuant to Bankruptcy Code section 331. The Interim Fee Application must include a summary of: (i) the Monthly Fee Applications that are the subject of the request, (ii) the amount of fees and expenses requested, (iii) the amount of fees and expenses paid to date or subject to an Objection, (iv) the deadline for other parties and the Notice Parties to file objections (the “Additional Objections”) to the Interim Fee Application and (v) any other information requested by the Court or required by the Local Rules. All Interim Fee Applications shall comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and applicable Third Circuit law.
- (g) Each Retained Professional shall file its Interim Fee Application on or before the 45th day, or the next business day if such day is not a business day, after the end of the applicable Interim Fee Period.
- (h) Additional Objections to any Interim Fee Application shall be filed and served upon the affected Retained Professional and the Notice Parties so as to be received on or before the 20th day, or the next business day if such day is not a business day, following service of the applicable Interim Fee Application.
- (i) Service of the Monthly Fee Applications, Interim Fee Applications, final fee applications and notices of any hearing thereon (the “Hearing Notices”) shall be limited as follows: (i) the Notice Parties shall be entitled to receive the Monthly Fee Applications, Interim Fee Applications, final fee applications and Hearing Notices; and (ii) parties-in-interest requesting notice pursuant to Bankruptcy Rule 2002 shall be entitled to receive the Hearing Notices and, only upon request of the appropriate Retained Professional, the Monthly and Interim Fee Applications and final fee applications.

- (j) The Debtor shall request that the Court schedule a hearing on Interim Fee Applications at least once every six (6) months or at such other intervals as the Court deems appropriate. If no Objections are pending and no Additional Objections are timely filed, the Court may grant an Interim Fee Application without a hearing.
- (k) The pendency of an Objection or an Additional Objection to payment of compensation or reimbursement of expenses shall not disqualify a Retained Professional from the future payment of compensation or reimbursement of expenses, unless the Court orders otherwise.
- (l) Any Retained Professional who fails to file a Monthly Fee Application or an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the Compensation Procedures until such time as a Monthly Fee Application or Interim Fee Application is submitted by the Retained Professional. There will be no other penalties for failing to file a Monthly Fee Application or an Interim Fee Application in a timely manner.
- (m) Neither (i) the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses under the Compensation Procedures nor (ii) the filing of or the failure to file an Objection to any Monthly Fee Application or Interim Fee Application will bind any party-in-interest or the Court with respect to the allowance of interim or final applications for compensation for services rendered and reimbursement of expenses of Retained Professionals. All fees and expenses paid to Retained Professionals in accordance with the Compensation Procedures are subject to disgorgement until final allowance by the Court.
- (n) Any statutorily appointed committee in the Chapter 11 Case is permitted to submit statements of expenses (excluding the fees and expenses of third-party counsel to the individual committee members) and supporting vouchers to the committee's counsel which counsel shall collect and submit the committee members' request for reimbursement in accordance with the Compensation Procedures as if such committee members were Professionals; *provided, however*, that the approval of the Compensation Procedures does not authorize payment of such expenses to the extent that such authorization does not exist under the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or other applicable law.
- (o) No Professional may serve a Monthly Fee Application or file an Interim Fee Application until the Court enters an order approving the retention of such Professional pursuant to Bankruptcy Code sections 327 or 1103.

3. All motions, applications or other such requests for payment by all attorneys and other professionals who (i) have been or are hereafter retained pursuant to sections 327 or 1103 of the Bankruptcy Code, unless an ordinary course professional (an “OCP”) retained in accordance with the OCP Motion and any order entered thereon is required to file a fee application under such order or local rule, or (ii) have been authorized to receive compensation from the estate and who have been designated by order of the Court as being subject to these procedures, shall be submitted in compliance with the applicable sections of the Bankruptcy Code, the Bankruptcy Rules, and this Court’s Local Rule 2016-2.

4. The amount of fees and expenses sought in any request for compensation and reimbursement of expenses shall be stated in U.S. dollars (if applicable, calculated at the prevailing exchange rate on the date of submission of the relevant fee application).

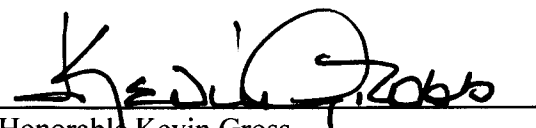
5. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

6. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry.

7. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

8. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Dated: January 4, 2016
Wilmington, Delaware



Honorable Kevin Gross
United States Bankruptcy Judge