



FILED & JUDGMENT ENTERED  
Steven T. Salata  
  
November 8 2017  
  
Clerk, U.S. Bankruptcy Court  
Western District of North Carolina

*Laura T Beyer*  
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Laura T. Beyer  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

In re  
  
BESTWALL LLC,<sup>1</sup>  
  
Debtor.

Chapter 11  
  
Case No. 17-31795

**ORDER (I) APPROVING THE CONTINUED USE OF  
THE DEBTOR'S BANK ACCOUNTS, CASH MANAGEMENT SYSTEM  
AND BUSINESS FORMS; (II) GRANTING A WAIVER OF  
THE REQUIREMENTS OF SECTION 345(b); AND (III) AUTHORIZING  
THE DEBTOR'S BANKS TO CHARGE CERTAIN FEES AND OTHER AMOUNTS**

This matter coming before the Court on the *Motion of the Debtor for an Order:*

*(I) Approving the Continued Use of Its Bank Accounts, Cash Management System and Business Forms; (II) Granting a Waiver of the Requirements of Section 345(b); and (III) Authorizing the Debtor's Banks to Charge Certain Fees and Other Amounts (Docket No. 22) (the "Motion"),<sup>2</sup> filed by the debtor and debtor in possession in the above-captioned case (the "Debtor"); the Court*

<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 5815. The Debtor's address is 100 Peachtree Street, N.W., Atlanta, Georgia 30303.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

having reviewed the Motion and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue is proper in this district pursuant to 28 U.S.C. § 1409, (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (d) notice of the Motion, the Hearing and the relief sought therein was sufficient under the circumstances, (e) cause exists, within the meaning of section 345(b) of the Bankruptcy Code, to permit the Debtor to deposit funds in accordance with its prepetition deposit practices, as modified herein, and (f) there is good cause to waive the 14-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Debtor is authorized to continue to use the Bank Accounts under existing account numbers without interruption; provided, however, that no checks issued against the Bank Accounts prior to the commencement of the Chapter 11 Case shall be honored, except as otherwise authorized by an order of this Court and directed by the Debtor.
3. The Debtor is authorized to open and close bank accounts; provided, however, that: (a) prior to opening or closing a bank account, the Debtor must give notice to (i) the Bankruptcy Administrator, (ii) any official committee appointed in the Chapter 11 Case and (iii) the future claimants' representative appointed in the Chapter 11 Case; and (b) any new domestic bank account opened by the Debtor shall be established at an institution that is

(i) insured by the FDIC or the FSLIC and (ii) organized under the laws of the United States or any State therein.

4. The Debtor is authorized to: (a) maintain the Cash Management System in substantially the same form as the Cash Management System used as of the Petition Date and as described in the Motion, subject to paragraphs 5 and 6 below; and (b) continue to perform under the Cash Pooling Agreement from and after the Petition Date. Cash of GP Plasters and Plasters Canada held in the Concentration Account ("Subsidiary Cash") is property of GP Plasters and Plasters Canada, as applicable, and is not property of the Debtor's estate.

5. As soon as reasonably practicable and no later than 30 days after the entry of this Order, the entire balance of the Segregated Account will be invested through Bank of America Merrill Lynch or other broker acceptable to the Bankruptcy Administrator (the "Broker") solely in instruments backed by the full faith and credit of the United States (collectively, "U.S. Treasury Funds").

6. As soon as reasonably practicable and no later than 30 days after the entry of this Order, not less than \$2.5 million of the \$5 million in reserve funds in the Concentration Account, as contemplated by the Funding Agreement (See Funding Agreement at 5), will be invested through the Broker solely in U.S. Treasury Funds (the "Invested Reserve Funds"). The Invested Reserve Funds may be converted into cash as and when needed by the Debtor. For the avoidance of doubt, the remaining cash in the Concentration Account, including the Subsidiary Cash, may remain in the Concentration Account and need not be invested in U.S. Treasury Funds. The Debtor shall keep the Bankruptcy Administrator informed on a monthly basis of the balance of estate funds in the Concentration Account in order for those funds to be collateralized.

7. The Banks are authorized, but not directed, to accept and honor all representations from the Debtor as to which checks, drafts, wires or ACH transfers should be honored or dishonored consistent with any order of this Court and governing law, whether such checks, drafts, wires or ACH transfers are dated prior to, on or subsequent to the Petition Date, provided that sufficient funds are available within such Banks to make the payments.

8. The Banks shall not be liable to any party on account of: (a) following the Debtor's instructions or representations as to any order of this Court; (b) the honoring of any prepetition check or item in a good faith belief that the Court has authorized such prepetition check or item to be honored; or (c) an innocent mistake made despite implementation of reasonable item-handling procedures.

9. The Banks are authorized to charge, and the Debtor is authorized to pay or honor, the Bank Fees related to the Bank Accounts. The Banks also are authorized to charge back returned items to the Bank Accounts in the ordinary course of business.

10. The Debtor is authorized to continue to use its Business Forms substantially in the forms existing as of the commencement of the Chapter 11 Case, without reference to the Debtor's status as a debtor in possession and its chapter 11 case number; *provided that* the Debtor shall add the designation "Debtor in Possession" to its signature cards for each Bank Account.

11. The Debtor is authorized to deposit and hold Account Funds in accordance with its prepetition deposit practices, as modified by paragraphs 5 and 6 hereof, and a waiver of the requirements of section 345 of the Bankruptcy Code is hereby granted to the extent that the Account Funds at any time exceed the applicable FDIC or FSLIC insurance limits.

12. Any and all accounts opened by the Debtor on or after the Petition Date at any Bank shall, for the purposes of this Order, be deemed a prepetition Bank Account (as if it had been opened prior to the Petition Date and listed in Exhibit A to the Motion), and any and all Banks at which such accounts are opened shall similarly be subject to the rights and obligations of this Order.

13. Nothing contained in the Motion or this Order shall be deemed or construed as: (a) an admission as to the validity or priority of any claim against the Debtor; (b) a waiver of the Debtor's or any other party in interest's rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) a request to assume or reject any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (e) a limitation on the authority of the Debtor to conduct its business in the ordinary course without seeking the approval of the Court.

14. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

15. Any party shall be entitled to request that the Court reconsider entry of this Order by filing a motion for reconsideration within 14 days service of this Order.

16. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Order, including by entering into and implementing the terms of the Broker's standard account agreement for cash invested in U.S. Treasury Funds, which agreement shall be in a form that is acceptable to the Bankruptcy Administrator.

17. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, enforcement or interpretation of this Order.

This Order has been signed electronically.  
The Judge's signature and Court's seal appear  
at the top of the Order.

United States Bankruptcy Court