

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

CAFE HOLDINGS CORP., *et al.*,¹

Debtors.

Chapter 11

Case No. 18-05837 (hb)

(Jointly Administered)

INTERIM ORDER (A) AUTHORIZING THE (I) CONTINUED USE OF THE DEBTORS' EXISTING CASH MANAGEMENT SYSTEM AND (II) USE OF EXISTING BANK ACCOUNTS AND BUSINESS FORMS; (B) AUTHORIZING PAYMENTS OF PREPETITION COSTS AND FEES ASSOCIATED WITH CUSTOMER CREDIT AND DEBIT CARD TRANSACTIONS; (C) WAIVING THE REQUIREMENTS OF SECTION 345(B) OF THE BANKRUPTCY CODE ON AN INTERIM BASIS; AND (D) GRANTING CERTAIN RELATED RELIEF

Upon consideration of the motion (the "**Motion**")² of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**"), for the entry of an order (this "**Interim Order**"), pursuant to sections 105(a), 363(c)(1), 345(b), 364(b), 503(b) and 507(a)(2) of the Bankruptcy Code, (a) authorizing the Debtors to (i) continue to maintain their Cash Management System and (ii) maintain their Bank Accounts and business forms, and in connection with the foregoing, granting the Debtors a waiver of certain bank account and related requirements of the U.S. Trustee Guidelines to the extent that such requirements are inconsistent with the Debtors' practices in connection with their Cash Management System or any action taken by the Debtors in accordance with this Order or any other order entered in these chapter 11 cases; (b) authorizing, but not directing, the Debtors, in their sole discretion, to pay or otherwise satisfy all prepetition

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Cafe Holdings Corp. (7910); Cafe Enterprises, Inc. (4946); CE Sportz LLC (2009); and CES Gastonia LLC (0863). The location of the Debtors' corporate headquarters is 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

Credit Card Processing Fees; (c) waiving the requirements of section 345(b) of the Bankruptcy Code on an interim basis with respect to the Debtors' deposit practices; and (d) granting certain related relief, as more fully set forth in the Motion; and upon consideration of the Motion and all pleadings related thereto; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and it appearing that the Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and creditors; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on an interim basis as set forth herein *nunc pro tunc* to the Petition Date.

2. The final hearing on the relief sought in the Motion shall be conducted on **December 5, 2018 at 9:30 a.m., Eastern Time**. The deadline to file objections to the entry of the relief sought in the Motion on a final basis is **December 3, 2018 at 4:00 p.m., Eastern Time**. If no objections are filed to the relief sought in the Motion on a final basis, this Court may grant the Motion on a final basis without further notice or hearing.

3. The Debtors are authorized, pursuant to 11 U.S.C. §§ 105(a) and 363(c), to continue to maintain, operate, make transfers under, and otherwise use their Cash Management System in the ordinary course of their business and in the same manner as the Debtors implemented and maintained the Cash Management System prior to the Petition Date, subject to the provisions and limitations in this Interim Order.

4. The Debtors are authorized to (i) designate, maintain, and continue to use any or all of the Bank Accounts listed on Exhibit A to this Interim Order, in the names and with the account numbers existing immediately prior to the Petition Date, (ii) deposit funds into and withdraw funds from such accounts by all usual means, including, without limitation, checks, wire transfers, automated transfers, and other debits, and (iii) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession.

5. The Debtors are authorized, but not directed, in their sole discretion, to pay or otherwise satisfy all pre-petition Credit Card Processing Fees and any related pre-petition obligations in accordance with the Debtors' pre-petition policies and practices and to continue paying Credit Card Processing Fees in the ordinary course to the extent such fees or obligations are due on or prior to the entry of a final order.

6. The Banks are hereby authorized and directed to continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession without interruption and in the usual and ordinary course, and to receive, process, honor, and pay any and all checks and drafts drawn on, or electronic transfer requests made on, the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be; provided, however, that any check drawn or issued by the Debtors before the Petition Date may be honored by a Bank only if authorized by order of this Court.

7. Except for those checks that may be honored and paid to comply with any order(s) of this Court authorizing payment of certain prepetition claims, no checks or drafts issued on the Bank Accounts before the Petition Date but presented for payment after the Petition Date shall be honored or paid.

8. Notwithstanding any other provision of this Interim Order, no Bank that honors a prepetition check or other item drawn on any account that is the subject of this Interim Order (i) at the direction of the Debtors, (ii) in a good faith belief that this Court has authorized such prepetition check or item to be honored, or (iii) as the result of an innocent mistake made despite implementation of reasonable item handling procedures, shall be deemed to be liable to the Debtors or their estates on account of such pre-petition check or other item being honored post-petition or otherwise in violation of this Interim Order.

9. The Debtors are authorized to open any new Bank Accounts or close any existing Bank Accounts as they may deem necessary and appropriate in their sole discretion; provided, however, that the Debtors give notice thereof within 5 business days to the U.S. Trustee, Atalaya Administrative LLC, and any statutory committees appointed in these chapter 11 cases; provided further, however, that the Debtors shall open any such new Bank Account at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or at such banks that are willing to promptly execute such an agreement. The Debtors shall provide notice of any Bank Account closures to the U.S. Trustee within 5 business days.

10. The Debtors are authorized to continue to use their existing checks without alteration and without the designation "Debtors-in-Possession" imprinted upon them; provided that once the Debtors' existing checks have been used, the Debtors shall, when reordering checks, require the designation "Debtors in Possession" on all checks; provided further that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtors in Possession" legend on such items within ten days of the date of entry of this Interim Order.

11. The Banks are hereby authorized to debit from the Bank Accounts ordinary course of business bank fees and charges without further order of this Court provided that such ordinary course fees and charges are authorized under the applicable account agreement with the Debtors and provided further that nothing set forth herein shall authorize any Bank to debit any claim or charges not in the ordinary course of business and not permitted under applicable account agreements.

12. Each of the Debtors' Banks is authorized to debit the Debtors' accounts in the ordinary course of business without need for further order of this Court for: (i) all checks, items, and other payment orders drawn on the Debtor's accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Bank's receipt of notice of filing of the Petition; (ii) all checks, automated clearing house entries, and other items deposited or credited to one of Debtors' accounts with such Bank prior to filing of the Petition which have been dishonored, reversed, or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to filing of the Petition; and (iii) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

13. Each of the Debtors' Banks may rely on the representations of the Debtors with respect to whether any check, item, or other payment order drawn or issued by the Debtors prior to filing of the Petition should be honored pursuant to this Interim Order or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

14. Unless otherwise ordered by the Court or agreed to by the U.S. Trustee, during these Chapter 11 cases, the Debtors shall not maintain a balance that exceeds the applicable FDIC insurance limit at any Bank that is not an authorized depository.

15. With respect to the Banks at which the Debtors hold accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within 5 business days from the date of entry of this Order the Debtors shall (i) contact each such Bank, (ii) provide the Bank with the Debtors' employer identification numbers, and (iii) identify each of the accounts held at such Banks as being held by a debtor in possession.

16. Notwithstanding anything to the contrary in this Interim Order, the Debtors shall have 45 days to comply with the requirements of section 345(b) of the Bankruptcy Code. To the extent that within the 45 day period any of the Debtors' cash is held in a Bank Account of a Bank that is not an authorized depository under the UST Operating Guidelines and either (a) such Bank Account is not insured by the FDIC, or (b) the cash in such Bank Account exceeds at any point in time the applicable FDIC insured limits, then the Debtors shall promptly seek further relief from the Court to the extent necessary.

17. Within five business days of the entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on each Bank.

18. Nothing in the Motion or this Interim Order, nor as a result of any payment made pursuant to this Interim Order, shall be deemed or construed as (a) an admission as to the validity, priority, or amount of any claim against the Debtors or their estates or an approval or assumption of any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, or (b) a waiver of the rights of the Debtors and their estates, or shall impair the ability of the Debtors and

their estates, to contest the validity, priority and amount of any claims or any payment made pursuant to this Order.

19. In the ordinary course of their business post-petition in accordance with their pre-petition policies and practices, the Debtors shall continue to maintain records related to any intercompany transfers and disbursements so that such transactions can be ascertained, traced, and accounted for.

20. Notwithstanding use of a consolidated Cash Management System, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

21. Notwithstanding anything to the contrary herein, any payments authorized to be made pursuant to this Interim Order shall be made only to the extent authorized under the cash collateral and debtor-in-possession financing budget approved by the Court in effect as of the time such payment is to be made.

22. The requirements set forth in Bankruptcy Rule 6003(b) have been satisfied.

23. The terms and conditions of this Interim Order shall be immediately effective and enforceable upon entry of this Order.

24. The requirements of Bankruptcy Rule 6004(a) are waived.

25. The Debtors are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Interim Order.

26. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

AND IT IS SO ORDERED.

EXHIBIT A

Bank Accounts

Account Holder	Bank	Account Description	Last Four Digits of Bank Account Number
Cafe Enterprises, Inc.	BB&T	Restaurant-Level Account	8171
Cafe Enterprises, Inc.	BB&T	Restaurant-Level Account	7254
Cafe Enterprises, Inc.	TD Bank	Restaurant-Level Account	2229
Cafe Enterprises, Inc.	Citizens Bank	Restaurant-Level Account	5050
Cafe Enterprises, Inc.	Community First	Restaurant-Level Account	3581
Cafe Enterprises, Inc.	County Bank	Restaurant-Level Account	9401
Cafe Enterprises, Inc.	CresCom Bank	Restaurant-Level Account	0938
Cafe Enterprises, Inc.	Entegra Bank	Restaurant-Level Account	6057
Cafe Enterprises, Inc.	First Citizens	Restaurant-Level Account	0007
Cafe Enterprises, Inc.	First National Bank	Restaurant-Level Account	1518
Cafe Enterprises, Inc.	People's Bank	Restaurant-Level Account	4911
Cafe Enterprises, Inc.	South State Bank	Restaurant-Level Account	5939
Cafe Enterprises, Inc.	United Community	Restaurant-Level Account	7793
Cafe Enterprises, Inc.	Union Bank	Restaurant-Level Account	9449
Cafe Enterprises, Inc.	1 st Bank Cheraw	Restaurant-Level Account	3952
CES Gastonia, LLC	Fidelity Bank	Restaurant-Level Account	5143
Cafe Enterprises, Inc.	NBSC	DACA Account	8001
Cafe Enterprises, Inc.	NBSC	Beer/Wine Zero Account – Manual BWL	2601
Cafe Enterprises, Inc.	NBSC	Beer/Wine Zero Account – Tavern 24 BWL	8091
Cafe Enterprises, Inc.	NBSC	Tax Escrow Account	1001
Cafe Enterprises, Inc.	NBSC	Store Capital Rent Payment Account	8117
Cafe Enterprises, Inc.	NBSC	Utilities Adequate Assurance Account	9508
Cafe Enterprises, Inc.	Meta Bank/Money Network	Payroll Account	0013