

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

CAFE HOLDINGS CORP. *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-05837 (hb)

(Jointly Administered)

**FINAL ORDER (A) AUTHORIZING THE DEBTORS TO PAY AND HONOR CERTAIN  
PREPETITION WAGES, BENEFITS AND OTHER COMPENSATION OBLIGATIONS  
AND (B) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS  
CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS**

Upon consideration of the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), for the entry of an order (this “**Final Order**”), (a) authorizing the Debtors to pay and honor certain prepetition wages, benefits and other compensation obligations, and (b) authorizing financial institutions to honor and process checks and transfers related to such obligations, as described more fully 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

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<sup>1</sup> 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.

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

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 a final basis as set forth herein.
2. Subject to the requirements of Bankruptcy Code §§ 507(a)(4) and (a)(5), the Debtors are authorized, but not directed, to pay and remit in accordance with the Debtors' prepetition policies and programs, Employee Obligations and all costs incident to the foregoing in accordance with the Debtors' customary policies, including, but not limited to (i) the Unpaid Wages; (ii) the obligations owed to the Independent Contractors; (iii) the rewards accrued and unpaid as part of the Monthly Performance Plan; (iv) PTO; (v) the Zurich Policy for workers' compensation; and (vi) the Employee Benefit Obligations.
3. The Debtors are authorized, but not directed, to maintain and continue to honor the Employee Programs as they were in effect as of the Petition Date, and as may be modified, amended or supplemented from time to time in the ordinary course of business, including, but not limited to (i) the 401(k) Plan; (ii) the HSA Program; (iii) the Payroll Deductions; (iv) the Employer Taxes and Fees; (v) the Reimbursement Obligations; and (vi) the Miscellaneous Benefits.
4. The Debtors are authorized, but not directed, to pay all post-petition costs and expenses incidental to payment of the Employee Obligations and Employee Programs described in paragraphs 2 and 3 herein, including all administrative and processing costs.
5. Notwithstanding the foregoing, the Debtors shall not remit past due amounts under the Monthly Performance Plan to employees that are entitled to enhanced bonuses under the Monthly Performance Plan pursuant to executory contracts with the Debtors.
6. All applicable banks and other financial institutions are hereby authorized to receive, process, honor, and pay any and all checks, drafts, wires, check transfer requests or

automated clearing house transfers evidencing amounts paid by the Debtors under this Final Order whether presented prior to or after the Petition Date to the extent the Debtors have good funds standing to their credit with such bank or other financial institution. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions. The Debtors are authorized to issue post-petition checks, or to effect post-petition wire transfer requests, in replacement of any checks or transfers in respect of the payments authorized to be paid pursuant to this Final Order that are dishonored or rejected.

7. Nothing in this Final Order: (i) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors or their estates; (ii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors or their estates to contest the validity, priority, or amount of any claim against the Debtors or their estates; (iii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors or their estates with respect to any and all claims or causes of action against any third party; or (iv) shall be construed as a promise to pay a claim or continue any applicable program post-petition, which decision shall be in the discretion of the Debtors. Any payment made pursuant to this Final Order is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

8. Notice of the Motion satisfies the requirements set forth in Bankruptcy Rule 6004(a).

9. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

10. The terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all such actions as are necessary or appropriate to effectuate the relief requested in this Final Order in accordance with the Motion.

12. The Debtors shall not pay to any individual employee an amount in excess of the caps set forth in Bankruptcy Code section 507(a)(4) and (a)(5).

13. The Debtors are authorized, but not directed, to continue to pay Severance Pay on a postpetition basis in the ordinary course of business with respect to eligible, non-insider Employees. The Debtors shall not pay Severance Pay to any insider of the Debtors without first obtaining further authorization from this Court.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

15. Notwithstanding anything to the contrary herein, any payments authorized to be made pursuant to this Final 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.

**AND IT IS SO ORDERED.**

**FILED BY THE COURT  
12/06/2018**



  
US Bankruptcy Judge  
District of South Carolina

Entered: 12/06/2018

Certificate of Notice Page 6 of 7  
United States Bankruptcy Court  
District of South Carolina

In re:  
Cafe Holdings Corp.  
Debtor

Case No. 18-05837-hb  
Chapter 11

**CERTIFICATE OF NOTICE**

District/off: 0420-7

User: richardso  
Form ID: pdf01

Page 1 of 2  
Total Noticed: 1

Date Rcvd: Dec 06, 2018

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 08, 2018.

aty +Ian T. Peck, Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700,  
Dallas, TX 75219-7673

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Dec 08, 2018

Signature: /s/Joseph Speetjens

**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 6, 2018 at the address(es) listed below:

- Brandon K. Poston on behalf of Creditor Committee Official Committee of Unsecured Creditors  
keith.poston@nelsonmullins.com,  
Stephanie.arnold@nelsonmullins.com;linnea.hann@nelsonmullins.com;stephanie.arnold@nelsonmullins.com;joan.kishline@nelsonmullins.com
- Craig Solomon Ganz on behalf of Creditor Store Master Funding I, LLC ganzc@ballardspahr.com,  
phxdocketingbkr@ballardspahr.com,hartt@ballardspahr.com
- Craig Solomon Ganz on behalf of Creditor STORE Master Funding V, LLC ganzc@ballardspahr.com,  
phxdocketingbkr@ballardspahr.com,hartt@ballardspahr.com
- Daniel K Felker on behalf of Creditor Bruce Dressler dan@huckandfelker.com,  
brandy@hucksandfelker.com
- David Brian Wheeler on behalf of Creditor Old Mill Stream, LLC davidwheeler@mvalaw.com
- Elisabetta G. Gasparini on behalf of U.S. Trustee US Trustee's Office  
elisabetta.g.gasparini@usdoj.gov
- Francesca Macchiaverna on behalf of Creditor Geoffrey S. Stutchman and Leehouang T. Stutchman as Trustees for the Stutchman Family Trust, successors-in-interest to Store Capital Acquisitions, LLC fmacchiaverna@huntermaclean.com, btees@huntermaclean.com
- John Timothy Stack on behalf of U.S. Trustee US Trustee's Office John.T.Stack@usdoj.gov
- Mary M. Caskey on behalf of Attorney Michael DiGiacomo mcaskey@hsblawfirm.com,  
awilloughby@hsblawfirm.com;uveguilla@hsblawfirm.com;cwilliamson@hsblawfirm.com
- Mary M. Caskey on behalf of Creditor STORE Master Funding V, LLC mcaskey@hsblawfirm.com,  
awilloughby@hsblawfirm.com;uveguilla@hsblawfirm.com;cwilliamson@hsblawfirm.com
- Mary M. Caskey on behalf of Attorney Craig S. Ganz mcaskey@hsblawfirm.com,  
awilloughby@hsblawfirm.com;uveguilla@hsblawfirm.com;cwilliamson@hsblawfirm.com
- Mary M. Caskey on behalf of Attorney Stanley H. McGuffin mcaskey@hsblawfirm.com,  
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- Mary M. Caskey on behalf of Attorney Mary M. Caskey mcaskey@hsblawfirm.com,  
awilloughby@hsblawfirm.com;uveguilla@hsblawfirm.com;cwilliamson@hsblawfirm.com
- Michael H. Weaver on behalf of Debtor Cafe Holdings Corp. mweaver@mcnair.net,  
khandrock@mcnair.net
- Michael Kevin McCarrell on behalf of Creditor ACM Fatz VII LLC kmccarrell@foxrothschild.com,  
eaccetta@foxrothschild.com
- Randy A. Skinner on behalf of Creditor Freshpoint North Carolina, Inc.  
janice@skinnerlawfirm.com;candicem@skinnerlawfirm.com
- Robin C. Stanton on behalf of Debtor Cafe Holdings Corp. rstanton@mcnair.net,  
abennett@mcnair.net
- Stanley H. McGuffin on behalf of Creditor STORE Master Funding V, LLC  
smcguffin@hsblawfirm.com,  
cwilliamson@hsblawfirm.com;mcaskey@hsblawfirm.com;uveguilla@hsblawfirm.com
- Stanley H. McGuffin on behalf of Creditor Store Master Funding I, LLC  
smcguffin@hsblawfirm.com,  
cwilliamson@hsblawfirm.com;mcaskey@hsblawfirm.com;uveguilla@hsblawfirm.com

District/off: 0420-7

User: richardso  
Form ID: pdf01

Page 2 of 2  
Total Noticed: 1

Date Rcvd: Dec 06, 2018

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)  
system (continued)

US Trustee's Office USTPRegion04.CO.ECF@usdoj.gov  
Weyman C. Carter on behalf of Debtor Cafe Holdings Corp. wcarte@mcnair.net,  
dhayes@mcnair.net

TOTAL: 21