

ARNOLD & PORTER LLP  
399 Park Avenue  
New York, New York 10022-4690  
Telephone: (212) 715-1000  
Facsimile: (212) 715-1399  
Michael J. Canning (MC 8060)

*Proposed Counsel for the Debtors  
and Debtors-in-Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re	Chapter 11
Quebecor World (USA) Inc., <u>et al.</u> ,	Case No. 08-10152 (___)
Debtors.	Jointly Administered
	Honorable _____

**MOTION FOR ORDER UNDER 11 U.S.C. §§ 105(a), 363, 1107, AND 1108  
AUTHORIZING DEBTORS TO HONOR PREPETITION  
OBLIGATIONS TO CUSTOMERS AND OTHERWISE CONTINUE  
CUSTOMER PROGRAMS IN THE ORDINARY COURSE OF BUSINESS**

The above-captioned debtors and debtors in possession (the “Debtors”)<sup>1</sup>  
respectfully hereby move the Court (the “Motion”) for the entry of an order, the proposed

<sup>1</sup> Contemporaneously, herewith, the Debtors have filed a motion to have their Chapter 11 cases consolidated for procedural purposes and jointly administered. The Debtors are the following entities: Quebecor World (USA) Inc., Quebecor Printing Holding Company, Quebecor World Capital Corporation, Quebecor World Capital II GP, Quebecor World Capital II LLC, WCZ, LLC, Quebecor World Lease GP, Quebecor World Lease LLC, QW Memphis Corp., The Webb Company, Quebecor World Printing (USA) Corp., Quebecor World Loveland Inc., Quebecor World Systems Inc., Quebecor World San Jose Inc., Quebecor World Buffalo Inc., Quebecor World Johnson & Hardin Co., Quebecor World Northeast Graphics Inc., Quebecor World UP / Graphics Inc., Quebecor World Great Western Publishing Inc., Quebecor World DB Acquisition Corp., WCP-D, INC., Quebecor World Taconic Holdings Inc., Quebecor World Retail Printing Corporation, Quebecor World Arcata Corp., Quebecor World Nevada Inc., Quebecor World Atglen Inc., Quebecor World Krueger Acquisition Corp., Quebecor World Book Services LLC, Quebecor World Dubuque Inc., Quebecor World Pendell Inc., Quebecor World Fairfield Inc.,

form of which is attached hereto as Exhibit A (the “Order”), authorizing the Debtors to honor certain obligations to customers and to otherwise continue certain customer programs and other business practices in the ordinary course of business, pursuant to 11 U.S.C. §§ 105(a), 363, 1107, and 1108. In support of this Motion, the Debtors rely on the Declaration of Jeremy Roberts in Support of Chapter 11 Petitions and First Day Orders (the “Declaration”). In further support of this Motion, the Debtors respectfully represent as follows:

### **Jurisdiction**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief requested herein are sections 105(a) and 107(b) of title 11 of the United States Code 11 U.S.C. §§ 101-1330, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCA”), and Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

### **Background**

4. On January 21, 2008 (the “Petition Date”), the 53 Debtors filed their voluntary petitions for relief (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

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QW New York Corp., Quebecor World Dallas II Inc., Quebecor World Nevada II LLC, Quebecor World Dallas, L.P., Quebecor World Mt. Morris II LLC, Quebecor World Petty Printing Inc., Quebecor World Hazleton Inc., Quebecor World Olive Branch Inc., Quebecor World Dittler Brothers Inc., Quebecor World Atlanta II LLC, Quebecor World RAI Inc., Quebecor World KRI Inc., Quebecor World Century Graphics Corporation, Quebecor World Waukee Inc., Quebecor World Logistics Inc., Quebecor World Mid-South Press Corporation, Quebecor Printing Aviation Inc., Quebecor World Eusey Press Inc., Quebecor World Infiniti Graphics Inc., Quebecor World Magna Graphic Inc., Quebecor World Lincoln Inc, and Quebecor World Memphis LLC.

5. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and no official committee has yet been established in this case.

6. On January 20, 2008, the Debtors' corporate parent, Quebecor World, Inc. ("QWI") together with each of the Debtors commenced a proceeding before the Superior Court, Commercial Division, for the Judicial District of Montreal (the "Canadian Court") for a plan of compromise or arrangement (the "Canadian Proceeding") under the Canadian Companies' Creditors Arrangement Act ("CCAA").<sup>2</sup> Each of the Debtors was joined in the Canadian Proceeding, in order that each Debtor may obtain the protection of a stay under the CCAA as well as under the Bankruptcy Code.

#### **I. The Debtors' Business**

7. The Debtors collectively operate the second largest commercial printing business in the United States, maintaining approximately 78 facilities in 29 states. QWI is a Canadian corporation and the corporate parent of the Debtors, having been incorporated on February 23, 1989 pursuant to the Canada Business Corporations Act to combine the assets constituting what was then the printing division of Quebecor Inc. (QWI, together with the Debtors and all of QWI's debtor and non-debtor subsidiaries and affiliates are referred to herein as "QW World"). QWI is a public company with shares listed on the Toronto Stock Exchange and the New York Stock Exchange, and its

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<sup>2</sup> The Canadian Court appointed Ernst & Young, Inc. to serve as Monitor for the Canadian Proceeding, and UBS Investment Bank is serving as a financial advisor to the Canadian Affiliates.

registered and principal office is located in the City of Montreal in the Province of Quebec, Canada.

8. QW World's United States assets and operations are organized under QWI's principal United States subsidiary, Quebecor World (USA) Inc. ("QWUSA"). QWUSA, one of the Debtors, is a wholly-owned subsidiary of Quebecor Printing Holding Company ("QPCH"), also a Debtor, and a direct, wholly-owned subsidiary of QWI. As the corporate parent of QW World's United States subsidiaries, QWUSA oversees the Debtors' cash management, operations, employee matters and other areas. In addition, QWUSA is a party to certain of the Debtors' prepetition financing agreements.

9. In addition to the Debtors' operations and assets in the United States, and QWI's operations and assets in Canada, QW World has operations and assets in Latin America, Europe and Asia, which are not the subject of any bankruptcy or insolvency proceeding. In Canada, QW World is the second largest commercial printer with 16 facilities in 5 provinces through which QW World offers a diversified mix of printed products and related value-added services, both to the Canadian market and internationally. QW World is also the largest independent commercial printer in Europe with 17 facilities operating in Austria, Belgium, Finland, France, Spain, Sweden, Switzerland and the United Kingdom, and is the largest commercial printer in Latin America with eight facilities, and has one facility in India.

10. For the year ending December 31, 2006, approximately 79% of QW World's revenue was derived from North American operations, 17% from European

operations and 4% from Latin American operations. QW World's operations in the United States account for approximately 62% of overall revenue.

11. QW World's key customers include the largest publishers, retailers and catalogers in the geographic areas in which QW World operates. In the magazine group, QW World prints magazines for publishers, including, for example, 15 magazine titles for Time, Inc.,<sup>3</sup> *Cosmopolitan* for Hearst Corp., *Elle* for Hachette-Filippachi Magazines US, *ESPN the Magazine* for Walt Disney Corp., *Forbes* for Forbes Inc. and *In Touch Weekly* for Bauer Publishing USA, while QW World's retail insert group includes customers such as CVS, Sears, JC Penney, Kohl's, and Walgreens.. QW World's operations also encompass (a) catalogues for customers such as Williams-Sonoma, Oriental Trading Company, Victoria's Secret, IKEA, Cabelas and Bass Pro, (b) books for McGraw-Hill, Scholastic, Simon & Schuster, Thomas Nelson, Time-Warner and Pearson Education, (c) directories for Yellow Book USA, RH Donnelly, Windstream and Frontier in the United States, the Yellow Pages Group in Canada as well as Telmex and Telefonica in Latin America and (d) direct mail services.

12. QW World's sales and marketing activities are highly integrated and reflect an increasingly global approach to customers' needs, complemented by product specific sales efforts. Sales representatives are located in plants or in regional offices throughout North America, Europe and Latin America, and customers are able to coordinate simultaneous printing throughout QW World's network through a single sales representative.

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<sup>3</sup> These include *Time*, *Fortune*, *Money*, *Sports Illustrated*, *People*, *Entertainment Weekly*, *Southern Living*, *Cooking Light* and *Coastal Living*.

13. Not surprisingly, the principal raw materials used in QW World's businesses are paper and ink. The Debtors, together with their non-debtor affiliates, utilize centralized raw material purchases in order to avoid administrative complications and realize cost benefits from efficiencies of scale. For most purchases, QW World negotiates with a limited number of suppliers to maximize purchasing power, although QW World does not rely on any single supplier.

14. Much of the Debtors' business is seasonal, with the majority of historical operating income occurring during the second half of the financial year. This is primarily due to seasonal advertising patterns and the related higher number of magazine pages, new product launches and back-to-school, retail and holiday catalogue promotions. Because the Debtors depend on advertising for a significant portion of their revenue, operating results are also sensitive to prevailing economic conditions.

## **II. The Debtors' Industry**

15. Commercial printing is a highly fragmented, capital intensive industry. The North American, European and Latin American printing industries are very competitive in most product categories and geographic regions. The Debtors estimate that in 2006, in the United States alone, there were approximately 30,700 commercial printers, with industry analysts considering most of the industry's markets to be currently oversupplied – and competition is significant. Competition is largely based on price, quality, range of services offered, distribution capabilities, customer service, availability of printing time on appropriate equipment and state-of-the-art technology.

16. In addition to competition from other commercial printers, technological changes continue to erode the Debtors' businesses, as increased accessibility and quality of electronic alternatives to the traditional delivery of printed documents, through the

increased use of the internet and the electronic distribution of media content, documents and data, which provide consumers with virtually instant access to information.

Nevertheless, while such trends put pressure on the Debtors' operations, the Debtors believe printed media will continue to play a strong role in marketing, advertising and publishing.

### **III. Prepetition Credit Obligations and Receivables Facility**

17. The principal debt obligations and receivables facility of the Debtors currently outstanding consist of:

- a. A \$750 million revolving credit facility with a bank syndicate under which the Royal Bank of Canada is administrative agent, secured up to a maximum of \$135 million by (i) unlimited guaranties, dated on or about October 26, 2007 from certain of the Debtors; (ii) a pledge of the shares of Debtor QW Memphis Corp. ("QW Memphis") by Debtors QWUSA, the Webb Company and Quebecor World Memphis LLC, dated October 26, 2007; (iii) a pledge of the shares of QWUSA by QPHC, dated October 26, 2007; (iv) security on all personal and real property of QW Memphis, dated October 26, 2007, excluding accounts receivable subject to the North American receivable sale program and certain real estate located in Covington, Tennessee; and (v) security on all inventory of QWI located in Canada, dated October 26, 2007. As of January 11, 2008, the aggregate amount of indebtedness outstanding under the Bank Syndicate Agreement was approximately \$735 million.
- b. An equipment financing agreement dated as of January 13, 2006 (as amended) among QWI, as borrower, QWUSA, as guarantor, and Société Générale (Canada) ("Soc Gen"), as lender, providing for an equipment financing credit facility in the aggregate amount of the Canadian dollar equivalent of €136,165,415 expiring on July 1, 2015.<sup>4</sup> The equipment financing facility is guaranteed and secured on a *pari passu* basis up to \$35 million by the same collateral as the credit facilities under the bank syndicate agreement. As of January 11, 2008, the aggregate amount outstanding under the Equipment Financing Agreement was approximately \$155 million.
- c. Certain of the Debtors and QWI are obligors under note issuances consisting of (i) an indenture dated as of November 3, 2003 among Quebecor World Capital Corporation ("QWCC"), as issuer, QWI, as guarantor, and Wilmington Trust Company, as trustee, providing for the issuance of 4.875% senior notes due in

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<sup>4</sup> As of January 15, 2008, this is equivalent to approximately U.S. \$202,571,926.

2008 and 6.125% senior notes due in 2013. The aggregate amounts outstanding under such notes as of September 30, 2007 were \$199.9 million and \$398.2 million, respectively; (ii) an indenture dated as of December 18, 2006 among QWI, as issuer, QWUSA, Quebecor World Capital LLC (“QWLLC”) as predecessor in interest to Quebecor World Capital II LLC (“QWLLC II”) and Quebecor World Capital ULC (“QWULC”) as predecessor in interest to Quebecor World Capital II GP (“QWCGP”), as guarantors, and Wilmington Trust Company, as trustee, providing for the issuance of 9.75% senior notes due in 2015. The aggregate amount outstanding under such notes as of September 30, 2007 was \$400 million; (iii) an indenture dated as of March 6, 2006 among QWULC as predecessor in interest to QWCGP, as issuer, QWI, QWUSA and QWLLC as predecessor in interest to QWLLC II, as guarantors, and Wilmington Trust Company, as trustee, providing for the issuance of 8.75% senior notes due in 2016. The aggregate amount outstanding under such notes as of September 30, 2007 was \$450 million; and (iv) an indenture dated as of January 22, 1997 among QWCC, as issuer, QWI (then known as Quebecor Printing Inc.), as guarantor, and The Bank of New York, as trustee, providing for the issuance of 6.50% senior notes due in 2027. The aggregate amount outstanding under such notes as of September 30, 2007 was \$3.2 million. The terms and conditions of the note issuances limit the aggregate amount of secured indebtedness that may be incurred under the Bank Syndicate Agreement and the Equipment Finance Agreement to approximately \$170 million.

- d. QWI and certain of the Debtors are parties to an accounts receivable facility pursuant to: (i) a Canadian receivables purchase agreement dated as of October 24, 2007 between QWI, as seller, and Quebecor World Finance Inc. (“QWF”), as purchaser, whereby QWI sells, with limited recourse, its Canadian trade receivables on a revolving basis in an amount not to exceed \$135 million Canadian; (ii) a U.S. receivables purchase agreement dated as of September 24, 1999 (as amended) among certain Debtors, as sellers, and QWF, as purchaser, whereby the sellers sold, with limited recourse, all of their U.S. trade receivables on a revolving basis in an amount not to exceed \$408 million (\$459 million during peak season); and (iii) an amended and restated receivables sale agreement dated as of September 24, 1999, as amended and restated as of December 22, 1999 (as further amended the “RSA”) among, *inter alia*, QWF, as seller, the purchasers party thereto and ABN Amro Bank N.V., as agent (“ABN”). Pursuant to the RSA, ABN holds a first priority lien on all of the Debtors’ and QWI’s accounts receivable purchased by QWF under the respective Canadian and U.S. receivables purchase agreements. The Canadian receivables program was rolled into the U.S. receivable program on or about October 24, 2007, and as of December 31, 2007 the aggregate amount outstanding on account of the Debtors’ accounts receivable subject to the RSA was approximately \$428 million.

#### **IV. Developments Necessitating Restructuring**

18. QWI's financial performance has suffered in the past few years, especially with respect to its European operations, as a result of a combination of factors, including declining prices and sales volume, and a temporary disturbance caused by a major retooling of its printing operations initiated in 2002. While it has substantially completed its retooling program in North America, and achieved, and even surpassed, its cost reduction objectives, QWI has not yet met its forecasted earnings projections. Rather, the combination of significant capital investments and continued operating losses, principally as a result of its European operations, together with the write down of its European assets, including goodwill, has resulted in increased financing needs. During this period, it was also necessary for QWI to repurchase certain private notes in order to avoid breaching certain debt to equity ratios, while also facing reduction in amounts available under the Bank Syndicate Agreement. These factors have had a significant impact on all of the members of QW World's corporate family, and, accordingly, have adversely impacted the Debtors' operations and financial position.

19. More recent events have further complicated the Debtors' efforts to improve their balance sheets and financial position. First, on November 13, 2007, QWI announced a refinancing plan consisting of a \$250 million equity offering and a \$500 million debt offering. On November 20, 2007, however, QWI announced the withdrawal of such refinancing plan due to adverse financial market conditions. Second, on December 13, 2007, QWI announced that it would not be able to consummate a previously announced transaction to sell its European operations, which would have resulted in proceeds to QWI of approximately \$341 million, to be paid in cash, shares and through the assumption of indebtedness.

20. In 2006, restructuring initiatives related to the closure or downsizing of various facilities were undertaken, mainly in connection with the North American and European operations, including the closure of printing and binding facilities in Illinois in the catalogue group, the closure of the Kingsport, Tennessee facility in the book group, and the closure of the Red Bank, Ohio, and the Brookfield, Wisconsin facilities in the magazine group, which further affected the Debtors' liquidity.

21. Although the Debtors have to date aggressively sought to raise additional funds, they have not been successful, and the lenders under the Bank Syndicate Agreement have recently indicated that they will not provide any further advances under the bank facility beyond those currently permitted. Facing year end covenant defaults under the Bank Syndicate Agreement, the Debtors and QWI obtained a waiver from the bank syndicate lenders and from the sponsors of its North American securitization program, subject to the satisfaction of certain conditions and refinancing milestones, including obtaining \$125 million in new financing by January 15, 2008. The Debtors and QWI were not successful in satisfying the conditions and refinancing milestones set by the bank syndicate lenders.

22. Moreover, the Debtors are currently facing a severe liquidity crisis. Even if operations were conducted in the normal course of business, the Debtors' cash flow projections indicate that they will require approximately \$225 million to satisfy their obligations through the end of January 2008, with virtually no availability under the Bank Syndicate Agreement. In this regard, as of November 30, 2007, QWI had aggregate outstanding trade payables of approximately \$526.7 million, of which approximately \$120 million are attributable to the Debtors, \$135 million are attributable to QWI's other

North American operations, \$211 million are attributable to the European operations and \$60.6 million are attributable to Latin American operations. In addition to ordinary course payments, QWI was also contractually obligated to make debt payments of approximately \$19.5 million by January 15, 2008, which were not paid and to make payments related to pension obligations of approximately \$10 million, which were only partially made.

23. Quite simply, QWI and the Debtors do not have sufficient liquid resources to pay obligations that either are now due or are expected to become due in January, 2008. The lenders under the Bank Syndicate Agreement have indicated that they will not provide any advances under the bank facility beyond those currently permitted under the Bank Syndicate Agreement, suppliers are demanding cash terms and customers are threatening to cease doing business with QWI and the Debtors altogether unless letters of credit or similar accommodations are provided to such customers.

24. Although the Debtors represent a significant portion of the operations of QWI – a global leader in the printing field – and enjoy significant competitive advantages and a strong customer base, the fact remains that their current financial situation cannot continue. The Debtors' overall businesses remain viable and stable, but restructuring changes must be made, including the discontinuance of business segments that cannot be made profitable and the streamlining of other business segments to increase profitability, in order to return the Debtors to financial health.

### **Relief Requested**

25. Prior to the Petition Date, and in the ordinary course of their businesses, the Debtors engaged in certain practices to develop and sustain positive relationships with their customers and to enhance their reputations in the marketplace for their products and

services (collectively, the “Customer Programs”). Such practices include, among others, customer adjustments, customer rebates and allowances. The primary objectives of the Customer Programs have been to meet competitive pressures, ensure customer satisfaction, and generate goodwill for the Debtors, thereby retaining current customers, attracting new ones, and ultimately enhancing revenue and profitability.

26. By this Motion, the Debtors request entry of an order pursuant to sections 105(a), 363(c), 1107(a), and 1108 of the Bankruptcy Code authorizing the Debtors, in their business judgment, to (a) perform certain of their prepetition obligations related to the Customer Programs as they determine advisable and (b) continue, renew, replace, implement new, and/or terminate those Customer Programs as they see fit, all in the ordinary course of their businesses and without further application to this Court.

27. In essence, the Debtors desire authority to continue during the postpetition period those Customer Programs that they believe were beneficial to their businesses and cost-effective during the prepetition period. For the reasons set forth herein, it is in the best interests of the Debtors and their estates to continue, in the ordinary course of their businesses, the Customer Programs that they determine to be beneficial.

#### **Basis For Relief**

28. The Debtors have several main Customer Programs: (1) the volume rebate program; (2) the paper consumption rebate program; (3) a contract renewal incentive program; and (4) an adjustment program.

29. The rebate volume program is of a type common in the Debtors’ industry. Under the rebate volume program, the contract with the customer provides that if the customer exceeds a specified volume target, the Debtors will give the customer a specified cash rebate on a quarterly, semi-annual, or annual basis (as specified in the

contract) if that target is met. This rebate volume program is an important tool in encouraging customers to increase their business with the Debtors. It is viewed by customers as an integral part of their relationship with the Debtors, and it would be materially damaging to the Debtors' relationship with their customers if the Debtors were to fail to meet their obligations under this program. The Debtors estimate that the rebates that will be due on behalf of prepetition activities are approximately \$20 million.

30. The Debtors also, pursuant to their contracts with their customers, provide rebates to their customers in those cases where the Debtors have consumed greater than anticipated amounts of customer-supplied paper on a particular job. The Debtors do not have detailed information on the amounts that will be due for prepetition paper consumption overages, but it will be a small fraction of the volume rebate. Again, it would be materially damaging to the Debtors' relationship with their customers if the Debtors were to fail to meet their obligations under this program.

31. Under the contract renewal incentive program, the Debtors may, on occasion, make cash payments to customers to incentivize them to enter into contract renewals. The Debtors do not believe that there are any amounts due under this program related to prepetition activities.

32. Finally, the Debtors will also on occasion agree to make adjustments with respect to work already performed to ensure customer satisfaction. This can range from rerunning jobs, to credits against future work or, on rare occasions, cash rebates. These mechanisms are essential tools in maintaining the Debtors' positive relationships with their customers.

33. The Debtors wish to continue the Customer Programs because they have been successful in the past and the Customer Programs are directly responsible for generating valuable goodwill and increased revenue and profitability for the Debtors. The Debtors believe that maintaining these benefits throughout these Chapter 11 cases is essential to the continued viability of their businesses and, ultimately, to their prospects for a successful reorganization. An inability by the Debtors to continue the Customer Programs could negatively influence customers' attitudes and behavior towards the Debtors' products and services. In particular, the Debtors' goodwill and ongoing business relationships may suffer if their customers perceive that the Debtors are unable or unwilling to fulfill the prepetition promises that they have previously made through the Customer Programs.

34. Maintaining the Customer Programs is critical because the Debtors' face significant competition in the marketplace. The competitive challenges that Debtors face will inevitably be exacerbated by the filing of these Chapter 11 cases and the Debtors will need to assuage customer anxieties that the filings might in some way interfere with the Debtors' ability to fully meet their customers' needs. In this climate, the Debtors need, more than ever, to be able to assure their customers that their needs will be met, and honoring refund and rebate obligations, and continuing those programs, is essential. Indeed, it is essential that the Debtors be able to state clearly and unambiguously "Quebecor World (USA) Inc. and its subsidiaries will meet all of their commitments to their customers."

#### **Applicable Authority**

35. Sections 1107(a) and 1108 of the Bankruptcy Code authorize a debtor-in-possession to continue to operate its business. Section 363(c) of the Bankruptcy Code

authorizes a debtor-in-possession operating its business pursuant to section 1108 of the Bankruptcy Code to use property of the estate in the ordinary course of business without notice or hearing. The Debtors submit that continuing and modifying their Customer Programs, in the ordinary course of business, is permitted by sections 363(c), 1107(a), and 1108 of the Bankruptcy Code, without further application to the Court.

Notwithstanding the foregoing, out of an abundance of caution, the Debtors are seeking the Court's authorization, but not direction, to continue and modify their Customer Programs.

36. With respect to the Debtors' prepetition obligations under the Customer Programs, section 105(a) of the Bankruptcy Code authorizes the Court to issue "any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). The purpose of section 105(a) is to "assure the bankruptcy courts [sic] power to take whatever action is appropriate or necessary in aid of the exercise of [its] jurisdiction." 2 Collier on Bankruptcy ¶ 105.01 (15th ed. rev. 2004). The Debtors submit that the relief requested in this Motion is critical to the Debtors and is justified under section 105(a) of the Bankruptcy Code.

37. Moreover, the relief requested is supported by the "doctrine of necessity." The doctrine recognizes that satisfaction or prepetition obligations may be necessary to maintain the continuity of a debtor's business. See In re Lehigh & New England Ry., Co., 657 F.2d. 570, 581 (3d Cir. 1981) (payment of creditors' claims authorized under "necessity of payment" doctrine); In re Ionosphere Clubs, Inc., 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989) (necessity of payment rule applies to chapter 11 debtors) (citing Dudley

v. Mealey, 147 F.2d 268 (2d Cir. 1945)); In re Gulf Air, Inc., 112 B.R. 152, 153-54 (Bankr. W.D. La. 1989) (allowing payment of prepetition claims under the “doctrine of necessity”).

38. The bankruptcy court’s exercise of its authority under section 105(a) under the “doctrine of necessity” is appropriate to carry out specific statutory provisions of chapter 11, specifically, sections 1107(a), 1108 and 363(b)(1), which authorize a debtor-in-possession to maintain and operate the debtor’s business and use estate property outside of the ordinary course of business. Indeed, a debtor-in-possession operating a business under section 1108 has a fiduciary duty to protect and preserve the estate, including the going concern value of an operating business. See In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (“There are occasions when this [fiduciary] duty can only be fulfilled by the preplan satisfaction of a prepetition claim.”). A bankruptcy court’s exercise of its authority under section 105(a) is also necessary to carry out two central policies underlying chapter 11: (i) to permit the successful rehabilitation of the debtor, NLRB v. Bildisco & Bildisco, 465 U.S. 513, 527 (1984), and (ii) to preserve going concern value and maximize property available to satisfy all creditors. Bank of Am. Nat’l Trust & Sav. Ass’n v. 203 N. La Salle St. P’ship, 526 U.S. 434, 453 (1999). Granting the relief requested in this Motion will enhance the likelihood of a successful reorganization.

39. The Debtors’ creditors also will benefit from the relief sought herein. If the Debtors are prohibited from honoring and maintaining the Customer Programs consistent with their past business practices, then customers’ lost confidence in the Debtors will damage the Debtors’ businesses to an extent that far exceeds the cost

associated with honoring and continuing such practices. This requested Order will protect the Debtors' goodwill and going concern value during this restructuring process and enhance the Debtors' ability to generate revenue.

40. Relief similar to that requested here has been routinely granted in other large chapter 11 cases in this and other jurisdictions. See, e.g., In re Bally Total Fitness of Greater New York, Inc., Case No. 07-12395 (BRL) (Bankr. S.D.N.Y. Aug. 1, 2007); In re Dana Corp., Case No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 7, 2006); In re Musicland Holding Corp., Case No. 06-10064 (SMB) (Bankr. S.D.N.Y. Jan. 27, 2006); In re Delphi Corp., Case No. 05-44481 (RDD) (Bankr. S.D.N.Y. Oct. 13, 2005); In re Delta Air Lines, Inc., Case No. 05-17923 (PCB) (Bankr. S.D.N.Y. Sept. 16, 2005); In re Northwest Airlines Corp., Case No. 0517930 (ALG) (Bankr. S.D.N.Y. Sept. 15, 2005); In re Tower Auto., Inc., Case No.05-10578 (ALG) (Bankr. S.D.N.Y. Feb. 3, 2005); In re Spiegel, Inc., Case No. 03-11540 (CB) (Bankr. S.D.N.Y. Mar. 18, 2003); In re Teligent, Inc., Case No. 01-12974 (SMB) (Bankr. S.D.N.Y. May 25, 2001 and June 13, 2001); In re Loews Cineplex Entm't Corp., Case No. 01-40346 (ALG) (Bankr. S.D.N.Y. Feb. 15, 2001).

41. New Rule 6003 of the Bankruptcy Rules, which became effective just last month, generally precludes the Court from authorizing the payment of prepetition obligations until 20 days after the petition is filed, but there is an exception for cases of "immediate and irreparable harm." The Debtors believe that such harm will likely occur if they are not able at the outset of these cases to assure their customers that they can expect "business as usual" from dealing with the Debtors.

42. Accordingly, the Debtors respectfully request that they be authorized, in the exercise of their reasoned business judgment, to (a) perform such of their obligations under the Customer Programs as they deem appropriate and (b) continue, renew, replace, implement, and/or terminate such of their Customer Programs as they judge beneficial, in the ordinary course of their businesses and without further application to this Court.<sup>5</sup>

#### **Memorandum of Law**

43. This Motion sets forth citations to the applicable authority and a discussion of their application to the requests set forth in this Motion. Accordingly, the Debtors respectfully submit that such citations and discussion satisfy the requirement under Local Bankruptcy Rule 9013-1(b) that the Debtors submit a separate memorandum of law in support of the Motion, and request that the Court waive such requirement with respect to this Motion.

#### **No Prior Request**

44. No prior application for the relief requested in this Motion has been made to this or any other Court.

#### **Notice**

45. No trustee, examiner or creditors committee has been appointed in these Chapter 11 cases. Notice of this Motion has been provided to (a) the 60 largest unsecured creditors of the Debtors, (b) the Royal Bank of Canada as administrative agent under the Bank Syndicate Agreement, (c) Société Générale (Canada), (d) Wilmington

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<sup>5</sup> Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim, or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

Trust Company, as trustee for the 4.875% senior notes due in 2008 and 6.125% senior notes due in 2013, (e) Wilmington Trust Company, as trustee for the 9.75% senior notes due in 2015, (f) Wilmington Trust Company, as trustee for the 8.75% senior notes due in 2016, (g) the Chase Manhattan Bank, as trustee for the 6.50% senior notes due in 2027, (h) Debtors' proposed post-petition lender, (i) the United States Trustee for the Southern District of New York, (j) the Securities and Exchange Commission, (k) the Internal Revenue Service, (l) the United States Department of Justice, and (m) Ken Coleman, Esq., Allen & Overy, as counsel for the Monitor. The Debtors submit that no other or further notice of this Motion is required. A copy of the Motion is also freely available on the website of the Debtors' proposed claim and noticing agent, Donlin, Recano & Company, Inc., at [www.donlinrecano.com](http://www.donlinrecano.com).

WHEREFORE, the Debtors respectfully request the entry of an Order, substantially in the form of Exhibit A, granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: January 22, 2008  
New York, New York

Respectfully submitted,

/s/ Michael J. Canning

ARNOLD & PORTER LLP  
399 Park Avenue  
New York, New York 10022-4690  
Telephone: (212) 715-1000  
Facsimile: (212) 715-1399  
Michael J. Canning (MC 8060)

*Proposed Counsel for the Debtors  
and Debtors-in-Possession*

**EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

Quebecor World (USA) Inc., et al.,

Debtors.

Chapter 11

Case No. 08-10152 (\_\_\_\_)

Jointly Administered

Honorable \_\_\_\_\_

**ORDER AUTHORIZING THE DEBTORS TO HONOR  
CERTAIN PREPETITION OBLIGATIONS TO CUSTOMERS AND TO  
OTHERWISE CONTINUE IN THE ORDINARY COURSE OF BUSINESS  
THEIR CUSTOMER PROGRAMS AND PRACTICES**

Upon consideration of the motion (the “Motion”)<sup>1</sup> seeking entry of an order (the “Order”) authorizing the Debtors to honor certain prepetition obligations to customers and to otherwise continue in the ordinary course of business their customer programs and practices; and upon the Declaration of Jeremy Roberts in Support of Chapter 11 Petitions and First Day Orders in the above-captioned Chapter 11 Cases; and it appearing that the relief requested is in the best interests of the Debtors’ estates, their creditors and other parties in interest; and it appearing that this Court has jurisdiction over this Motion pursuant to 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 adequate notice of the Motion and opportunity for objection having been given; and it appearing that no other notice need be given; and after due deliberation and sufficient cause therefor, it is hereby ORDERED:

1. The Motion is granted as set forth herein.

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

2. The Debtors, in their business judgment, are authorized, but not directed, to honor and perform their obligations in regard to their Customer Programs, without regard to whether the Debtors' obligations under any such Customer Programs arose before or after the Petition Date.

3. The Debtors, in their business judgment, are authorized to continue, renew, replace, implement, modify and/or terminate such of their Customer Programs as they deem appropriate, in the ordinary course of business, without further application to the Court.

4. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

5. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

6. The requirement set forth in Rule 9013(b) of the Local Bankruptcy Rules for the Southern District of New York that any motion or other request for relief be accompanied by a memorandum if law is hereby deemed satisfied by the contexts of the Motion or otherwise waived.

7. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: January \_\_\_\_\_, 2008

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United States Bankruptcy Judge