

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

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In re:	:	Chapter 11
	:	
THE WET SEAL, LLC, <i>et al.</i> ,	:	Case No. 17-10229 (CSS)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
	:	Ref. Docket No. 8
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**ORDER (I) AUTHORIZING CONTINUED USE OF CASH MANAGEMENT SYSTEM;
(II) AUTHORIZING USE OF PREPETITION BANK ACCOUNTS, ACCOUNT
CONTROL AGREEMENTS, AND CERTAIN PAYMENT METHODS; AND
(III) WAIVING THE REQUIREMENTS OF 11 U.S.C. § 345(B) ON AN INTERIM BASIS**

Upon the motion (the “Motion”)² of the Debtors for entry of an order, pursuant to sections 105, 345, 363, 364(b), and 503(b) of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local Rule 2015-2, (i) authorizing the Debtors’ continued use of the Cash Management System; (ii) authorizing the Debtors to continue using prepetition Bank Accounts and account control agreements and using debit, wire, and ACH payments; and (iii) waiving the requirements of 11 U.S.C. § 345(b) on an interim basis; and upon consideration of the First Day Declaration and the record of these Chapter 11 Cases; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and it appearing that this is a core matter pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that venue of these Chapter 11 Cases and of the Motion is

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: The Wet Seal, LLC (2741); The Wet Seal Gift Card, LLC (3286); Mador Financing, LLC (1377). The Debtors’ corporate headquarters is located at 7555 Irvine Center Drive, Irvine, California 92618.

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

proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Motion has been given under the circumstances, and that no other or further notice need be given; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED THAT:

1. The Motion is GRANTED, as set forth herein.
2. The Debtors are authorized, in their sole discretion, to: (i) continue operating the Cash Management System and honor any prepetition obligations related thereto; (ii) maintain existing Bank Accounts and business forms; (iii) maintain the ability to use debit, wire and ACH payments; and (iv) continue to deposit and invest funds in accordance with their current practices to the extent set forth herein.
3. The Debtors shall maintain records in the ordinary course of business reflecting transfers of cash, if any, so as to permit all such transactions to be ascertainable and provide copies of such records to counsel to the Crystal Financial and Mador Funding, respectively, upon request.
4. The Debtors are further authorized, in their sole discretion, to: (i) continue to use, with the same account numbers, all of the Bank Accounts in existence as of the Petition Date, including those accounts identified on Exhibit C to the Motion; (ii) use, in their present form, all checks and other documents related to the Bank Accounts existing immediately before the Petition Date, without reference to the Debtors' status as debtors in possession; (iii) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors-in-possession; (d) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, wire

transfers, ACH payments, and other debits; and (e) pay any ordinary course both prepetition or postpetition bank fees incurred in connection with the Bank Accounts, and to otherwise perform their obligations under the documents governing the Bank Accounts.

5. All Banks at which the Bank Accounts are maintained are authorized to continue to maintain, service, and administer the Bank Accounts as accounts of debtors in possession, without interruption and in the ordinary course of business. In this regard, the Banks are authorized to receive, process, honor and pay any and all checks, ACH payments and other instructions, and drafts payable through, drawn or directed on the Bank Accounts by holders, makers or other parties entitled to issue instructions with respect thereto on account of any claim arising (i) on or after the Petition Date or (ii) prior to the Petition Date and otherwise authorized by this Court.

6. The Deposit Account Control Agreement shall be maintained and shall continue to govern the postpetition cash management relationship between the Debtors and Bank of America, *provided, however*, that nothing contained herein shall constitute an assumption of the Deposit Account Control Agreement pursuant to section 365 of the Bankruptcy Code.

7. In the course of providing cash management services to the Debtors, any Bank, without further order of this Court, is authorized to (i) charge, and the Debtors are authorized to pay or honor, both prepetition and postpetition service and other fees, costs, charges and expenses to which the Banks are entitled under the terms and in accordance with their contractual arrangements with the Debtors, and (ii) charge-back returned items to the Bank Accounts, whether such items are dated before, on or subsequent to the Petition Date, in the ordinary course.

8. Notwithstanding any other provision of this Order, any Bank may rely on the representations of the Debtors with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court, and any Bank that honors a prepetition check or other item drawn on any account that is the subject of this 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 a result of an innocent mistake made despite the above-described protective measures, shall neither be deemed to be in violation of this Order nor be liable to the Debtors or their estates on their account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Order.

9. Any Banks are further authorized to (i) honor the Debtors' directions with respect to the opening and closing of any Bank Account, and (ii) accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; provided, in each case, that the Banks shall not have any liability to any party for relying on such representations.

10. For Banks at which the Debtors hold Bank Accounts that are party to a Uniform Depository agreement with the U.S. Trustee, within fifteen (15) days of the date of entry of this Order, the Debtors shall (i) contact each Bank, (ii) provide the Bank with each of the Debtors' employer identification numbers, and (iii) identify each of the Bank Accounts held at such Banks as being held by a debtor in possession in a bankruptcy case.

11. For Banks at which the Debtors hold accounts that are not party to a Uniform Depository agreement with the U.S. Trustee, the Debtors shall have thirty (30) days to comply with section 345 of the Bankruptcy Code unless further extended by order of this Court, and the Debtors shall use their good-faith efforts to cause the banks to execute a Uniform

Depository agreement in a form prescribed by the U.S. Trustee within thirty (30) days of the date of this Order.

12. The Debtors are authorized to use their existing check stock; *provided, however,* that once the Debtors' existing checks have been used, the Debtors shall, when reordering checks, require the designation "Debtor in Possession" or "DIP" and the corresponding bankruptcy case number on all checks; *provided, further,* within fifteen days of entry of this Order, any electronically produced checks shall reflect the designation "Debtor in Possession" or "DIP" and the corresponding bankruptcy case number.

13. Notwithstanding anything contained herein, despite the Debtors' use of the 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 Debtor pays those disbursements.

14. Each of the 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 Debtors' 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 petitions 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 petitions; 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.

15. Nothing contained herein shall prevent the Debtors from closing any Bank Account(s) or opening any additional bank accounts, as they may deem necessary and appropriate, and any relevant bank is authorized to honor the Debtors' requests to close or open such Bank Accounts or additional bank accounts, as the case may be; provided that notice of the opening or closure of any account shall be given to the U.S. Trustee and any statutory committee as soon as practicable; and provided, further, that any new bank accounts shall be opened at a bank that is party to a Uniform Depository agreement with the U.S. Trustee, or at a bank that is willing to immediately execute a Uniform Depository agreement.

16. The Debtors shall maintain accurate and detailed records of all transfers and intercompany transactions, if any, within the Cash Management System so that all transactions may be readily ascertained, traced, recorded properly, and distinguished between prepetition and postpetition transactions.

17. The Debtors shall perform daily sweeps of all funds deposited from non-UDA Bank Accounts into a Bank of America Bank Account.

18. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors or a waiver of the Debtors' rights to dispute any claim or lien.

19. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors. The requirements of Bankruptcy Rule 6004(a) are waived under the circumstances.

20. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (i) this Order shall be effective immediately and enforceable upon its entry; (ii) the Debtors are

not subject to any stay in the implementation, enforcement, or realization of the relief granted in this order; and (iii) the Debtors are authorized and empowered, and may in their discretion and without further delay, take any action necessary or appropriate to implement this Order.

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

Dated: February 3, 2017
Wilmington, Delaware


CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE