

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE:

Case No. 17-18864-PGH
Chapter 7

AA FLORIDA BRIDAL RETAIL
COMPANY, LLC, *et al.*,

(Jointly Administered)

Debtors.

**AGREED FIFTH MOTION OF CHAPTER 7 TRUSTEE FOR: 1) LIMITED
AUTHORITY TO OPERATE THE BUSINESSES OF THE DEBTORS, AND 2)
AUTHORITY TO PAY ADMINISTRATIVE EXPENSES OF THE ESTATES**

Margaret J. Smith, the Chapter 7 Trustee (the “**Trustee**”), for the bankruptcy estates of AA Florida Bridal Retail Company, LLC (“**Alfred Angelo**”) and Alfred Angelo – The Bride’s Studio No. 3, Inc.; AA Bridal, LLC; AA Bridal Northeast, LLC; AA Bridal Midwest, LLC; AA Bridal Nebraska, LLC; Alfred Angelo Newco, Inc.; Alfred Angelo Investment China I; Alfred Angelo Investment China III; Alfred Angelo Investment Company, Limited (Hong Kong); BridesMart, LP; DJ Fashions, LLC; Hacienda Brides; and Zhuhai Haiping Wedding DRESS Design LTD (collectively, the “**Affiliated Debtors**”), by and through undersigned counsel, hereby submits this motion (the “**Motion**”) for the entry of an Order in the form attached hereto as **Exhibit A**, pursuant to 11 U.S.C. §§ 105(a), 503(b)(1)(A), and 721, authorizing the Trustee (i) to operate the businesses of the Debtors on a limited basis from December 2, 2017 through January 31, 2018 and (ii) to pay certain administrative expenses of the Estates, and in support thereof, states:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of Florida (West Palm Beach Division) (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157

and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.

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), 503(b)(1)(A), and 721 of title 11 of the United States Code (the “**Bankruptcy Code**”).

BACKGROUND

4. On July 14, 2017, Alfred Angelo filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code (the “**Petition Date**”).

5. On the same date, the Affiliated Debtors each filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code.

6. Margaret J. Smith is the duly appointed Chapter 7 Trustee of Alfred Angelo and the Affiliated Debtors’ bankruptcy estates (jointly, the “**Debtors**”).

7. All of the Debtors are affiliates as such term is defined under 11 U.S.C. § 101(2) and several creditors allege secured claims against all of the Debtors’ estates including, *inter alia*: (i) FSJC V, LLC (“**FSJC**”); and (ii) Financial Transaction Services, LLC d/b/a CardConnect (“**CardConnect**”).

8. Prior to the Petition Date, the Debtors operated as a wholesaler and retailer selling bridal dresses, bridal party dresses and related accessories (collectively “**Inventory**”) through multiple retail store locations and wholesale operations.

9. The Debtors’ business operations spanned over 60 retail stores in multiple jurisdictions throughout the United States, as well as various wholesale operations in Europe and Australia.

10. On the retail side of the business, customers typically placed significant deposits that ranged from 50% to 80% of the retail price of the product to purchase Inventory through credit card transactions with the balance of the payment due when the Inventory was delivered and fitted through alterations, if necessary.

11. The Trustee is still investigating the financial affairs of the Debtors, but it appears that the Debtors utilized manufacturing facilities in China which would manufacture the Inventory and then ship the Inventory through the Debtors' shipping and storage agents either to the United States, Europe, Canada or Australia and then for retail purposes, such Inventory would be delivered to various retail store locations where the Inventory was purchased for ultimate delivery to the customer.

12. As of the Petition Date, the Debtors no longer had employees to run the business.

13. On four separate occasions, the Court has previously authorized the Trustee to utilize the Debtors' assets, which include, in addition to the Inventory, funds in various bank accounts and receivables all of which were potentially subject to liens in favor of CardConnect and FSJC and all of which constitute the Debtors' "Cash Collateral." *See* ECF Nos. 46, 68, 167, and 190.

14. On August 9, 2017, the Trustee filed a motion seeking, *inter alia*, to employ Auction America, Inc. to conduct an auction (the "**Auction**") and Bankruptcy Code section 363 sale of Inventory located at a warehouse in Deerfield Beach, Florida (ECF No. 104) (the "**Sale Motion**"). The Court granted the Sale Motion on August 21, 2017 (ECF No. 146).

15. The Auction was conducted on September 2, 2017 and all Inventory and related items were sold from the Deerfield Beach premises for an aggregate purchase price of \$244,579.70 (ECF No. 177).

16. As a result of the Auction, the Trustee now has approximately \$125,000 in unencumbered cash in the Estates' bank accounts (the "**Unencumbered Cash**").

17. After consultations with her counsel and the Debtors' secured lenders, and in order to continue to: a) operate for a limited purpose; and 2) to evaluate the best way to administer these cases, the Trustee has concluded that she needs to continue to utilize the Debtors' assets, specifically, the Unencumbered Cash in the Estates' bank accounts resulting from the Auction.

18. Attached hereto as **Exhibit B** is a proposed operating budget (the "**Fifth Budget**") which Trustee would utilize through January 31, 2018 to continue to further her objective of efficiently administering these Estates for the benefit of all creditors and interested parties, including funding the payment of necessary, web-hosting services, IT consulting services, document storage fees, accounting fees and other miscellaneous costs. In addition, the Trustee maintains that it is in the interest of judicial economy to authorize the Trustee to incur and make additional payments not exceeding \$64,616 as set forth in the Fifth Budget from the Estates' Unencumbered Cash, for expenses that arise on account of administration of the Estates from December 2, 2017 through January 31, 2018, without further order of this Court.

RELIEF REQUESTED

19. Through this Motion, the Trustee seeks authority pursuant to 11 U.S.C. § 721 to operate the business of the Debtors on a limited basis through January 31, 2018 to conduct the Business Operations (defined below) and to pay, pursuant to 11 U.S.C. §§ 105(a) and 503(b)(1)(A), certain administrative expenses of the Estates, in accordance with the Fifth Budget, which seeks to incur and make additional payments not exceeding \$64,616 from the Estates' Unencumbered Cash, for expenses that arise on account of administration of the Estates from December 2, 2017 through January 31, 2018, without further order of this Court.

A. Changes from the Previous Budget

20. Various approved expenses from the previous four budgets totaling \$184,182, have not been paid to date. Of those approved expenses, the Trustee expects to pay approximately \$127,053 between December 2, 2018 and January 31, 2018 to administrative claimants (the “Approved and Unpaid Expenses”). Further, the Trustee calculates that the Estates did not incur all of the expenses included in the previous four budgets and therefore saved \$57,129 of the approved expenses, which is positive development in the case.

B. Business Operations

21. In order to properly and orderly liquidate the assets of the Debtors, the Trustee requests authority to operate the business of the Debtors’ to, among other things, perform the following business operations (collectively, the “**Business Operations**”):

- a. Preserving all insurance necessary for limited operations of the Debtors;
- b. Preserving the Debtors’ physical and electronic business records;
- c. Collect receivables;
- d. Update the Debtors’ website to provide notice to all interested parties relating to the Bankruptcy Cases and Debtors’ wind down operations;
- e. Retaining and compensating employees to assist the Trustee in mitigating chargeback claims against the Debtors’ estates and to assist with compiling information necessary for the Debtors’ tax accountants to prepare and file the Debtors outstanding income tax returns;
- f. Finalizing the Debtors’ payroll tax filings and terminating the Debtors 401K Plan;
- g. Retaining and compensating on an hourly basis from cash-collateral

Vanessa McIntosh to help obtain documents to prepare the Debtors outstanding income tax returns;

- h. Retaining and compensating tax accountants to prepare the Debtors outstanding income tax returns; and
- i. Perform other ordinary course operations of the Debtors that the Trustee deems is in the best interest of creditors exercising her business judgment to provide for maximizing the value of the bankruptcy estate.

22. Based on the above, the Trustee believes that the request is necessary under the circumstances.

C. Payment of Actual, Necessary Costs and Expenses of the Estates

23. Section 503(b) of the Bankruptcy Code provides, in pertinent part: “After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including-- (1)(A) the actual, necessary costs and expenses of preserving the estate . . .” 11 U.S.C. § 503(b)(1)(A).

24. In addition, section 105(a) of the Bankruptcy Code provides that “[t]he court may 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). Section 105 of the Bankruptcy Code provides a bankruptcy court with broad powers in the administration of a case and essentially codifies the bankruptcy court’s inherent equitable powers. *See In re Seaside Eng’g & Surveying, Inc.*, 780 F.3d 1070, 1078 (11th Cir. 2015); *see also Management Tech. Corp. v. Pardo (In re Management Tech. Corp)*, 56 B.R. 337, 339 (Bankr. D. N. J. 1985) (indicating that court’s equitable powers are derived from section 105).

25. The expenses set forth in the Fifth Budget related to the Approved and Unpaid Expenses collectively total \$127,053 and include the following expense categories: warehouse rent, warehouse utilities, IT consulting services, document storage charges, payment of post-Petition sales tax and accounting fees. Additionally, the Trustee seeks to incur and make additional payments for expenses set forth in the Fifth Budget for the period of December 2, 2017 through January 31, 2018 in the total amount not to exceed \$64,616 from the Estates' Unencumbered Cash, for expenses that arise on account of administration of the Estates (collectively with the Approved and Unpaid Expenses on the Fifth Budget, the "**Administrative Expenses**"), without further order of this Court. These Administrative Expenses constitute actual, necessary costs and expenses of preserving the estates under section 503(b)(1)(A) of the Bankruptcy Code and should be authorized to be incurred and paid by the Court forthwith.

26. In these cases, the Trustee's requested payment of the Administrative Expenses will not adversely impact any other party and thus no harm will result from the granting of the relief requested herein, because the cash she seeks to utilize is unencumbered.

27. The Debtors' Estates will be irreparably harmed if payment of the Administrative Expenses is not authorized on an emergency basis to fund the limited operations described above. Accordingly, it is appropriate for the Court to enter an order authorizing the payment of the Administrative Expenses by the Trustee in accordance with the terms of the Fifth Budget and pursuant to her business judgment for administrative expenses incurred from December 2, 2017 through January 31, 2018.

28. The terms of the proposed payment of the Administrative Expenses are fair and reasonable under the circumstances and reflect the Trustee's exercise of prudent business judgment.

29. CardConnect agrees to the relief requested in this Motion.

30. Nothing in this motion will modify CardConnect's first-lien position with respect to the Debtors' Personal Property or its super-priority administrative claim pursuant to 11 U.S.C. § 507(b) on all current and/or future assets of the Debtors, including, for the avoidance of doubt, proceeds of pending and/or future litigation commenced by or on behalf of the Debtors pursuant to sections 507(a)(2), 507(b) and 726(a)(1) in the amount of the CardConnect Claim, which, for the avoidance of doubt, shall have priority over any claims asserted under section 503(b)(9) with respect to the Personal Property as set forth in ECF No. 146.

NOTICE

31. Notice of this Motion will be provided to: (a) the Office of the United States Trustee; (b) counsel to the alleged secured creditors; (c) the IRS; and (d) those persons who have requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure. The Trustee submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Trustee respectfully requests that this Court enter an order, in a form attached hereto as **Exhibit A**: (i) authorizing the Trustee to operate the Debtors' business to perform the Business Operations, in the Trustee's business judgment, to preserve value for the Debtors' Estates from December 2, 2017 through January 31, 2018; (ii) authorizing the payment of the Approved and Unpaid Expenses totaling \$127,053 as set forth in the Fifth Budget through December 1, 2017; (iii) authorizing the Trustee to expend additional Unencumbered Cash as set forth in the Fifth Budget in an amount not exceeding \$64,616 for the payment of administrative expenses of the Estates incurred from December 2, 2017 through January 31, 2018; and (iv) granting such other and further relief as is just and proper.

Dated: December 29, 2017

Respectfully submitted,

/s/ Eyal Berger

Eyal Berger, Esq.
Florida Bar Number: 0011069
Email: eyal.berger@akerman.com
AKERMAN LLP
Las Olas Centre II, Suite 1600
350 East Las Olas Boulevard
Fort Lauderdale, FL 33301-2999
Phone: (954) 463-2700

And

/s/ Steven R. Wirth

Steven R. Wirth
Florida Bar No.: 170380
Email: steven.wirth@akerman.com
AKERMAN LLP
401 E. Jackson St., Suite 1700
Tampa, FL 33602
Phone: (813) 223-7333

Counsel to the Chapter 7 Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 29, 2017, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day by transmission of Notices of Electronic Filing generated by CM/ECF to those parties registered to receive electronic notices of filing in this case as listed in the attached service list.

/s/ Eyal Berger

Attorney

SERVICE LIST

17-18864-PGH Notice will be electronically mailed to:

Joaquin J Alemany on behalf of Creditor Brixmor Property Group
joaquin.alemany@hklaw.com, jose.casal@hklaw.com

Joaquin J Alemany on behalf of Creditor Federal Realty Investment Trust
joaquin.alemany@hklaw.com, jose.casal@hklaw.com

Joaquin J Alemany on behalf of Creditor WRI Retail Pool I, L.P.
joaquin.alemany@hklaw.com, jose.casal@hklaw.com

Joaquin J Alemany on behalf of Creditor Weingarten Nostat, Inc.
joaquin.alemany@hklaw.com, jose.casal@hklaw.com

Joaquin J Alemany on behalf of Creditor Weingarten Realty Investors
joaquin.alemany@hklaw.com, jose.casal@hklaw.com

Eyal Berger, Esq. on behalf of Trustee Margaret J. Smith
eyal.berger@akerman.com, jeanette.martinez@akerman.com

John P Dillman on behalf of Creditor Cypress-Fairbanks ISD
houston_bankruptcy@lgbs.com

John P Dillman on behalf of Creditor Harris County
houston_bankruptcy@lgbs.com

John P Dillman on behalf of Creditor Montgomery County
houston_bankruptcy@lgbs.com

Edward M Fitzgerald, Esq on behalf of Creditor Brixmor Property Group
edward.fitzgerald@hklaw.com, linda.young@hklaw.com

Ronald E Gold on behalf of Creditor Washington Prime Group Inc.
gold@fbtlaw.com

Anthony Kang on behalf of Creditor Future Fashions Inc.
akang@arnstein.com

Anthony Kang on behalf of Creditor TianYa Corporation Limited
akang@arnstein.com

David B Marks on behalf of Trustee Margaret J. Smith
brett.marks@akerman.com, charlene.cerda@akerman.com

Kevin Newman on behalf of Creditor Inland Commercial Real Estate Services, LLC
knewman@menterlaw.com, kmnbk@menterlaw.com

Rachel Obaldo on behalf of Creditor Texas Comptroller of Public Accounts

bk-robald@oag.texas.gov, sherri.simpson@oag.texas.gov

Office of the US Trustee
USTPRegion21.MM.ECF@usdoj.gov

Christina V Paradowski on behalf of Creditor Czech Asset Management, LP
cvp@trippscott.com, bankruptcy@trippscott.com

Patricia A Redmond on behalf of Debtor AA Bridal Midwest, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor AA Bridal Nebraska, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor AA Bridal Northeast, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor AA Bridal, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor AA Florida Bridal Retail Company, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo (Australia) Pty, Ltd.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo - The Bride's Studio, No. 3, Inc.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo Canada ULC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo Investment China I
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu

mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo Investment China III
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo Investment Company, Limited (Hong Kong)
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Alfred Angelo Newco, Inc.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor BridesMart, LP
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor DJ Fashions, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Hacienda Brides
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor PF International, Inc.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Piccione Fashions Ltd.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Piccione Fashions UK LTD
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Debtor Zhuhai Haiping Wedding DRESS Design LTD
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party AA Bridal Midwest, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party AA Bridal Nebraska, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party AA Bridal Northeast, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party AA Bridal, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo (Australia) Pty, Ltd.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo - The Bride's Studio, No. 3, Inc.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo Canada ULC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo Investment China I
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo Investment China III
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo Investment Company, Limited (Hong
Kong)
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Alfred Angelo Newco, Inc.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party BridesMart, LP
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party DJ Fashions, LLC
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Hacienda Brides
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party PF International, Inc.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Piccione Fashions Ltd.
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Piccione Fashions UK LTD
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

Patricia A Redmond on behalf of Interested Party Zhuhai Haiping Wedding DRESS Design LTD
predmond@stearnsweaver.com,
jmartinez@stearnsweaver.com;rross@stearnsweaver.com;cgraver@stearnsweaver.com;sdaddese@akingu
mp.com

James N Robinson on behalf of Creditor CardConnect, LLC
jrobinson@whitecase.com, jjordan@whitecase.com;avenes@whitecase.com

Margaret J. Smith
msmith@mjstrustee.com, FL32@ecfcbis.com;msams@mjstrustee.com;mjs@trustesolutions.net

David Neal Stern on behalf of Creditor G&C Arbors Investors, LLC
dnstern@fwblaw.net, mkassower@fwblaw.net;rbyrnes@fwblaw.net

Charles M Tatelbaum on behalf of Creditor Czech Asset Management, LP

cmt@trippscott.com, iah@trippscott.com;cvp@trippscott.com

James A Timko on behalf of Interested Party Rossmore Enterprises
jtimko@shutts.com

Ronald M Tucker on behalf of Creditor Simon Property Group, Inc.
rtucker@simon.com, cmartin@simon.com;antimm@simon.com;bankruptcy@simon.com

Angela J Wallace on behalf of Creditor Broward County
ajwallace@broward.org, swulfekuhle@broward.org

H Elizabeth Weller on behalf of Creditor City of Frisco
dallas.bankruptcy@publicans.com

H Elizabeth Weller on behalf of Creditor Dallas County
dallas.bankruptcy@publicans.com

Steven R Wirth on behalf of Trustee Margaret J. Smith
steven.wirth@akerman.com,
Corinne.bylone@akerman.com;Jennifer.meehan@akerman.com;Katherine.fackler@akerman.com

17-18864-PGH Notice will not be electronically mailed to:

Carol L Fox
GlassRatner
200 E. Broward Blvd, #1010
Ft. Lauderdale, FL 33301

David L Pollack, Esq on behalf of
Creditor Brixmor Property Group
1736 Market St 51 fl
Philadelphia, PA 19103

EXHIBIT A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

Case No. 17-18864-PGH

AA FLORIDA BRIDAL RETAIL,
COMPANY, LLC, *et al.*,

Chapter 7

(Jointly Administered)

Debtors.

**AGREED ORDER GRANTING FIFTH MOTION OF CHAPTER 7 TRUSTEE FOR:
1) LIMITED AUTHORITY TO OPERATE THE BUSINESSES OF THE DEBTORS,
AND 2) AUTHORITY TO PAY ADMINISTRATIVE EXPENSES OF THE ESTATES
[ECF NO.]**

This matter came before the Court upon the Fifth Motion of Chapter 7 Trustee for (1) Limited Authority to Operate the Businesses of the Debtors and (2) Authority to Pay Administrative Expenses of the Estates (ECF No. ____) (the “Motion”) and the Court having

reviewed and taken judicial notice of the file, due and sufficient notice of the Motion having been provided, and good and sufficient cause appearing, it is hereby-

ORDERED and ADJUDGED:

1. The Motion is Granted.
2. The Trustee may operate for the limited purposes described in the Motion through January 31, 2018.
3. The Trustee shall be entitled to pay the Approved and Unpaid Administrative Expenses in the aggregate amount up to \$127,053 (the “**Interim Cash Collateral Amount**”) through and until December 1, 2017, for the limited purpose to fund the items detailed in the Fifth Budget attached to the Motion as **Exhibit B**. Pursuant to sections 361(3) and 507(b) of the Bankruptcy Code, the Court finds it appropriate to, and hereby grants CardConnect a super-priority administrative claim in the amount of the Interim Cash Collateral Amount in and upon all assets of the Debtors located in the United States, including any after-acquired property and proceeds thereof, including, for the avoidance of doubt, proceeds (through insurance, settlement, or otherwise) of pending and/or future litigation, including under chapter 5 of the Bankruptcy Code or similar state law claims, commenced by or on behalf of the Debtors, pursuant to sections 507(a)(2), 507(b) and 726(a)(1) in the amount of the Interim Cash Collateral Amount, which shall not be subject to any carve-outs (other than as expressly ordered by the Court), including, for the avoidance of doubt, section 726(b) of the Bankruptcy Code and shall not be subject to reduction until CardConnect’s claims against the Debtors’ estates are otherwise paid in full.
4. In addition, the Trustee is authorized to incur and make additional payments not exceeding \$64,616, from the Estates’ cash on hand, for expenses that arise on account of

administration of the Estates from December 2, 2017 through and including January 31, 2018, without further order of this Court.

5. Nothing in the Motion or this Order will modify CardConnect's first-lien position with respect to the Debtors' Personal Property or its super-priority administrative claim pursuant to 11 U.S.C. § 507(b) on all current and/or future assets of the Debtors, including, for the avoidance of doubt, proceeds of pending and/or future litigation commenced by or on behalf of the Debtors pursuant to sections 507(a)(2), 507(b) and 726(a)(1) in the amount of the CardConnect Claim (as defined in ECF No. 146), which, for the avoidance of doubt, shall have priority over any claims asserted under section 503(b)(9) with respect to the Personal Property as set forth in ECF No. 146.

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Submitted by:

Eyal Berger, Esq.
AKERMAN LLP
Las Olas Centre II, Suite 1600
350 East Las Olas Boulevard
Fort Lauderdale, FL 33301-2999
Email: eyal.berger@akerman.com
Phone: (954) 463-2700
Fax: (954) 463-2224

(Attorney Berger is directed to serve a conformed copy of this Order and to file a Certificate of Service with the Court).

EXHIBIT "B"

AA Florida Bridal Retail Company LLC., et al., Debtors

Case No.: 17-18864-BKC-PGH

Cash Budget through January 31, 2018

Cash Collateral Budgets Thru 12/1/17 Approved & Unpaid Amounts	December 2017 Budget	January 2018 Budget	Total - All Cash Collateral Budgets	Notes
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Note (1)

Warehouse Rent	\$ 26,202	\$ -	\$ -	\$ 26,202	(1) & (2)
Warehouse Utilities	7,500	-	-	7,500	(1) & (2)
Dan Larouche	-	1,500	1,500	3,000	(3) & (5)
Christine Wadsworth	-	500	500	1,000	(4) & (5)
Laurie Paler	-	-	-	-	(5)
Vanessa Macintosh	1,350	3,000	4,500	8,850	(1) & (6)
Employee Data	-	-	-	-	(5)
Office Move	2,218	-	-	2,218	(1)
Shipping - Contracts	20,500	-	-	20,500	(1) & (7)
Insurance	-	-	-	-	(5) & (8)
Web Hosting	-	4,602	4,602	9,204	(1)
Sales Tax (Post Petition)	10,000	-	-	10,000	(1) & (9)
Other Misc. costs	26,324	2,000	2,000	30,324	(1) & (10)
Trustee IT Consultant	1,170	2,000	2,000	5,170	(1) & (11)
Delray Office - Rent	-	-	-	-	(5)
Iron Mountain	24,706	12,356	12,356	49,418	(1) & (12)
Cost to Terminate 401K	-	1,200	-	1,200	
Final Payroll Tax Returns	7,084	-	-	7,084	(1)
Accounting - 401K Audit	TBD	TBD	TBD	TBD	(13)
Accounting - Income Taxes	-	10,000	TBD	10,000	(14)
Expenses for CA Warehouse	TBD	TBD	TBD	TBD	(15)
Total Expenses	\$ 127,053	\$ 37,158	\$ 27,458	\$ 191,669	

AA Florida Bridal Retail Company LLC., et al., Debtors**Case No.: 17-18864-BKC-PGH****Cash Budget through January 31, 2018**

Budget Footnotes:

- (1) "Cash Collateral Budgets thru 12/1/17 Approved and Unpaid Amounts" are related to the difference between what was previously budgeted and incurred but not paid as of 12/1/17. The Trustee estimates that the amounts actually incurred may be less than the amounts above and will be paid during the next budget period.
- (2) Includes July, August & September budgeted and incurred in previous periods but not paid.
- (3) Rate \$85 per hour (IT Programmer)
- (4) Rate \$40 per hour (credit card charge backs)
- (5) The Trustee does not expect to incur expenses totaling \$57,129 that were previously included in approved cash collateral budgets, resulting in a permanent difference. These amounts were removed from the total of all Cash Collateral Budgets.
- (6) Rate \$75 per hour (assisting with tax return preparation)
- (7) \$400 per store/61 stores included in previous budgets - amounts were incurred but not all paid.
- (8) The Trustee has canceled certain insurance and retained only the following: Umbrella, Ocean Cargo, Executive Risk and Liability for the Deerfield Beach Warehouse, which expense has been included in previous budget periods and paid. The Trustee does not expect to incur any additional insurance expense.
- (9) Expense included in previous budgets. The Trustee has determining the amount of sales tax incurred related to the 220 dresses shipped post petition by the Debtor and is in the process of evaluating how much of the sales tax should be reduced by customer charge backs.
- (10) Other miscellaneous costs include bank fees, storage of records and other miscellaneous expenses related to winding down the Debtor.
- (11) Expense includes website and data backup necessary for evaluating avoidance claims and e-discovery.
- (12) The Trustee is in the process of evaluating if the documents stored at Iron Mountain can be abandoned and if so this expense will not be paid. Since the Trustee has not made a final determination as of this budget period, the expense is included above.
- (13) The Trustee received notice from the Department of Labor that an audit of the 401K Plan would be waived for years 2016 and 2017. For purposes of this budget, the audit expense remains TBD until all returns are filed and accepted by the Department of Labor.
- (14) The Trustee is in the process of retaining the Marks Paneth (the Debtors former tax accountant) to prepare the Debtors tax returns for the years 2014-2016, which will require a \$10,000 retainer payment. The estimated fees for the preparation of the tax return is to be determined "TBD".
- (15) To Be Determined