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Proposed Counsel for Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re: : **Chapter 11**
:
HOPEMAN BROTHERS, INC., : **Case No. 24-32428 (KLP)**
:
Debtor. :
:
:
:

FINAL ORDER (I) AUTHORIZING DEBTOR TO MAINTAIN EXISTING BANK ACCOUNTS AND BUSINESS FORMS; AND (II) GRANTING THE DEBTOR AN EXTENSION OF TIME TO COMPLY WITH THE REQUIREMENTS OF SECTION 345(b) OF THE BANKRUPTCY CODE

Upon the motion (the “Motion”)¹ of the above-captioned debtor in the above-captioned chapter 11 case (the “Debtor”) for entry of an order (this “Final Order”) (i) authorizing the Debtor to maintain existing Bank Accounts and business forms, and (ii), if the Court determines the Debtor is not in compliance with section 345(b) of the Bankruptcy Code, granting the Debtor a 45-day extension from the Petition Date (as defined below) to comply with such requirements, all as more fully set forth in the Motion; and the Court having reviewed the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C.

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.



§ 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief granted in this order, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtor is authorized and empowered, but not directed, to continue to maintain, operate and make transfers under its existing cash management system.
3. The Debtor is authorized and empowered, but not directed, to continue to maintain the Bank Accounts with the same names and account numbers as existed immediately prior to this chapter 11 case.
4. Any requirement to establish separate accounts for tax payments is waived.
5. The Debtor is authorized to deposit funds in and withdraw funds from the Bank Accounts by all usual means, including, but not limited to, checks, wire transfers, electronic funds transfers, automated clearing house transfers (“ACH Transfers”) and other debits, and to otherwise treat the prepetition Accounts for all purposes as debtor in possession accounts.
6. The Debtor is authorized to direct banks and the banks are authorized and directed to pay all ordinary-course prepetition obligations in accordance with this or any separate order of

this Court, provided that the Debtor initiated or caused to be initiated such payment(s) of prepetition obligations on or before the Petition Date.

7. All banks with which the Debtor maintains the Bank Accounts are authorized and directed to continue to maintain, service and administer the Bank Accounts. Notwithstanding anything to the contrary in any other order of this Court, the banks (a) are authorized to accept and honor all representations from the Debtor as to which checks, drafts, wires or ACH Transfers should be honored or dishonored, consistent with any order of this Court and governing law, whether such checks, drafts, wires or ACH Transfers are dated prior to, on or subsequent to the Petition Date, and whether the banks believe the payment is or is not authorized by an order of this Court and (b) have no duty to inquire as to whether such payments are authorized by an order of this Court.

8. The banks shall not be liable to any party on account of (a) following the Debtor's instructions or representations as to any order of this Court, (b) the honoring of any prepetition check or item in a good faith belief that the Court has authorized such prepetition check or item to be honored or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

9. The Debtor is authorized to continue to use its existing business forms, including without limitation its existing check stock, which forms shall not be required to include the legend "Debtor in Possession" or other similar legend.

10. Any payment from a Bank Account at the request of the Debtor made by a bank prior to the Petition Date (including any ACH Transfer such bank is or becomes obligated to settle), or any instruments issued by such bank on behalf of any Debtor pursuant to a "midnight deadline"

or otherwise, shall be deemed to be paid prepetition, whether or not actually debited from the Bank Account prepetition.

11. The Debtor is authorized to open any new bank accounts or close any existing bank accounts as they may deem necessary and appropriate in its sole discretion; *provided* that written notice thereof shall be provided to the U.S. Trustee and any official committee appointed in this chapter 11 case at least three (3) days in advance of such opening and any new bank accounts should be at an institution that has been approved as an authorized depository by the U.S. Trustee for the Eastern District of Virginia.

12. To the extent any Bank Accounts existing as of the Petition Date are not in compliance with section 345(b) of the Bankruptcy Code, the Debtor shall have 45 days (or such additional time as to which the U.S. Trustee may agree) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and such extension is without prejudice to the Debtor's right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

13. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Final Order.

14. The notice procedures set forth in the Motion are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing the counterparties with notice and an opportunity to object and be heard at a hearing.

15. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

16. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

17. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Final Order shall be effective and enforceable immediately upon entry hereof.

18. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied because the relief set forth in this Final Order is necessary to avoid immediate and irreparable harm.

19. The requirement under Local Rule 9013-1(F) to file a memorandum of law in connection with the Motion is waived.

20. The Debtor is authorized to take all actions necessary or appropriate to implement the relief granted in this Final Order in accordance with the Motion.

21. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Final Order.

Dated: _____, 2024
Richmond, Virginia

Sep 9 2024

/s/ Keith L Phillips

UNITED STATES BANKRUPTCY JUDGE

Entered On Docket: Sep 11 2024

WE ASK FOR THIS:

/s/ Henry P. (Toby) Long, III
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Proposed Counsel for the Debtor and Debtor in Possession

SEEN AND NO OBJECTION:

/s/ Kathryn Montgomery
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United States Trustee

**CERTIFICATION OF ENDORSEMENT
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Henry P. (Toby) Long, III