

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

PREMIER KINGS, INC., *et al.*,¹

Debtors.

(Chapter 11)

Case No. 23-02781-TOM

Joint Administration Requested

NOTICE OF MODIFICATION OF PROPOSED ORDER

Premier Kings, Inc., and its debtor affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases, hereby submit this Notice of Modification of Proposed Order in connection with the *Motion of the Debtors and Debtors in Possession for an Order (I) Authorizing the Debtors to Pay Prepetition Claims of Certain Critical Vendors and (II) Granting Related Relief* [Dkt. No. 9] and submits the attached revised **Exhibit “A”**.

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors’ address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071. The Debtors have filed a motion for joint administration with the Court.



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Dated: October 28, 2023
Birmingham, Alabama

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EXHIBIT “A”

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

PREMIER KINGS, INC., *et al.*,¹

Debtors.

(Chapter 11)

Case No. 23-02871 (TOM)

Joint Administration Requested

**INTERIM ORDER AUTHORIZING DEBTORS AND DEBTORS-IN-POSSESSION
(I) TO PAY PREPETITION CLAIMS OF CERTAIN CRITICAL VENDORS
AND (II) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the Debtors for entry of an order (a) authorizing, but not directing, the Debtors to pay, in the ordinary course of business certain Critical Vendor Claims, and (b) granting related relief; and upon consideration of all pleadings related thereto, including the Baker Declaration; and it appearing that the Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; and after due deliberation and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT, ADJUDGED, AND DECREED THAT:

1. The Motion is granted on an interim basis.

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors’ address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071. The Debtors have filed a motion for joint administration with the Court.

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

2. The final hearing (the “Final Hearing”) on the Motion shall be held on _____, 2023, at __:___.m. (CST). Any objection or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., CST, on _____, 2023, and shall be served on: (a) the Office of the Bankruptcy Administrator for the Northern District of Alabama; (b) the holders of the forty (40) largest unsecured claims against the Debtors on a consolidated basis; (c) counsel to Burger King Company, LLC; (d) counsel to Wells Fargo Bank, National Association, as Administrative Agent for the Lender Group; (e) the United States Attorney’s Office for the Northern District of Alabama; (f) the Internal Revenue Service; (g) the office of the Attorney General for the State of Alabama; (h) the Securities and Exchange Commission; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. In the event no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

3. The Debtors are authorized, but not required, in their sole and absolute discretion and in the exercise of their business judgment, to pay the Critical Vendor Claims in an amount not to exceed \$1,500,000.00 in the aggregate, subject to the conditions set forth in this Order; provided however, the Critical Vendor Claims of McLane Foodservice, Inc., McLane Foodservice Distribution, Inc. or their affiliates (collectively “McLane”) shall be treated as provided in Paragraph 9 below,

4. The Debtors may, in their discretion, apply all payments of Critical Vendor Claims first to the Critical Vendor’s claims for goods received by the Debtors within 20 days prior to the Petition Date.

5. The Debtors are hereby authorized, but not directed, to obtain written verification before issuing payment to a Critical Vendor that such Critical Vendor will continue to provide goods and services to the Debtors on the Existing Trade Terms for the remaining term of the

Critical Vendors' agreement(s) with the Debtors or until the conclusion of these Chapter 11 Cases, whichever occurs first; provided, however, that the absence of such written verification will not limit the Debtors' rights hereunder.

6. Except as provided in Paragraph 9 below, notwithstanding anything contained in the Motion or this Final Order, any payment authorized to be made by the Debtor's herein shall be subject to and consistent with the terms and conditions contained in any orders entered by this Court authorizing the use of cash collateral and any order authorizing postpetition financing (collectively, "Financing Order"), including compliance with any budget or cash flow forecast in connection therewith. To the extent there is any conflict between this Final Order and a Financing Order, the terms of the Financing Order shall control.

7. Except as provided in Paragraph 9 below, nothing in the Motion or this Order, or the Debtors' payment of any claims pursuant to this Order, shall be deemed or construed (a) as an admission as to the validity of any claim or lien against the Debtors or their estates, (b) as a waiver of the Debtors' rights to dispute any claim or lien, (c) to prejudice any of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Critical Vendor, or (d) an assumption of any executory contract.

8. Except as provided in Paragraph 9 below, notwithstanding anything to the contrary contained herein, any payment made, authorization contained, or claim for which payment is authorized hereunder, shall be subject to any order approving debtor-in-possession financing and allowing use of cash collateral entered in these cases.

9. Notwithstanding anything herein or in a Financing Order to the contrary, the provisions in this Paragraph 9 shall govern with respect to McLane.

- a. The Debtors and McLane shall work in good faith to complete, within three (3) days of the entry of this Order, a final reconciliation and agreement of the

amounts owed to McLane on account of goods delivered by McLane to the Debtors during the twenty (20) days prior to the Petition Date, which McLane and the Debtors understand to be approximately \$1,324,412.57 (the “McLane 503(b)(9) Claims”).

- b. The Debtors are authorized and directed, subject to the reconciliation of amounts owed as provided herein, to: (i) pay, or cause to be paid, the McLane 503(b)(9) Claims no later than upon the date(s) provided in Paragraph 9(c), and (ii) to pay, or cause to be paid, any and all amounts due to McLane on account of goods provided by McLane to the Debtors after the Petition Date (the “McLane 503(b)(1) Claims”) no later than (A) in accordance with the 7 day terms provided by McLane to the Debtors in the ordinary course prior to the Petition Date or (B) if sooner, as provided in Paragraph 9(c).
- c. Upon the closing of any sale of one or more restaurant locations, the Debtors shall immediately and concurrently pay to McLane: (i) an amount equal to \$15,000 per restaurant location subject to such sale, with such payments to be applied *first* to the McLane 503(b)(9) Claims and *second* to the McLane 503(b)(1) Claims, until all such claims are paid in full; and (ii) any unpaid amount of the McLane 503(b)(1) Claims incurred on account of goods shipped to such restaurant locations.
- d. McLane reserves all rights under the Bankruptcy Code and applicable law with respect to its claims.
- e. It is understood and agreed by the Debtors that McLane has the right to refuse to extend any credit or ship any further goods to the Debtors: (i) if any of the Debtors or the Lender Group files a motion seeking, or otherwise seeks, to modify

McLane's treatment as provided herein without McLane's written consent, (ii) an order is entered modifying McLane's treatment as provided herein without McLane's written consent, or (iii) any Debtor fails to timely make any payment required hereunder. Subject to the foregoing, McLane agrees to continue to deliver goods on credit to the Debtors consistent with the terms of this Order.

10. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

11. The requirements of Bankruptcy Rule 6004(a) are waived.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

13. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order.

Dated: _____, 2023
Birmingham, Alabama

UNITED STATES BANKRUPTCY JUDGE