

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

)	
In re:)	Chapter 11
)	
SEQUENTIAL BRANDS GROUP, INC., <i>et al.</i> , ¹)	Case No. 21-11194 (JTD)
)	
Debtors.)	(Joint Administration Requested)
)	

**MOTION OF DEBTORS FOR INTERIM AND FINAL ORDERS
(A) AUTHORIZING CONTINUED USE OF EXISTING CASH MANAGEMENT SYSTEM, INCLUDING MAINTENANCE OF EXISTING BANK ACCOUNTS, CHECKS AND BUSINESS FORMS; (B) AUTHORIZING CONTINUATION OF EXISTING DEPOSIT PRACTICES; (C) WAIVING CERTAIN U.S. TRUSTEE GUIDELINES; (D) AUTHORIZING CONTINUATION OF INTERCOMPANY TRANSACTIONS; (E) GRANTING PRIORITY STATUS TO POSTPETITION INTERCOMPANY CLAIMS; (F) AUTHORIZING THE DEBTORS TO OPEN AND CLOSE BANK ACCOUNTS AND (G) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors” and together with their non-Debtor affiliates, the “Company”) respectfully state as follows in support of this motion:

Relief Requested

1. The Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and “Final Order”):

(a) authorizing, but not directing, the Debtors to continue to maintain and use their existing cash management system, including maintenance of the Debtors’ existing bank accounts, checks and

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.



business forms; (b) authorizing, but not directing, the Debtors to continue their existing deposit practices; (c) granting the Debtors a 30-day extension of the time by which they must comply with section 345(b) of the Bankruptcy Code, solely to the extent the United States Trustee for the District of Delaware (the “U.S. Trustee”) wishes to review the Debtors’ bank accounts to ensure compliance therewith; (d) authorizing, but not directing, the Debtors to continue performing intercompany transactions; (e) granting priority status to intercompany claims arising from certain of those transactions; (f) authorizing the Debtors to open and close bank accounts; and (g) granting related relief. In addition, the Debtors request that the Court schedule a final hearing within approximately twenty-one days of the commencement of these chapter 11 cases to consider approval of this motion on a final basis. In support of this Motion, the Debtors rely upon and incorporate by reference the *Declaration of Lorraine DiSanto in Support of the Debtors’ Chapter 11 Petitions and Requests for First Day Relief* (the “First Day Declaration”),² which was filed concurrently herewith. In further support of this Motion, the Debtors respectfully represent as follows:

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b) and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). The Debtors confirm their consent pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rule 9013-1(f) of the Local Rules of Bankruptcy Practice

² All capitalized terms used and not defined herein shall have the meanings ascribed to them in the First Day Declaration.

and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with the Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory and legal predicates for the relief requested herein are sections 105(a), 345(b), 363(b), 363(c), 364(a), 1107(a) and 1108 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rules 6003 and 6004, and Local Rules 2015-2(a) and 9013-1(m).

Background

5. On the date hereof (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. Concurrently with the filing of this motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these chapter 11 cases, and no committees have been appointed or designated.

7. Information regarding the Debtors’ history and business operations, capital structure, primary indebtedness, and the events leading up to the commencement of the Chapter 11 Cases can be found in the First Day Declaration.

Overview of the Debtors’ Cash Management System

A. Cash Management System

8. In the ordinary course of business, the Debtors maintain a complex, centralized cash

management system (the “Cash Management System”). The Cash Management System ensures the Debtors’ ability to effectively and efficiently monitor and control their cash position and is managed by the Debtors’ financial personnel. The Cash Management System benefits the Debtors’ day-to-day operations by providing an ability to, among other things, (a) quickly track, monitor and control corporate funds, (b) ensure cash availability and prompt payment of corporate, employee, and vendor related expenses, (c) reduce administrative costs by facilitating the efficient movement of funds and (d) track intercompany cash transfers.

9. As part of their ordinary course operations, the Debtors’ collect cash through receipt of checks, wire transfers, automated clearing house transfers (“ACH”) and credit or debit card payments, primarily from licensees of the Debtors’ lifestyle brands. Generally, specific accounts receive the direct payment of funds generated by, or on account of, individual brands owned by the Debtors. Disbursements are then issued from those same accounts to satisfy brand-specific expenses and other ordinary course obligations, while funds in certain other accounts may be used to satisfy common charges that benefit the consolidated Debtors, including interest payments on the Debtors’ funded debt obligations, as well as taxes and insurance premiums. In certain instances, the Debtors also effectuate intercompany transfers to ensure each Debtor entity is adequately capitalized and/or to timely satisfy general payment obligations.

10. The Cash Management System presently includes five (5) bank accounts (collectively, the “Bank Accounts”), four (4) of which are active operating accounts maintained at Bank of America (the “Bank”), and one (1) of which is an empty financial account (the “PPP Account”) maintained at the Bank and previously used to receive the proceeds of a Paycheck Protection Program loan backed by the U.S. Small Business Administration (the “SBA”).³ The PPP Account

³ Prior to the Petition Date, the Debtors maintained two additional accounts. The *first*, a financial account located at IDB Bank (the “IDB Account”), was previously used to (i) cash collateralize letters of credit issued under the

has a balance of \$0 as of the Petition Date, but has not been closed due to an ongoing audit being conducted by the SBA, which principally requests certain documentation related to incurrence of the loan obligations and use of the loan proceeds, all of which is, or will imminently be, in the possession of the SBA. The Debtors do not expect the audit to result in any repayment obligations or other liability, and intend to promptly close the PPP Account following the audit's conclusion.

11. Of the Debtors' four (4) operating accounts, the following three (3) accounts are utilized on a consistent basis in connection with both cash receipts (primarily on account of royalty obligations), cash disbursements and, on occasion, intercompany transfers: (i) the Sequential Brands Group Inc. Operating Account (the "SBG Operating Account"); (ii) the Sequential Licensing Inc. Operating Account (the "SLI Operating Account"); and (iii) the SBG Universe Brands LLC Operating Account (the "Universe Operating Account"). The remaining operating account—the Brand Matter LLC Operating Account (the "Brand Matter Operating Account")—remains open and active as of the Petition Date for the sole purpose of collecting outstanding accounts receivable related to brands that were sold to third-party purchasers shortly before the petition date.

12. The Bank has executed a uniform depository agreement ("Uniform Depository Agreement") with, and is designated as an authorized depository ("Authorized Depositories") by, the U.S. Trustee pursuant to the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees* (the "U.S. Trustee Guidelines"). Additionally, deposits at the Bank are insured by the Federal Deposit Insurance Corporation (the "FDIC") in the maximum amount

Debtors' credit facilities, (ii) make ordinary course interest payments to the Debtors' funded debt creditors, and (iii) refund or pay certain related fees. The IDB account was closed in July of 2021. The *second*, a health savings account located at JPMorgan Chase (the "JPM HSA Account"), was acquired in connection with the Debtors' acquisition of Martha Stewart Living Omnimedia, Inc. The last remaining claim against the JPM HSA Account was processed as of June 2021, with the remaining \$1,000 balance subsequently transferred to the Sequential Licensing Inc. Operating Account maintained at the Bank. The JPM HSA account was closed in June of 2021.

permitted under applicable federal regulations. As such, the Debtors' submit that they are in compliance with the requirements of section 345(b) of the Bankruptcy Code as of the Petition Date.

13. Each of the Bank Accounts is listed on the schedule attached hereto as **Exhibit C**, and briefly described below.

Accounts	Description of Accounts
Operating Accounts	
<p>Sequential Brands Group Inc. Operating Account</p> <p>The "<i>SBG Operating Account</i>"</p> <p>Bank of America (5375)</p>	<p>The Debtors maintain the SBG Operating Account at the Bank to, among other things, (i) issue interest payments to the agent under the BoA Credit Agreement ("<u>BoA</u>") and the agent under the Wilmington Credit Agreement ("<u>Wilmington Trust</u>"), in each case for the benefit of the applicable lenders; (ii) receive certain tax refunds, as well as overpayment refunds from BoA and Wilmington Trust; (iii) payout director fees in the ordinary course; (iv) satisfy fee and expense reimbursement obligations owed to certain professionals, including King & Spalding LLP and Province, LLC; and (v) satisfy ordinary course tax obligations owed to various state taxation and revenue authorities.</p> <p><u>Balance as of Petition Date: \$29,406.90</u></p>
<p>Sequential Licensing Inc. Operating Account</p> <p>The "<i>SLI Operating Account</i>"</p> <p>Bank of America (3838)</p>	<p>The Debtors maintain the SLI Operating Account at the Bank to, among other things, (i) receive royalty payments from the licensees of the Joe's Jeans and William Rast brands; (ii) disburse 401(k)⁴ fees and matching contributions to the administrator under the Debtors' 401(k) plan; (iii) reimburse covered employee expenses; (iv) satisfy ordinary course payroll and office utilities obligations; and (iv) satisfy fee and expense reimbursement obligations owed to certain of the Debtors' professionals.</p> <p><u>Balance as of Petition Date: \$66,769.10</u></p>

⁴ The Debtors' 401(k) plan is described in the *Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue Compensation and Benefits Programs and (B) Pay Prepetition Claims Related Thereto and (II) Granting Related Relief*, which has been filed substantially contemporaneously herewith.

Accounts	Description of Accounts
<p>Brand Matter LLC Operating Account</p> <p>The “<i>Brand Matter Operating Account</i>”</p> <p>Bank of America (3812)</p>	<p>Prior to the Debtors selling their ownership interests in the Caribbean Joe and Ellen Tracy brands (as further described in the First Day Declaration) (the “<u>Brand Matter Sale</u>”), the Debtors utilized the Brand Matter Operating Account to receive brand-specific royalty payments and make brand-specific disbursements to certain vendors, independent contractors and contract counterparties.</p> <p>Subsequent to consummation of the Brand Matter Sale, the purchaser has been actively collecting on all outstanding accounts receivable related to the transferred assets, as provided for by the applicable transaction documents (the “<u>Sale Documents</u>”). Following completion of that collection process, residual cash (including amounts collected by the purchaser on account of such outstanding accounts receivable) will be apportioned in accordance with the terms of the Sale Documents, and the Brand Matter Operating Account will be finally closed.</p> <p><u>Balance as of Petition Date:</u> \$0</p>
<p>SBG Universe Brands LLC Operating Account</p> <p>The “<i>Universe Operating Account</i>”</p> <p>Bank of America (8459)</p>	<p>The Debtors maintain the Universe Operating Account at the Bank to receive royalty payments and make disbursements to certain vendors, independent contractors, consultants and contract counterparties, in each case related to the Debtors’ Active Division brands (<i>i.e.</i>, Swiss Tech, GAIAM, Avia and AND1).</p> <p><u>Balance as of Petition Date:</u> \$6,660.20</p>
PPP Account	
<p>Sequential Licensing Inc. PPP Account</p> <p>The “<i>PPP Account</i>”</p> <p>Bank of America (2502)</p>	<p>As further detailed herein, the PPP Account is subject to an ongoing audit by the SBA. The Debtors do not expect the audit to result in any repayment obligations or other liability, and intend to promptly close the PPP Account following the audit’s conclusion.</p> <p><u>Balance as of Petition Date:</u> \$0</p>

14. Bank Accounts are opened and closed based on the needs of the Debtors and the recommendations of the Debtors’ treasury department to the Debtors’ Chief Financial Officer. Authorized signatories for the Bank Accounts are typically limited to the Debtors’ President and Chief Financial Officer, although business needs could require other employees of the Debtors to be authorized signatories for a particular account.

15. The Cash Management System exists alongside two (2) bank accounts maintained by non-Debtor affiliates. The first is an operating account (the “Jessica Account”) maintained at the Bank in the name of With You, LLC (“With You”), a joint venture entity that owns the Jessica Simpson Collection lifestyle brand. Debtor Sequential Brands Group, Inc. (“Sequential Brands”) owns 62.5% of the membership interests in With You. The Jessica Account is consistently used by With You to, among other things, collect royalty payments, pay brand-specific, ordinary course expenses and to distribute profits to With You’s members, which include Sequential Brands and With You, Inc., a California corporation. The disbursement of profits to With You’s members typically occurs on a quarterly basis, while ordinary course expenses are customarily paid each week. Due to the interconnected nature of the Company’s operations and financial activities, any interruption to the Cash Management System threatens to directly and negatively impact the operations of With You at a time when the Debtors are diligently marketing their controlling interest in that entity.

16. The second bank account maintained by a non-Debtor affiliate is an operating account (the “DVS Operating Account”) located at the Bank in the name of DVS Footwear International LLC (“DVS”). On July 29, 2021, the Debtors sold their majority interest in DVS to a third-party purchaser (the “DVS Sale”). Following consummation of the DVS Sale and collection on all outstanding accounts receivable on behalf of DVS, approximately \$6,000 remained in the DVS Operating Account.⁵

B. Cash Collection & Disbursement Oversight Procedures⁶

i. Cash Collection

⁵ Prior to consummation of the DVS Sale, the Debtors utilized the DVS Operating Account to receive brand-specific royalty payments and make brand-specific disbursements to certain vendors, independent contractors and contract counterparties.

⁶ On account of the COVID-19 pandemic, and while various personnel are working remotely, certain of the

17. As further detailed in the First Day Declaration, the Debtors' revenues are primarily generated by licensing their brands through various distribution channels, including to retailers, wholesalers and distributors in the United States and various international territories. In the ordinary course, customers and licensees send cash to the Debtors via wire transfer and check, both of which are compiled and collected by the Debtors' Accounts Payable Supervisor, who promptly distributes corresponding documentation and information to the Debtors' Controller for review and coding. Following the Controllers' approval, the Accounts Payable Supervisor records a cash log entry in the Debtors' accounting software against the applicable customer or licensee's open receivables balance. Thereafter, the Controller, along with the Debtors' Senior Accountant, perform a routine reconciliation to ensure the accuracy of the Debtors' records and the absence of any discrepancies. Revenues and other ordinary course cash receipts are ultimately deposited in the Debtors' Bank Accounts promptly following completion of the foregoing review process.⁷

ii. Cash Disbursement

18. Funds in the Bank Accounts are used by the Debtors to directly and indirectly satisfy various general and brand-specific financial obligations arising in the ordinary course of business. Particularly, funds the Bank Accounts are routinely used to pay, among other things, payroll obligations, funded debt obligations, vendor obligations, fee and expense obligations owed to the Debtors' various professionals and independent contractors, and certain other ordinary course costs and expenses. Such payments are customarily initiated by check,⁸ ACH, wire transfer or direct deposit.

procedures described below occur electronically, including with regard to the review of documentation and the procurement of internal approvals.

⁷ Historically, and as of the Petition Date, all funds maintained in the Bank Accounts are held in cash or cash equivalents.

⁸ Check stock is securely stored with access restricted to the Controller and Senior Accountant.

19. Prior to effectuating any such disbursements, the Accounts Payable Supervisor reviews and distributes all incoming invoices to the appropriate authorized employee for further review and approval. Any invoice delivered by a new vendor must, in addition, be separately approved by the Debtors' Senior Accountant. Following the receipt of all requisite first-level approvals, the Accounts Payable Supervisor generates an open payables report in the Debtors' accounting software for evaluation by the Debtors' Chief Financial Officer. If a requested disbursement is accurate and satisfactory, the Chief Financial Officer (or, in certain instances, the Debtors' President) will then authorize and sign a corresponding check or instruct the Senior Accountant to initiate a wire payment. As is the case with cash receipts, a routine reconciliation is periodically performed to ensure ongoing oversight.

C. Intercompany Transactions

20. As is customary, the Debtors regularly engage in ordinary course intercompany transactions (the "Intercompany Transactions") to, among other things, fund interest payment obligations, satisfy obligations related to their joint ventures, pay employees, satisfy various expenses, manage their day-to-day operations, and, more generally, preserve the value inherent in their businesses and brands. The Intercompany Transactions are reflected as intercompany receivables and payables (the "Intercompany Balances", and claims related thereto "Intercompany Claims") in the Company's books and records. The Debtors closely track all fund transfers in their respective accounting systems and, therefore, can ascertain, trace, and account for all Intercompany Transactions. Intercompany Transactions are settled or repaid in the ordinary course of business and on an ongoing basis, while the Bank Accounts are manually reconciled on a monthly basis to ensure that Intercompany Balances match.

21. Intercompany Transactions occur as part of the daily operation of the Cash Management System, and, as a result, at any given time there may be Intercompany Balances

owing between Debtors and other Debtors or between Debtors and non-Debtor affiliate, With You (as further described below). The Debtors' ongoing operations are reliant upon an unfettered ability to continue transferring cash throughout the Cash Management System, and the Debtors receive significant benefits from the receipt of cash and services in connection with the Intercompany Transactions. Indeed, while certain of the Debtors generate revenue through licensing activities, other Debtors are reliant on Intercompany Transactions to ensure they are adequately capitalized and to otherwise satisfy ordinary course obligations, including payroll and employee benefits obligations.

22. The Debtors regularly engage in Intercompany Transactions with only one non-Debtors affiliate, With You (the "Jessica Intercompany Transactions"). Specifically, in its capacity as a majority Member and as Administrative Manager of With You, Sequential Brands occasionally transfers funds to the Jessica Account in order to ensure that With You satisfies its ordinary course financial obligations in a timely and efficient manner. In limited instances, Sequential Brands, as Administrative Manager, directly satisfies certain expenses on With You's behalf, for which Sequential Brands gets reimbursed through Intercompany Transactions on a continuous basis. Such reimbursable expenses include rental and utilities costs for With You's California offices, as well as certain third-party legal and accounting expenses.

23. The Debtors' majority interest in With You and, in particular, the Jessica Intercompany Transactions, provides a material net benefit to the Debtors' estates. Indeed, during the June 30, 2020 to June 30, 2021 period, the Debtors realized approximately \$1.627 million in average monthly revenue on account of their interest in With You, while they paid out only \$249,000 in expenses. In sum, the Jessica Intercompany Transactions all occur in the ordinary course of the Debtors' operations, are integral to Sequential Brands' role as Administrative

Manager of With You, and significantly benefit the Debtors and, in turn, their estates.

24. Aside from the Jessica Intercompany Transactions, the Debtors do not intend to engage in any other Intercompany Transactions with non-Debtor affiliates during these chapter 11 cases (if any, the “Other Non-Debtor Intercompany Transactions”). Nevertheless, to the extent it becomes necessary to do so in the ordinary course of the Debtors’ postpetition operations, the Debtors will maintain detailed records of each Other Non-Debtor Intercompany Transaction, and will make such records available to the U.S. Trustee and any statutory creditors’ committee appointed in these chapter 11 cases upon request.⁹

D. Bank Fees

25. In the ordinary course of business, the Bank charges, and the Debtors pay, certain service charges and other fees, costs, and expenses related to maintenance of the Bank Accounts (collectively, the “Bank Fees”). The Bank Fees have historically amounted to approximately \$8,967.00 per month, across all Bank Accounts. The Bank Fees are automatically withdrawn from the Bank Accounts through ACH on the 15th day of each calendar month. As of the Petition Date, \$0 in Bank Fees remain outstanding. As payment of the Bank Fees is necessary to maintain and keep open the Bank Accounts, the Debtors respectfully request that the Court authorize the Debtors to pay all Bank Fees that are or become due and payable during these chapter 11 cases in the ordinary course of business.

E. Business Forms

26. In the ordinary course of business, the Debtors use checks, invoices, letterhead,

⁹ Debtor, Gaiam Americas, Inc. owns a minority interest in non-Debtor, Gaiam PTY, an entity operating in Australia that sells Gaiam-branded merchandise directly to consumers and certain trade retailers. While the Debtors do not engage in, or intend to engage in any Intercompany Transactions with this entity, they do routinely pay certain marketing expenses, legal expenses and commissions related to the Gaiam brand, generally, which indirectly benefit Gaiam PTY.

purchase orders and other forms and correspondence (the “Business Forms”). The Debtors’ existing Business Forms are not marked with any designation referencing their status as debtors in possession. As discussed further below, to avoid potential operational issues with their employees, customers, vendors and other parties during this critical time and to minimize expense, the Debtors seek authority to continue to use their existing Business Forms, as such forms were in existence immediately before the Petition Date, without reference to the Debtors’ status as debtors in possession.

Basis for Relief

A. Maintenance of the Cash Management System is Essential to the Debtors’ Operations and Restructuring Efforts

27. The Cash Management System has been employed by the Debtors for a number of years and constitutes an ordinary course, essential business practice. The Cash Management System is also a vital component of the Debtors’ operations and beneficial to their estates and creditors because it enables the Debtors to (i) transfer funds in the most cost-effective manner, (ii) maintain accurate information regarding receipts, account balances and disbursements, and (iii) ensure compliance with the Company’s comprehensive accounting and disbursement oversight procedures.

28. As a practical matter, due to the Company’s corporate and financial structure, it would be difficult and inefficient to establish a separate cash management system for each Debtor, or to otherwise overhaul the Cash Management System in light of these chapter 11 cases. Indeed, requiring the Debtors to adopt new, segregated cash management systems or to extricate the Debtors’ Bank Accounts from the Company’s broader, integrated Cash Management System would be costly, harmful to the Debtors’ restructuring efforts, and create unnecessary administrative burdens. A disruption of this nature could have a particularly severe impact on the

Debtors at this critical juncture, as they seek to effectuate an orderly and value maximizing sale process.

29. Acknowledging these common realities, Courts in this and other districts have noted that an integrated cash management system “allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash.” *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 934 (Bankr. D. Del. 1992), *aff’d in relevant part*, 997 F.2d 1039 (3d Cir. 1993); *see also Southmark Corp. v. Grosz (In re Southmark Corp.)*, 49 F.3d 1111, 1114 (5th Cir. 1995) (finding cash management system allows a debtor “to administer more efficiently and effectively its financial operations and assets”). Indeed, the United States Court of Appeals for the Third Circuit has concluded that requiring a debtor to maintain separate accounts “would be a huge administrative burden and economically inefficient.” *Columbia Gas*, 997 F.2d at 1061; *see also In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995) (cash management system allows debtor “to administer more efficiently and effectively its financial operations and assets”).

30. The Debtors’ request for authorization to continue to use the Cash Management System is consistent with section 363(c)(1) of the Bankruptcy Code, which authorizes a debtor in possession to “use property of the estate in the ordinary course of business without notice or a hearing.” 11 U.S.C. § 363(c)(1). Section 363(c)(1) is intended to provide a debtor in possession with the flexibility to engage in the ordinary transactions required to operate its business. *See, e.g., In re Roth Am., Inc.*, 975 F.2d 949, 952 (3d Cir. 1992); *see also In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796 (Bankr. D. Del. 2007). Included within the purview of section 363(c) is a debtor’s ability to continue the routine transactions necessitated by its cash management system. *See Amdura Nat’l Distrib. Co. v. Amdura Corp. (In re Amdura Corp.)*, 75 F.3d 1447, 1453 (10th

Cir. 1996); *Charter Co. v. Prudential Ins. Co. of Am. (In re Charter Co.)*, 778 F.2d 617, 621 (11th Cir. 1985) (holding that a debtor's request for authority to continue using its existing cash management system is consistent with section 363(c)(1) of the Bankruptcy Code).

31. The Cash Management System was established, and has been consistently used in the ordinary course of business, prior to the Petition Date. In this way, the Debtors' continued use of the Cash Management System falls squarely within the parameters of section 363(c)(1) of the Bankruptcy Code. Moreover, requiring the Debtors to adopt a new cash management system during the chapter 11 cases would be expensive, burdensome and unnecessarily disruptive to the Debtors' postpetition operations and marketing efforts.

32. Importantly, the Cash Management System provides the Debtors with the ability to quickly create status reports on the location and amount of funds, which, in turn, allows management to track and control such funds, ensure cash availability and reduce administrative costs through centralized collection and disbursement procedures. As a result, any disruption of the Cash Management System would have severe and adverse effects on the Debtors' restructuring efforts and the Debtors' ultimate ability to maximize estate value for the benefit of the Debtors' creditors and other parties in interest. Put another way, maintaining the existing Cash Management System without disruption is both essential to the success of these chapter 11 cases and in the best interests of the Debtors, their estates and all interested parties.

33. Courts in this district routinely allow debtors in chapter 11 cases to maintain their existing cash management systems. *See, e.g., In re Clover Techs. Grp., LLC*, No. 19-12680 (KBO) (Bankr. D. Del. Jan. 21, 2020) (authorizing the debtors to continue using their prepetition cash management system); *In re Anna Holdings, Inc.*, No. 19-12551 (CSS) (Bankr. D. Del. Dec. 3, 2019) (same); *In re Destination Maternity Corporation, et al.*, No. 19-12256 (BLS) (Bankr. D.

Del. Nov. 12, 2019) (same); *In re Forever 21, Inc.*, No. 19-12122 (KG) (Bankr. D. Del. Oct. 28, 2019) (same); *In re Furie Operating Alaska, LLC*, No. 19-11781 (LSS) (Bankr. D. Del. Sept. 27, 2019) (same); *In re Blackhawk Mining LLC, et al.*, No. 19-11595 (LSS) (Bankr. D. Del. Aug. 8, 2019) (same).¹⁰ Accordingly, and for the reasons cited above, the Debtors respectfully request that they be authorized to continue to maintain and utilize the Cash Management System.

B. The Court Should Authorize the Debtors to Maintain Existing Bank Accounts and Continue to Use Their Existing Business Forms

34. The U.S. Trustee Guidelines generally require that a chapter 11 debtor, among other things: (a) establish one debtor in possession bank account for all estate monies required for the payment of taxes, including payroll taxes; (b) close all existing bank accounts and open new debtor in possession accounts; (c) maintain a separate debtor in possession account for cash collateral; and (d) obtain checks that bear the designation “debtor in possession” and reference the bankruptcy case number and type of account on such checks. These requirements are designed to provide a clear line of demarcation between prepetition and postpetition claims and payments, and to help protect against the inadvertent payment of prepetition claims by preventing banks from honoring checks drawn before the Petition Date. *See In re Tolomeo*, 537 B.R. 869, 875 (Bankr. N.D. Ill. 2015) (citing U.S Trustee Guidelines).

35. The Debtors believe they can achieve the goals of the U.S. Trustee Guidelines without closing their existing Bank Accounts and opening new ones, as the Debtors have implemented procedures to ensure that unauthorized payments will not be made on account of obligations incurred before the Petition Date. Specifically, with the assistance of their advisors, the Debtors have implemented internal controls that prohibit payments on account of prepetition debts without

¹⁰ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

prior approval of the Debtors' financial personnel. Accordingly, the Debtors request that they be permitted to continue using their existing Bank Accounts without establishing separate accounts for cash collateral or tax payments.

36. Allowing the Debtors to maintain the Bank Accounts will aid in creating a smooth transition into chapter 11 and avoid any confusion or disruption caused by closing the Bank Accounts and opening new accounts. Continuing to use the Bank Accounts will also avoid the potential for negative impacts that can arise from establishing replacement accounts, including misdirected deposits, misapplied funds, and other delays. Moreover, the Debtors have concurrently filed several motions seeking authorization to pay prepetition obligations in the ordinary course of business. If the Debtors were required to open new accounts, they would likely be unable to timely implement the critical relief sought in those motions.

37. Further, to avoid disruption of the Cash Management System and unnecessary expense, the Debtors request that they be authorized to continue to use their existing Business Forms as such forms were in existence immediately before the Petition Date, without reference to the Debtors' status as debtors in possession. Pursuant to Local Rule 2015-2, in the event the Debtors need to purchase new check stock during the pendency of the chapter 11 cases, such check stock will include a legend referring to the Debtors as "Debtors in Possession" or "DIP" and the lead case number. In addition, within fifteen (15) days of the entry of the Proposed Order, the Debtors will cause any electronically produced checks to reflect "Debtor in Possession" or "DIP" and the lead case number.

38. The Debtors submit that parties in interest will not be prejudiced if the Debtors are authorized to continue to use their existing Business Forms. The Debtors will be sending a notice of commencement of the chapter 11 cases to all creditors. Moreover, most, if not all parties doing

business with the Debtors will undoubtedly be aware of their status as debtors in possession; thus, changing Business Forms immediately is unnecessary and unduly burdensome.

C. The Debtors are in Compliance with the Requirements of Section 345(b) of the Bankruptcy Code

39. The Debtors' funds are held solely in cash and cash equivalents deposited in accounts insured by the FDIC and maintained at a stable, U.S.-based financial institution that has executed a Uniform Depository Agreement with the U.S. Trustee. As such, the Debtors submit that the Cash Management System and the Bank Accounts comply with the requirements of section 345 of the Bankruptcy Code and the U.S. Trustee Operating Guidelines. Nevertheless, to the extent the U.S. Trustee would like a period of time to review the Bank Accounts, the Debtors hereby request a 30-day extension of the time by which they must comply with the requirements of section 345(b) of the Bankruptcy Code.

40. Courts in this district and elsewhere have allowed debtors to maintain their existing depository accounts in complex chapter 11 cases, despite a failure to strictly comply with section 345 of the Bankruptcy Code. *See, e.g., In re Clover Techs. Grp., LLC*, No. 19-12680 (KBO) (Bankr. D. Del. Jan. 21, 2020) (order suspending debtors' obligation to comply with section 345 and authorizing maintenance of existing bank accounts); *In re Anna Holdings, Inc.*, No. 19-12551 (CSS) (Bankr. D. Del. Dec. 3, 2019) (same); *In re Destination Maternity Corporation, et al.*, No. 19-12256 (BLS) (Bankr. D. Del. Nov. 12, 2019) (same); *In re Forever 21, Inc.*, No. 19-12122 (KG) (Bankr. D. Del. Oct. 28, 2019) (same); *In re Maxcom USA Telecom, Inc.*, Case No. 19-23489 (RDD) (Bankr. S.D.N.Y. Sep. 27, 2019) (same); *In re Blackhawk Mining, LLC*, No. 19-11595 (LSS) (Bankr. D. Del. Aug. 9, 2019) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Mar. 31, 2017) (same); *In re SunEdison, Inc.*, No. 16-10992 (SMB) (July 8, 2016)

(same).¹¹

D. The Bankruptcy Code Permits the Debtors to Continue to Engage in the Intercompany Transactions

41. The Intercompany Transactions should be authorized by the Court to the extent necessary, as they are all entered into in the ordinary course of the Debtors' business and supported by sound business justifications.

42. The Intercompany Transactions, each of which is effectuated on a recurring basis, fall squarely within the Debtors' authority under section 363(c)(1) of the Bankruptcy Code to use property of their estates, including cash, in the ordinary course of business. *See* 11 U.S.C. § 363(c)(1). Included within the purview of this authority is a debtor's ability to continue engaging in "routine transactions" necessitated by a debtor's business practices. *See, e.g., Amdura Nat. Distrib. Co. v. Amdura Corp. (In re Amdura Corp.)*, 75 F.3d 1447, 1453 (10th Cir. 1996) ("A debtor in possession under Chapter 11 is generally authorized to continue operating its business."); *In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796 (Bankr. D. Del. 2007) (noting that courts have shown a reluctance to interfere in a debtor's making of routine, day-to-day business decisions). As further detailed herein, the Intercompany Transactions all qualify as routine transactions as they are effectuated on a routine, periodic basis and integral to the Debtors' ongoing operations.

43. To the extent they fall outside the ordinary course of the Debtors' business, the Intercompany Transactions should be authorized pursuant to section 363(b)(1) of the Bankruptcy Code, which permits a debtor to use property of the estate, other than in the ordinary course, after notice and a hearing. *See* 11 U.S.C. § 363(b)(1). Specifically, section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor "may use, sell, or lease, other than in the ordinary

¹¹ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request to the Debtors' proposed counsel.

course of business, property of the estate” after notice and a hearing. 11 U.S.C. § 363(b)(1). Generally, the debtor is only required to “show that a sound business purpose” justifies the proposed use of property. *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *see also In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (requiring “good business reason” for use under section 363(b) of the Bankruptcy Code). This standard generally bars other parties from second-guessing the debtor’s business judgment if the debtor has shown that a use of property will benefit the debtor’s estate. *See In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.”); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (“Overcoming the presumptions of the business judgment rule on the merits is a near-Herculean task.”).

44. Here, the Debtors have exercised sound business judgement in requesting authority to continue engaging in ordinary course Intercompany Transactions, as each such transaction is inextricably linked to proper functioning of the Cash Management System, as well as the Debtors’ ability to operate and maintain the value of their brands. Indeed, the Debtors regularly utilize Intercompany Transactions to make interest payments, satisfy joint venture-related obligations, fund payroll, pay third party vendors, and otherwise ensure cash is properly allocated as between operating entities. Furthermore, to the extent the Debtors seek to engage in any Other Non-Debtor Intercompany Transactions, such transactions will only be authorized following careful review by the Debtors’ management team, and will be reflected in detailed records forwarded upon request to the U.S. Trustee and any statutory creditors’ committee appointed in these chapter 11 cases. Accordingly, the Debtors submit that the Intercompany Transactions may be prospectively

authorized pursuant to section 363(b)(1) of the Bankruptcy Code as a sound exercise of business judgment.

45. Courts in this district routinely allow debtors to engage in intercompany transactions during their chapter 11 cases. *See, e.g., In re Avadim Health, Inc.*, No. 21-10883 (CTG) (Bankr. D. Del. June 28, 2021) (allowing the continuation of intercompany transactions in the ordinary course of business); *In re Alamo Drafthouse Cinemas Holdings, LLC*, No. 21-10474 (MFW) (Bankr. D. Del. Mar. 4, 2021) (same); *In re RTI Holding Company, LLC*, No. 20-12456 (JTD) (Bankr. D. Del. Nov. 5, 2020) (same); *In re Blackhawk Mining LLC*, No. 19-11595 (LSS) (Bankr. D. Del. Aug. 9, 2019) (same); *In re Charming Charlie Holdings Inc.*, No. 17-12906 (CSS) (Bankr. D. Del. Jan. 10, 2018) (same).

46. Lastly, to ensure each individual Debtor will not permanently fund the operations of an affiliate, the Debtors respectfully request that all Intercompany Claims arising from postpetition payments between or among a Debtor and another Debtor be accorded administrative expense status. This relief will ensure that each entity receiving payment from a Debtor will continue to bear ultimate repayment responsibility for its ordinary course Intercompany Transactions, thereby neutralizing the risk that these transactions would detrimentally affect recoveries available to each Debtor's respective creditors.

The Court Should Authorize the Bank to Continue to Maintain, Service and Administer the Bank Accounts in the Ordinary Course of Business

47. The Debtors respectfully request that the Court authorize the Bank 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 Bank should be 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 after the Petition Date by parties

entitled to issue instructions with respect thereto.

48. The Debtors further request that the Court authorize the Bank to accept and honor all representations from the Debtors as to which checks, drafts, wires or ACH payments should be honored or dishonored consistent with any order of the Court and governing law, whether such checks, drafts, wires or ACH payments are dated before or after the Petition Date. The Debtors can and will identify all prepetition checks and other forms of payment outstanding on the Petition Date and notify the Bank which checks or obligations should be honored, as have been authorized by the Court. The Debtors also request that, to the extent the Bank honors a prepetition check or other item drawn on any account: (a) at the direction of the Debtors; (b) in a good-faith belief that the Court has authorized such prepetition check or item to be honored; or (c) as a result of an innocent mistake made despite the above-described protective measures, the Bank shall not be deemed to be liable to the Debtors or their estates on account of such prepetition check or other item honored postpetition. The Debtors respectfully submit that such relief is reasonable and appropriate because the Bank is not in a position to independently verify or audit whether a particular item may be paid in accordance with a court order or otherwise.

49. The Debtors further request that the Bank be authorized to (a) honor the Debtors' directions with respect to the opening and closing of any accounts; and (b) accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; *provided*, in each case that the Bank shall not have any liability to any party for relying on such representations.

50. Moreover, the Debtors request that the Court authorize the Bank to (a) charge, and the Debtors to pay or honor, both prepetition and postpetition service and other fees, costs, charges, and expenses to which the Bank is entitled under the terms, and in otherwise accordance with, their contractual arrangements with the Debtors, including the Bank Fees; and (b) 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.

The Requirements of Bankruptcy Rule 6003 are Satisfied

51. Bankruptcy Rule 6003 empowers a court to grant relief within the first twenty-one (21) days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm.” Fed. R. Bankr. P. 6003. As set forth in this Motion and in the First Day Declaration, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first twenty-one (21) days of the chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture and imperil the Debtors’ restructuring. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and therefore, Bankruptcy Rule 6003 is satisfied.

Request for Waiver of Stay

52. To implement the foregoing, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), any “order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of fourteen (14) days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). The Debtors submit that the relief requested in this Motion is necessary for the Debtors to operate their business without interruption and to preserve value for their estates for the reasons set forth herein. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h).

Reservation of Rights

53. Nothing contained herein is intended to be or shall be deemed (a) an admission as to

the validity of any claim against the Debtors, (b) a waiver of the Debtors' or any appropriate party-in-interest's rights to dispute the amount of, basis for, or validity of any claim, (c) a waiver of the Debtors' or any other party-in-interest's rights under the Bankruptcy Code or any other applicable nonbankruptcy law, or (d) an approval, adoption, assumption, or rejection of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' or any party-in-interest's rights to dispute such claim.

Notice

54. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the United States Attorney's Office for the District of Delaware; (d) the United States Internal Revenue Service; (e) the United States Securities and Exchange Commission; (f) counsel to the BoA Credit Agreement agent, (i) Morgan, Lewis & Bockius LLP, One Federal Street, Boston, MA 02110 (Attn: Marjorie Crider, Esq. (marjorie.crider@morganlewis.com); Julie Frost-Davies, Esq. (julia.frost-davies@morganlewis.com)), and (ii) Robinson & Cole LLP, 1201 N. Market Street, Suite 1406, Wilmington, DE 19801 (Attn: Rachel J. Mauceri (rmauceri@rc.com)); (g) counsel to the Term B Lenders and DIP Lenders, (i) King & Spalding, 1185 Avenue of the Americas, New York, NY 10036 (Attn: Roger Schwartz, Esq. (rschwartz@kslaw.com); Peter Montoni, Esq. (pmontoni@kslaw.com); Timothy Fesenmyer, Esq. (tfesenmyer@kslaw.com)), and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, DE 19801, (Attn: Robert J. Dehney (rdehney@morrisonichols.com)); (h) the Bank and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this motion is seeking "first day" relief, within two

business days of the hearing on this motion, the Debtors will serve copies of this motion and any order entered in respect to this motion as required by Local Rule 9013-1(m).

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: August 31, 2021

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Laura Davis Jones

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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

PROPOSED INTERIM ORDER

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

In re:)	Chapter 11
SEQUENTIAL BRANDS GROUP, INC., <i>et al.</i> , ¹)	Case No. 21-11194 (JTD)
Debtors.)	(Joint Administration Requested)

**INTERIM ORDER (A) AUTHORIZING CONTINUED
USE OF EXISTING CASH MANAGEMENT SYSTEM, INCLUDING
MAINTENANCE OF EXISTING BANK ACCOUNTS, CHECKS AND BUSINESS
FORMS; (B) AUTHORIZING CONTINUATION OF EXISTING DEPOSIT
PRACTICES; (C) WAIVING CERTAIN U.S. TRUSTEE GUIDELINES;
(D) AUTHORIZING CONTINUATION OF INTERCOMPANY TRANSACTIONS;
(E) GRANTING PRIORITY STATUS TO POSTPETITION INTERCOMPANY
CLAIMS; (F) AUTHORIZING THE DEBTORS TO OPEN AND CLOSE
BANK ACCOUNTS AND (G) GRANTING RELATED RELIEF**

Upon the *Motion of Debtors for Interim and Final Orders (A) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks and Business Forms, (B) Authorizing Continuation of Existing Deposit Practices; (C) Waiving Certain U.S. Trustee Guidelines, (D) Authorizing Continuation of Intercompany Transactions, (E) Granting Priority Status to Postpetition Intercompany Claims, (F) Authorizing the Debtors to Open and Close Bank Accounts and (G) Granting Related Relief* (the "Motion")² filed by the above-captioned affiliated debtors and debtors-in-possession (the "Debtors"); and the Court

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

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

having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §1334(b) and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and the Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b), and that this Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and the Court having considered the First Day Declaration; and the Court having determined that the legal and factual basis set forth in the Motion and at the Hearing establishes just cause for the relief granted herein; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors and their estates; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis, as set forth herein.
2. Subject to any interim or final order approving the Debtors’ use of cash collateral and/or any postpetition financing facility (in either case, a “DIP Order”), the Debtors are authorized, but not directed to maintain and continue to use the Cash Management System, and collect, transfer and disburse cash in accordance with the Cash Management System, including through Intercompany Transactions.
3. Any existing deposit agreements between the Debtors and the Bank shall continue to govern the postpetition cash management relationship between the Debtors and the Bank, and all

of the provisions of these agreements, including the termination and fee provisions, shall remain in full force and effect, and the Debtors and the Bank may, without further order of this Court, agree to and implement non-material changes to the Cash Management System and cash management procedures in the ordinary course of business, subject to the terms and conditions of this Interim Order, including closing any of the Bank Accounts or opening new accounts whenever the Debtors deem that those accounts are needed or appropriate, and to enter into any ancillary agreements related to the foregoing, as they may deem necessary and appropriate, subject to the terms and provisions of the Debtors' agreements with the Bank; *provided* that the Debtors shall consult with counsel to the administrative agent under the BoA Credit Agreement (the "BoA Agent") prior to opening or closing any Bank Accounts and give notice within fifteen (15) days after opening or closing a Bank Account to the U.S. Trustee, counsel to the BoA Agent, counsel to the DIP Agent and counsel to any statutory committee appointed in the chapter 11 cases; *provided further* that the Debtors shall open any new bank accounts only at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or are willing to immediately execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee.

4. The Debtors are authorized, but not directed, to (a) continue to use any and all of the Bank Accounts in existence as of the Petition Date in the same manner and with the same account numbers, styles and document forms as are currently employed; (b) deposit funds in and withdraw funds from the Bank Accounts in the ordinary course by all usual means, including checks, wire transfers, drafts, ACH transfers and electronic fund transfers or other items presented, issued or drawn on the Bank Accounts; (c) pay ordinary course bank fees in connection with the Bank Accounts, including any fees arising prior to the Petition Date; (d) perform their obligations under the documents and agreements governing the Bank Accounts; and (e) for all purposes, treat the

Bank Accounts as accounts of the Debtors in their capacities as debtors in possession.

5. The Debtors shall continue to maintain records related to Intercompany Balances, so that Intercompany Transactions can be readily ascertained, traced and accounted for through intercompany accounts. The Debtors shall make any and all such records available to the U.S. Trustee and any official committee appointed in these cases upon request.

6. The Bank and the Debtors' financial institutions shall be, and hereby are, authorized, without further order of this Court, to (a) process, honor, pay and, if necessary, reissue any and all checks, including prepetition checks that the Debtors reissue postpetition, and electronic fund transfers drawn on the Bank Accounts relating to payments permitted by an order of this Court, whether the checks, drafts, wire transfers and ACH transfers issued were presented or funds transfer requests were submitted prior to or subsequent to the Petition Date, *provided* that sufficient funds are available in the applicable accounts to make the payments, and *provided further* that the Debtors shall not make any such request on account of a claim against the Debtors arising prior to the Petition Date, unless otherwise permitted by an order of the Court; and (b) debit the Debtors' accounts in the ordinary course of business for all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to the Bank as service charges for the maintenance of the Cash Management System.

7. Pursuant to Local Rule 2015-2(a), the Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, *provided, however*, that once the Debtors have exhausted their existing check stock, they shall ensure that any new checks are clearly labeled "Debtor in Possession" and include the lead case number, and *provided further* within fifteen (15) days of entry of this Interim Order, the Debtors will update any

electronically produced checks, or any other checks which the Debtors or their agents print themselves, to reflect their status as “Debtors in Possession” and include the lead case number.

8. The Debtors are authorized, but not directed, to continue to utilize all third-party providers for the administration of their Cash Management System as necessary. In addition, the Debtors are authorized, but not directed, to pay all prepetition or postpetition ordinary course fees, including Bank Fees, and other service charges in accordance with agreements governing the Bank Accounts.

9. The Bank is authorized to continue to administer, service and maintain the Bank Accounts as the accounts were administered, serviced and maintained prepetition, without interruption and in the ordinary course (including making deductions for Bank Fees, as such amounts are due and owing), and to receive, process, honor and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, and, when requested by the Debtors in their discretion, to receive, process, honor and pay, to the extent of available funds, any and all checks, drafts, wires, ACH transfers, electronic fund transfers or other items presented, issued or drawn on the Bank Accounts on account of a claim against the Debtors arising on or after the Petition Date.

10. The relief granted in this Interim Order is extended to any new bank account opened by the Debtors at the Bank after the date hereof, provided that such new bank account is in compliance with the terms of this Interim Order.

11. The Bank shall not honor or pay any payments drawn on the listed Bank Accounts or otherwise issued before the Petition Date for which the Debtors specifically issue stop payment orders in accordance with the documents governing the Bank Accounts.

12. Notwithstanding any other provision in this Interim Order, if the Bank honors a prepetition check or item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors to honor the prepetition check or item, (b) in the good faith belief that the Court has authorized the prepetition check or item to be honored, or (c) as a result of a good faith or otherwise innocent error made despite implementation of the handling procedures, it shall not be deemed to be liable to the Debtors or their estates on account of the prepetition check or item being honored postpetition or otherwise in violation of this Interim Order. Without limiting the foregoing, the Bank may rely on the representations of the Debtors with respect to whether any check, item, or other payment order drawn or issued by the Debtors prior to the Petition Date should or should not (pursuant to any stop payment orders in accordance with the documents governing the Bank Accounts) be honored pursuant to this Interim Order or any other order of this Court, and the Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

13. The Debtors are hereby granted an extension of time to comply with the requirements section 345(b) of the Bankruptcy Code for a period of thirty (30) days from the Petition Date, without prejudice to the Debtors' rights to seek a further waiver.

14. The Debtors shall not be required to comply with the requirement of the U.S. Trustee Guidelines to establish separate accounts for cash collateral and/or tax payments.

15. Within 10 days of the date of entry of this Interim Order the Debtors shall: (a) contact the Bank; (b) provide the Bank with each of the Debtors' employer identification numbers; and (c) identify each of their Bank Accounts held at such Bank as being held by a debtor in possession in a bankruptcy case, and provide the case number.

16. The Debtors are authorized, but not directed, to (a) make payments, in their discretion,

on account of prepetition Intercompany Claims if the Debtors deem the payment necessary and in the best interests of the Debtors' estates; (b) set off prepetition obligations on account of Intercompany Claims; and (c) continue to engage in Intercompany Transactions, on a postpetition basis, in the ordinary course of business and/or as necessary to execute or maintain the Cash Management System; *provided* that any Intercompany Transactions are not prohibited or restricted by the terms of any DIP Order.

17. All Intercompany Claims arising from postpetition Intercompany Transactions entered into between one Debtor and another Debtor shall be accorded administrative expense status in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code; *provided* that any such administrative expense claims shall be subject and subordinate to administrative expense claims granted pursuant to any DIP Order entered in these chapter 11 cases.

18. Notwithstanding use of the Cash Management System, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930 based on the disbursements of each Debtor, regardless of which entity makes those disbursements.

19. Nothing contained in the Motion or this Interim Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist or was not perfected as of the Petition Date, or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

20. A hearing to consider entry of an order granting the Motion on a final basis (the "Final Hearing") shall take place on _____, 2021 at __:__ .m. (prevailing Eastern Time). On or before 4:00 p.m. (prevailing Eastern Time) on _____, 2021, any objections or responses to the Motion shall be filed with the Court, and served on (a) proposed counsel to the Debtors, (i) Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166 (Attn: Scott Greenberg

(sgreenberg@gibsondunn.com) and Joshua Brody (jbrody@gibsondunn.com)); and (ii) Puchulski, Stang, Ziehl & Jones LLP, 919 North Market Street #1700, Wilmington, DE 19801 (Attn: Laura Davis Jones (ljones@pszjlaw.com)); (b) counsel to any statutory committee appointed in these chapter 11 cases; and (c) the Office of the United States Trustee for the District of Delaware. In the event no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

21. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis for or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to assume, adopt or reject any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in or other encumbrance on property of the Debtors' estates; (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief authorized in this Interim Order are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or to seek avoidance of any such liens.

22. Any payment made pursuant to this Interim Order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

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

24. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

25. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

26. The Debtors are authorized to take any and all steps necessary or appropriate to carry out the relief granted in this Interim Order.

27. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

EXHIBIT B

PROPOSED FINAL ORDER

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

)	
In re:)	Chapter 11
)	
SEQUENTIAL BRANDS GROUP, INC., <i>et al.</i> , ¹)	Case No. 21-11194 (JTD)
)	
Debtors.)	(Joint Administration Requested)
)	

FINAL ORDER (A) AUTHORIZING CONTINUED USE OF EXISTING CASH MANAGEMENT SYSTEM, INCLUDING MAINTENANCE OF EXISTING BANK ACCOUNTS, CHECKS AND BUSINESS FORMS; (B) AUTHORIZING CONTINUATION OF EXISTING DEPOSIT PRACTICES; (C) WAIVING CERTAIN U.S. TRUSTEE GUIDELINES; (D) AUTHORIZING CONTINUATION OF INTERCOMPANY TRANSACTIONS; (E) GRANTING PRIORITY STATUS TO POSTPETITION INTERCOMPANY CLAIMS; (F) AUTHORIZING THE DEBTORS TO OPEN AND CLOSE BANK ACCOUNTS AND (G) GRANTING RELATED RELIEF

Upon the *Motion of Debtors for Interim and Final Orders (A) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks and Business Forms, (B) Authorizing Continuation of Existing Deposit Practices; (C) Waiving Certain U.S. Trustee Guidelines, (D) Authorizing Continuation of Intercompany Transactions, (E) Granting Priority Status to Postpetition Intercompany Claims, (F) Authorizing the Debtors to Open and Close Bank Accounts and (G) Granting Related Relief* (the “Motion”)² filed by the above-captioned affiliated debtors and debtors-in-possession (the “Debtors”); and the Court

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

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

having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §1334(b) and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and the Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and that this Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and the Court having considered the First Day Declaration; and this Court having previously entered the *Interim Order (A) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks and Business Forms; (B) Authorizing Continuation of Existing Deposit Practices; (C) Waiving Certain U.S. Trustee Guidelines; (D) Authorizing Continuation of Intercompany Transactions; (E) Granting Priority Status to Postpetition Intercompany Claims; (F) Authorizing the Debtors to Open and Close Bank Accounts and (G) Granting Related Relief* [Docket No. ___]; and the Court having determined that the legal and factual basis set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors and their estates; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis, as set forth herein.
2. All objections to the entry of this Final Order, to the extent not withdrawn or settled,

are overruled.

3. Subject to any interim or final order approving the Debtors' use of cash collateral and/or any postpetition financing facility (in either case, a "DIP Order"), the Debtors are authorized, but not directed to maintain and continue to use the Cash Management System, and collect, transfer and disburse cash in accordance with the Cash Management System, including through Intercompany Transactions.

4. Any existing deposit agreements between the Debtors and the Bank shall continue to govern the postpetition cash management relationship between the Debtors and the Bank, and all of the provisions of these agreements, including the termination and fee provisions, shall remain in full force and effect, and the Debtors and the Bank may, without further order of this Court, agree to and implement non-material changes to the Cash Management System and cash management procedures in the ordinary course of business, subject to the terms and conditions of this Interim Order, including closing any of the Bank Accounts or opening new accounts whenever the Debtors deem that those accounts are needed or appropriate, and to enter into any ancillary agreements related to the foregoing, as they may deem necessary and appropriate, subject to the terms and provisions of the Debtors' agreements with the Bank; *provided* that the Debtors shall consult with counsel to the administrative agent under the BoA Credit Agreement (the "BoA Agent") prior to opening or closing any Bank Accounts and give notice within fifteen (15) days after opening or closing a Bank Account to the U.S. Trustee, counsel to the BoA Agent, counsel to the DIP Agent, and counsel to any statutory committee appointed in the chapter 11 cases; *provided further* that the Debtors shall open any new bank accounts only at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or are willing to immediately execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee.

5. The Debtors are authorized, but not directed, to (a) continue to use any and all of the Bank Accounts in existence as of the Petition Date in the same manner and with the same account numbers, styles and document forms as are currently employed; (b) deposit funds in and withdraw funds from the Bank Accounts in the ordinary course by all usual means, including checks, wire transfers, drafts, ACH transfers and electronic fund transfers or other items presented, issued or drawn on the Bank Accounts; (c) pay ordinary course bank fees in connection with the Bank Accounts, including any fees arising prior to the Petition Date; (d) perform their obligations under the documents and agreements governing the Bank Accounts; and (e) for all purposes, treat the Bank Accounts as accounts of the Debtors in their capacities as debtors in possession.

6. The Debtors shall continue to maintain records related to Intercompany Balances, so that Intercompany Transactions can be readily ascertained, traced and accounted for through intercompany accounts. The Debtors shall make any and all such records available to the U.S. Trustee and any official committee appointed in these cases upon request.

7. The Bank and the Debtors' financial institutions shall be, and hereby are, authorized, without further order of this Court, to (a) process, honor, pay and, if necessary, reissue any and all checks, including prepetition checks that the Debtors reissue postpetition, and electronic fund transfers drawn on the Bank Accounts relating to payments permitted by an order of this Court, whether the checks, drafts, wire transfers and ACH transfers issued were presented or funds transfer requests were submitted prior to or subsequent to the Petition Date, *provided* that sufficient funds are available in the applicable accounts to make the payments, and *provided further* that the Debtors shall not make any such request on account of a claim against the Debtors arising prior to the Petition Date, unless otherwise permitted by an order of the Court; and (b) debit the Debtors' accounts in the ordinary course of business for all undisputed prepetition amounts outstanding as

of the date hereof, if any, owed to the Bank as service charges for the maintenance of the Cash Management System.

8. Pursuant to Local Rule 2015-2(a), the Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, *provided* that once the Debtors have exhausted their existing check stock, they shall ensure that any new checks are clearly labeled “Debtor in Possession” and include the lead case number, and *provided further* that the Debtors will update any electronically produced checks, or any other checks which the Debtors or their agents print themselves, to reflect their status as “Debtors in Possession” and include the lead case number.

9. The Debtors are authorized, but not directed, to continue to utilize all third-party providers for the administration of their Cash Management System as necessary. In addition, the Debtors are authorized, but not directed, to pay all prepetition or postpetition ordinary course fees, including Bank Fees, and other service charges in accordance with agreements governing the Bank Accounts.

10. The Bank is authorized to continue to administer, service and maintain the Bank Accounts as the accounts were administered, serviced and maintained prepetition, without interruption and in the ordinary course (including making deductions for Bank Fees), as such amounts are due and owing), and to receive, process, honor and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, and, when requested by the Debtors in their discretion, to receive, process, honor and pay, to the extent of available funds, any and all checks, drafts, wires, ACH transfers, electronic fund transfers

or other items presented, issued or drawn on the Bank Accounts on account of a claim against the Debtors arising on or after the Petition Date.

11. The relief granted in this Final Order is extended to any new bank account opened by the Debtors at the Bank after the date hereof, provided that such new bank account is in compliance with the terms of this Final Order.

12. The Bank shall not honor or pay any payments drawn on the listed Bank Accounts or otherwise issued before the Petition Date for which the Debtors specifically issue stop payment orders in accordance with the documents governing the Bank Accounts.

13. Notwithstanding any other provision in this Final Order, if the Bank honors a prepetition check or item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors to honor the prepetition check or item, (b) in the good faith belief that the Court has authorized the prepetition check or item to be honored, or (c) as a result of a good faith or otherwise innocent error made despite implementation of the handling procedures, it shall not be deemed to be liable to the Debtors or their estates on account of the prepetition check or item being honored postpetition or otherwise in violation of this Final Order. Without limiting the foregoing, the Bank may rely on the representations of the Debtors with respect to whether any check, item, or other payment order drawn or issued by the Debtors prior to the Petition Date should or should not (pursuant to any stop payment orders in accordance with the documents governing the Bank Accounts) be honored pursuant to this Final Order or any other order of this Court, and the Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

14. The Debtors shall not be required to comply with the requirement of the U.S. Trustee Guidelines to establish separate accounts for cash collateral and/or tax payments.

15. The Debtors are authorized, but not directed, to (a) make payments, in their discretion, on account of prepetition Intercompany Claims if the Debtors deem the payment necessary and in the best interests of the Debtors' estates; (b) set off prepetition obligations on account of Intercompany Claims; and (c) continue to engage in Intercompany Transactions, on a postpetition basis, in the ordinary course of business and/or as necessary to execute or maintain the Cash Management System; *provided* that any Intercompany Transactions are not prohibited or restricted by the terms of any DIP Order.

16. All Intercompany Claims arising from postpetition Intercompany Transactions entered into between one Debtor and another Debtor shall be accorded administrative expense status in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code; *provided* that any such administrative expense claims shall be subject and subordinate to administrative expense claims granted pursuant to any DIP Order entered in these chapter 11 cases.

17. Notwithstanding use of the Cash Management System, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930 based on the disbursements of each Debtor, regardless of which entity makes those disbursements.

18. Nothing contained in the Motion or this Final Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist or was not perfected as of the Petition Date, or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

19. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors or any other party in interest's right to

dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to assume, adopt or reject any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in or other encumbrance on property of the Debtors' estates; (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief authorized in this Final Order are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or to seek avoidance of all such liens.

20. Any payment made pursuant to this Final Order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

21. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

22. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

23. The Debtors are authorized to take any and all steps necessary or appropriate to carry out the relief granted in this Final Order.

24. The Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Final Order.

EXHIBIT C**BANK ACCOUNTS**

Debtor	Bank	Account Description	Last Four Digits of Account Number
Sequential Brands Group, Inc.	Bank of America	Operating Account	5375
Sequential Licensing Inc.	Bank of America	Operating Account	3838
Brand Matter LLC	Bank of America	Operating Account	3812
SBG Universe Brands LLC	Bank of America	Operating Account	8459
Sequential Licensing Inc.	Bank of America	PPP Account	2502