

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

In re:

PUMPKIN PATCH LLC,<sup>1</sup>

Debtor.

)  
) Chapter 11

)  
) Case No. 09-12200 (BLS)

)  
)  
) Re: D.I. 5  
)

**ORDER UNDER BANKRUPTCY CODE SECTIONS 105, 363(b),  
507(a), 541, 1107(a), AND 1108, AUTHORIZING DEBTOR, INTER ALIA, TO PAY  
PREPETITION WAGES, COMPENSATION, AND EMPLOYEE BENEFITS**

Upon the motion (the "Motion")<sup>2</sup> of the Debtor for an order, under Bankruptcy Code sections 105, 363(b), 507(a), 541, 1107(a), and 1108 authorizing, but not directing, the Debtor, inter alia, to pay prepetition wages, compensation and employee benefits as set forth therein; and upon the Declaration; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and after due deliberation thereon and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is GRANTED as set forth in this Order.
2. The Debtor shall be and hereby is authorized to pay (including to any third parties that provide or aid in the monitoring, processing or administration of the Prepetition Employee Obligations), in its sole discretion, the Employee Obligations, including but not limited to

<sup>1</sup> The last four digits of Pumpkin Patch LLC's federal tax identification number are 4007. The mailing address for Pumpkin Patch LLC is 951 Mariners Island Boulevard, Suite 650, San Mateo, CA 94404.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

Employee Wage Claims, up to the limit set forth in 11 U.S.C. § 507(a)(4), Employee Benefit Obligations, up to the limit set forth in 11 U.S.C. § 507(a)(5), Employee Expense Obligations, Worker's Compensation Obligations, and Employer Taxes, as and when such obligations are due, upon entry of this order.

3. The Debtor shall be and hereby is authorized, in its sole discretion, to honor and continue its Employee Benefit Obligations that were in effect as of the Petition Date; provided, however, that such relief shall not constitute or be deemed an assumption or an authorization to assume any of such Employee Benefit Obligations, including, policies, plans, programs, practices, and procedures, under Bankruptcy Code section 365(a).

4. The Debtor's banks shall be and hereby are authorized to receive, process, honor and pay all pre- and postpetition checks and fund transfers on account of the Employee Obligations that had not been honored and paid as of the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments.

5. The Debtor's banks shall be and hereby are prohibited from placing any holds on, or attempting to reverse, any automatic transfers to any account of an Employee or other party for Employee Obligations, provided that sufficient funds are on deposit in the applicable accounts to cover such transfers.

6. The Debtor's shall be and hereby are authorized to issue new postpetition checks or effect new postpetition fund transfers on account of the Employee Obligations to replace any prepetition checks or fund transfer requests that may be dishonored or rejected.

7. The Debtor may pay any and all withholding, including social security, FICA, federal and state income taxes, garnishments, health care payments, retirement fund withholding and other types of withholding, whether these relate to the period prior to the date of the Debtor's

chapter 11 filing or subsequent thereto. Any party receiving payment from the Debtor is authorized and directed to rely upon the representations of the Debtor as to which payments are authorized by this order.

8. Nothing in the Motion or this Order or the relief granted (including any actions taken or payments made by the Debtor pursuant to the relief) shall (a) be construed as a request for authority to assume any executory contract under 11 U.S.C. § 365; (b) waive, affect or impair any of the Debtor's rights, claims or defenses, including, but not limited to, those arising from Bankruptcy Code section 365, other applicable law and any agreement; (c) grant third-party beneficiary status or bestow any additional rights on any third party; or (d) be otherwise enforceable by any third party.

9. Authorizations given to the Debtor in this Order empower but do not direct the Debtor to effectuate the payments specified herein, said Debtor retaining the business judgment to make or not make said payments, and in all instances subject to the condition that funds are available to effect any payment and in no event shall any person (Debtor, officer, director or otherwise) be personally liable for any amounts authorized for payment herein but not paid. This paragraph 9 does not apply to the payment of trust fund taxes.

10. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

11. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware

June 30, 2009

  
The Honorable Brendan Lincan Shannon  
United States Bankruptcy Judge