

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re: : Chapter 11
: :
COMFORT CO., INC., : : Case No. 08-12305 (MFW)
: :
a Delaware corporation, *et al.*,¹ : : [Joint Administration Pending]
: :
Debtors. : : Ref. Docket No. 13
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**ORDER AUTHORIZING THE DEBTORS TO PAY
PREPETITION CLAIMS OF SHIPPERS, WAREHOUSEMEN AND
OTHER LIEN CLAIMANTS AND FOR RELATED RELIEF**

Upon consideration of the motion (the "Motion")² of the Debtors for entry of an order (a) authorizing the Debtors to pay certain prepetition claims of shippers and warehousemen, (b) authorizing the Debtors to pay certain contractors in satisfaction of perfected or potential mechanics', materialmen's, artisan's or similar liens or interests, whether possessory or otherwise in the ordinary course of business, and (c) authorizing and directing financial institutions to receive, process, honor, and pay all checks issued and electronic payment requests made relating to the foregoing; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and upon consideration of the First Day Declaration; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this Motion is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Motion and opportunity for objection having been

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Comfort Co., Inc. (0360); Sleep Innovations, Inc. (6386); Advanced Innovations Central, LLC (7109); Advanced Innovations East, LLC (2669); Advanced Innovations West, LLC (2116); Advanced Urethane Technologies, Inc. (1725); AUT Brenham, Inc. (7286); AUT Dallas, Inc. (7706); AUT Lebanon, Inc. (7928); AUT Newburyport, Inc. (7032); and AUT West Chicago, Inc. (7561). The address for all of the Debtors is 187 Route 36, Suite 101, West Long Branch, NJ 07764

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

given, with no objections or requests for hearing having been filed; and it appearing that no other notice need be given; and after due deliberation and sufficient cause therefore, it is hereby:

1. ORDERED that the Motion is granted; and it is further

2. ORDERED that the Debtors are authorized, but not directed, in their sole discretion, to pay in the ordinary course of business their prepetition Transport Claims to the Transport Companies in an aggregate amount not to exceed \$2,500,000; and it is further

3. ORDERED that the Debtors are authorized, but not directed, in their sole discretion, to pay in the ordinary course of business their prepetition Contractor Claims to the Contractors in an aggregate amount not to exceed \$300,000; provided that with respect to each such Contractor Claim (i) the Debtors shall not pay a Contractor Claim unless the Contractor has perfected or, in the Debtors' judgment, is presently capable of perfecting or may be capable of perfecting in the future one or more Contractor Liens and Interests in respect of such claim, (ii) the payment of such claim shall be, and is hereby deemed to have been, made with a full reservation of rights regarding the extent, validity, perfection or possible avoidance of any Contractor Liens and Interests, and (iii) the Contractor agrees to promptly release, and is hereby deemed to have released, any Contractor Liens and Interests upon payment of such claim; and it is further

4. ORDERED that by accepting payment pursuant to this Order, the Transport Companies and Contractors agree to continue the uninterrupted provision of services to the Debtors on the credit terms as existed immediately prior to the Petition Date; and it is further

5. ORDERED that if any Transport Company or Contractor accepts payment pursuant to this Order and thereafter does not continue to provide services to the Debtors during

the pendency of these Chapter 11 Cases on the same terms as existed prior to the Petition Date, then (i) any payment relating to this Order made after the Petition Date shall be deemed an avoidable postpetition transfer under section 549 of the Bankruptcy Code and, therefore, shall be recoverable by the Debtors in cash upon written request by the Debtors, and (ii) upon recovery by the Debtors, the claim shall be reinstated as a prepetition claim in the amount so recovered; provided, however, that nothing in this paragraph shall preclude a Transport Company or Contractor from contesting such treatment by making a written request to the Debtors to schedule a hearing before this Court, which hearing the Debtors shall set for the next regularly scheduled omnibus hearing date occurring more than twenty days after the date of such request; and it is further

6. ORDERED that the Debtors, in their sole discretion, shall undertake appropriate efforts to cause Transport Companies and Contractors to acknowledge in writing that payment of such claims is conditioned upon the Transport Company or Contractor continuing to supply goods and services to the Debtors on trade terms that, at a minimum, such Transport Company or Contractor provided to the Debtors on a historical basis prior to the Petition Date, or such other trade practices and programs that are at least as favorable to the Debtors as those in effect during such time, and the Debtors reserve the right to negotiate new trade terms with any Transport Company or Contractor as a condition to payment of any such claim; and it is further

7. ORDERED that the Debtors are authorized to reissue any check, electronic payment or other transfer, which was drawn in payment of any prepetition Transport Claim or Contractor Claim that is not cleared by a depository; and it is further

8. ORDERED that all applicable banks and other financial institutions are authorized and directed to receive, process, honor, and pay all checks presented for payment and

to honor all electronic payment requests made by the Debtors related to the prepetition obligations described herein, whether such checks were presented or electronic requests were submitted prior to or after the Petition Date; and it is further

9. ORDERED that all applicable banks and financial institutions are authorized and directed to rely on the Debtors' designation of any particular check or electronic payment request as approved pursuant to this Order; and it is further

10. ORDERED that nothing herein, nor the payment of any claims authorized herein, shall impair the Debtors' ability to contest, without prejudice, in their sole discretion, the validity and amounts of any claim owing to the Transport Companies and Contractors; and it is further

11. ORDERED that the Debtors do not concede that any liens (contractual, common law, statutory or otherwise) paid pursuant to this Order are valid, and the Debtors expressly reserve the right to contest the extent, validity, perfection or possible avoidance of all such liens; and it is further

12. ORDERED that nothing herein shall be deemed to constitute the postpetition assumption of any executory contracts between the Debtors and the Transport Companies and Contractors and all rights of the Debtors under section 365 of the Bankruptcy Code are hereby preserved; and it is further

13. ORDERED that the Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order; and it is further

14. ORDERED that Rule 6003(b) of the Federal Rules of Bankruptcy Procedure has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors; and it is further

15. ORDERED that, notwithstanding the applicability of Rule 6004(h) of the Federal Rules of Bankruptcy Procedure or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

16. ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: October 6, 2008
Wilmington, Delaware



United States Bankruptcy Judge