

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 11
)	
ANAGRAM HOLDINGS, LLC, <i>et al.</i> , ¹)	Case No. 23-90901 (MI)
)	
Debtors.)	(Joint Administration Requested)
)	(Emergency Hearing Requested)
)	

**DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING
THE DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, OTHER
COMPENSATION, AND REIMBURSABLE EXPENSES AND (B) CONTINUE
EMPLOYEE BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF**

Emergency relief has been requested. Relief is requested not later than 3:30 p.m. (prevailing Central Time) on November 9, 2023.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on November 9, 2023 at 3:30 p.m. (prevailing Central Time) in Courtroom 404, 4th floor, 515 Rusk Street, Houston, Texas 77002.

Participation at the hearing will only be permitted by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge Isgur's conference room number is 954554. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Isgur's home page. The meeting code is "JudgeIsgur." Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Isgur's home page. Select the case name, complete the required fields and click "submit" to complete your appearance.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Anagram Holdings, LLC (8535); Anagram International, Inc. (2523) and Anagram International Holdings, Inc. (5837). The location of the Debtors' service address for purposes of these chapter 11 cases is: 7700 Anagram Drive, Eden Prairie, MN 55344. For the avoidance of doubt, the Debtors' chapter 11 cases are not proposed to be consolidated with the Party City (as defined below) debtors which emerged from chapter 11 cases in this Court on October 12, 2023. *See In re Party City Holdco Inc., et. al.*, Case No. 23-90005 (MI) (Bankr. S.D. Tex). Any reference herein to the Debtors does not include the debtor-entities that were administered in the Party City chapter 11 cases.



The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion:

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached as **Exhibit A** hereto (the “Order”), (a) authorizing, but not directing, the Debtors to (i) pay prepetition wages, salaries, other compensation, and reimbursable expenses and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto, and (b) granting related relief.

2. In addition, the Debtors request that the Court (as defined herein) schedule a final hearing to consider approval of this motion on a final basis.

Jurisdiction and Venue

3. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012 (the “Amended Standing Order”). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). The Debtors confirm their consent to the entry of a final order by the Court.

4. Venue is proper pursuant to 28 U.S.C. § 1408.

5. The statutory bases for the relief requested herein are sections 105(a), 362(d), 363(b), 507(a), and 541(b)(1) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 1075-1 and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

Background

6. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b) substantially contemporaneously herewith. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

7. A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to the Debtors’ chapter 11 cases, is set forth in the *Declaration of Adrian Frankum in Support of Debtors’ Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed substantially contemporaneously herewith and incorporated herein by reference.²

The Debtors’ Workforce

8. As of the Petition Date, the Debtors employ, through Anagram International, Inc., 348 individuals (collectively, the “Employees”), including approximately 346 full-time Employees and approximately two part-time Employees. The vast majority of the Debtors’ employees are based in the Debtors’ facilities in Eden Prairie and Bloomington, Minnesota. The Debtors also retain temporary workers, including one independent contractor,³ who are sourced from various staffing agencies (collectively, the “Staffing Agencies”) or employed directly by the

² Capitalized terms used but not defined in this motion have the meanings ascribed to them in the First Day Declaration.

³ The Debtors’ sole independent contractor provides financial analysis services and the Debtors are in the process of transitioning the Independent Contractor to be an Employee.

Debtors to fulfill ordinary course duties on a short- or long-term basis (collectively, the “Temporary Staff” and, together with the Employees, the “Workforce”). The Temporary Staff provides manufacturing and information technology services. Typically, the Debtors retain approximately ten Temporary Staff. However, the number of Temporary Staff fluctuates based on the Debtors’ specific needs at any given time.

9. The Debtors’ Workforce performs a wide range of functions critical to the Debtors’ operations and the administration of these chapter 11 cases, including (a) design and innovation; (b) manufacturing and distribution; (c) customer service and merchandising experts to support field operations; (d) marketing and sales; (e) information and technology services and (f) a variety of administrative, accounting, finance, management, human resources, maintenance and other related tasks. The Debtors’ ability to preserve and efficiently operate their business is dependent on the expertise, unique skills and continued enthusiasm and service of their Workforce, who, in many instances, are intimately familiar with the Debtors’ businesses, processes, and systems, and/or have developed relationships with vendors that are essential to the Debtors’ businesses. Due to the disruption and uncertainty that typically accompanies a chapter 11 filing, the Debtors believe that the morale, continuity and performance of their Workforce would be adversely affected if the relief requested herein is not granted.

10. Moreover, if the Debtors fail to pay the Compensation and Benefits (defined below) and obligations under the Benefits Programs (defined below) in the ordinary course of business, their Workforce will suffer extreme personal hardship and, in some cases, may be unable to pay their basic living expenses. This would have a highly negative impact on morale and productivity of the Debtors’ workforce and likely would result in unmanageable performance issues and turnover, thereby resulting in immediate and irreparable harm to the Debtors’ continuing

operations and their estates. Accordingly, the Debtors have determined that continuation of the Compensation and Benefits and obligations under the Benefits Programs is vital to preventing the loss of key members of the Debtors' workforce during the pendency of these chapter 11 cases and to maintaining the continuity and stability of the Debtors' operations.⁴

Compensation and Benefits Programs

11. To minimize the personal hardship the Workforce could suffer if prepetition Employee-related obligations are not paid when due, and to maintain stability in the Debtors' workforce during the administration of these chapter 11 cases, the Debtors seek authority to: (a) pay and honor certain prepetition claims relating to, among other things, wages, salaries, and other compensation, payroll processing services, federal and state withholding taxes and other amounts withheld (including garnishments, Employees' share of insurance premiums, and taxes), reimbursable expenses, health insurance, workers' compensation benefits, life insurance, short- and long-term disability coverage, non-insider severance, ordinary course non-insider bonus and incentive programs, retirement and savings plans, paid and unpaid time off, COBRA benefits and certain other benefits that the Debtors have historically provided in the ordinary course, all as more fully described herein (collectively, the "Compensation and Benefits"); and (b) pay all costs incidental to the Compensation and Benefits.

12. Specifically, the Debtors seek authority, but not direction, to make the following payments related to prepetition amounts owed on account of the Compensation and Benefits:

⁴ For the avoidance of doubt, the Debtors only seek authority to pay employee and temporary staff related obligations applicable to the Workforce of the Debtors. The Debtors do not seek authority to pay employee and temporary staff related obligations of any non-Debtor entities, including Party City Holdco Inc. and its subsidiaries that are not Debtors in these chapter 11 cases and Convergram de Mexico, S. de R.L.

Relief Sought	Amount
Compensation	
Unpaid Wages	\$220,000
Unpaid Temporary Staff Compensation	\$3,700
Reimbursable Expenses	\$4,000
Unpaid Withholding Obligations	\$163,000
Employee Benefits Programs	
Employee Referral Program	\$16,500
Unpaid Health Benefit Plan Amounts	\$126,500
Unremitted HSA Amounts	\$23,500
Unremitted FSA Amounts	\$2,200
Workers' Compensation Program	\$5,500
Basic Life Insurance	\$8,800
Unpaid Matching Contributions	\$44,000
Disability Benefits Program	\$2,500
COBRA Benefits	\$1,600
Total	\$621,800

13. Additionally, out of an abundance of caution, the Debtors request confirmation of their right to modify, change, and/or discontinue any of their Compensation and Benefits and/or to implement new programs, policies, and benefits in the ordinary course of business on a postpetition basis during these chapter 11 cases and without the need for further Court approval, subject to the Bankruptcy Code and applicable law.

14. For the avoidance of doubt, should the Debtors seek to pay prepetition Compensation and Benefits to any Employee in excess of the \$15,150 priority wages cap imposed by section 507(a)(4) of the Bankruptcy Code, the Debtors shall seek such relief pursuant to a separate motion. The Debtors estimate that there are no Employees owed prepetition Compensation and Benefits in excess of the \$15,150 priority wages cap.

I. Compensation

A. Unpaid Wages

15. In the ordinary course of business, the Debtors incur payroll obligations for wages, salaries, and other compensation owed to their Employees (the "Employee Wages"). Employees

are paid biweekly on Fridays, with an average payroll of approximately \$1,000,000 each pay period. All Employees are paid in arrears. In the past 12 months, the Debtors' paid approximately \$26,700,000 in aggregate on account of Employee Wages, net of withholding obligations.

16. As of the Petition Date, the Debtors estimate that they owe approximately \$220,000 on account of unpaid Employee Wages earned by Employees prior to the Petition Date (the "Unpaid Wages"). As described above, loss of the Unpaid Wages could cause the Employees to experience substantial financial hardship. In light of the substantial benefit the Employees provide to the Debtors' estates, the Debtors seek authority to pay their Employees any Unpaid Wages in the ordinary course of business consistent with past practice and to continue honoring Employee Wages obligations in the ordinary course of business.

B. Unpaid Temporary Staff Compensation

17. The Debtors make payments to Staffing Agencies and the Temporary Staff (the "Temporary Staff Compensation") for the performance of certain services important to the Debtors' operations. In the past 12 months, the Debtors have paid approximately \$65,000 on account of Temporary Staff Compensation, including fees that the Debtors remit to Staffing Agencies in exchange for the services they provide with respect to the Temporary Staff. The Debtors believe the authority to continue paying the Temporary Staff Compensation is critical to minimize disruption of the Debtors' business operations. As of the Petition Date, the Debtors estimate that Temporary Staff and Staffing Agencies are owed approximately \$3,700 on account of services rendered by independent contractors prior to the Petition Date (collectively, the "Unpaid Temporary Staff Compensation").

18. Accordingly, the Debtors seek authority to pay any Unpaid Temporary Staff Compensation in the ordinary course and consistent with past practice and to continue paying the Temporary Staff Compensation in the ordinary course of business on a postpetition basis.

II. Expense Reimbursement

19. In the ordinary course of business, the Debtors reimburse Employees for reasonable and necessary business expenses incurred in connection with the performance of authorized business (the “Reimbursable Expenses”). The Reimbursable Expenses include expenses related to business travel (e.g., airfare, in-flight Wi-Fi, luggage fees, car rentals, ground transportation, lodging, meals and laundry service), relocation costs, and other business-related expenses paid directly by Employees. Employees request reimbursement by submitting an expense report to the Debtors directly or through iExpense, a third-party expense reporting application. Once the Debtors have verified that an Employee’s request relates to allowable Reimbursable Expenses, they reimburse the Employee for the submitted expenses.

20. In the past 12 months, the Debtors paid Employees approximately \$3,300 per month on account of Reimbursable Expenses. As of the Petition Date, the Debtors estimate that they owe approximately \$4,000 on account of prepetition Reimbursable Expenses. The Debtors’ inability to reimburse Employees for Reimbursable Expenses could impose hardship on Employees who have incurred obligations for the Debtors’ benefit. To avoid harming such Employees and to protect against the risk that these Employees may become personally liable for such expenses, the Debtors request authority to pay outstanding Reimbursable Expenses and to continue to pay the Reimbursable Expenses in the ordinary course of business on a postpetition basis.⁵

⁵ The Debtors also operate the Debtors’ corporate card program, under which the Debtors provide credit cards to certain employees to make business-related purchases on the Debtors’ behalf. The Debtors are seeking relief to pay any amounts due on account of, and to continue in the ordinary course of business, their corporate card program in the Debtors’ *Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms and Books and Records, and (D) Continue to Perform Intercompany Transactions and (II) Granting Related Relief*, filed substantially contemporaneously herewith (the “Cash Management Motion”).

III. Payroll Withholding and Processing

A. Withholding Obligations and Payroll Taxes

21. During each payroll period, the Debtors routinely deduct certain amounts from Employees' paychecks, including garnishments, child support, and similar deductions as required by law. The Debtors also deduct other pre-tax and after-tax deductions payable pursuant to certain employee benefit plans discussed herein, such as an Employee's share of healthcare benefits and insurance premiums, contributions under voluntary benefit programs, 401(k) retirement plan contributions, legally ordered deductions, and other miscellaneous deductions (collectively, the "Deductions"). The Debtors forward the Deductions to the appropriate third-party recipients.

22. In addition to the Deductions, certain federal and state laws require that the Debtors withhold certain amounts from Employees' gross pay related to federal, state, and local income taxes, as well as Social Security and Medicare taxes (collectively, the "Employee Payroll Taxes") for remittance to the appropriate federal, state, or local taxing authorities. The Debtors must then match the Employee Payroll Taxes from their own funds and pay, based on a percentage of gross payroll, additional amounts for federal and state unemployment insurance and Social Security and Medicare taxes (together with the Employee Payroll Taxes, the "Payroll Taxes" and, the Payroll Taxes together with the Deductions, the "Withholding Obligations"). The Payroll Taxes are generally processed and forwarded to the appropriate federal, state, and local taxing authorities at the same time the Employees' payroll checks are disbursed.

23. In the past 12 months, the Debtors paid approximately \$396,000 per pay period on account of Withholding Obligations. As of the Petition Date, the Debtors estimate that they owe approximately \$163,000 on account of the Withholding Obligations (the "Unpaid Withholding Obligations"). Accordingly, the Debtors seek authority to pay any Unpaid Withholding

Obligations in the ordinary course of business and consistent with past practice, and to continue to pay Withholding Obligations in the ordinary course of business on a postpetition basis.

B. Payroll Processing

24. The Debtors utilize the services of Automatic Data Processing, Inc. (the “Payroll Processor”) to process and administer the Debtors’ payroll. For each payroll period, the Payroll Processors may process direct deposit transfers or administer payroll checks to Employees from a disbursement account funded by the Debtors. In addition, the Payroll Processor may serve as the Debtors’ federal W-2 tax form processing vendor and/or administer certain of the Debtors’ federal, state, and local payroll tax filings. The Payroll Processor is integral to the Debtors’ payroll process and facilitates the accurate payment of compensation by the Debtors based on time worked, performance, and incentives earned.

25. In the past 12 months, the Debtors paid approximately \$44,000 in the aggregate on account of payroll processing services, time and attendance systems, benefits administration, recruitment management services and related tools. The Debtors believe there are no accrued but unpaid amounts owed to the Payroll Processor. Nevertheless, out of an abundance of caution, the Debtors seek authority to continue paying such amounts for the benefit of the Payroll Processor in the ordinary course of business on a postpetition basis

IV. Employee Incentive Programs⁶

26. The Debtors seek authority to continue, at their discretion and in a manner consistent with prepetition practice, their incentive programs to drive performance among certain of their Employees, including Employees with important roles related to the Debtors’ business,

⁶ The relief sought under this motion with respect to Employee Incentive Programs does not include the payment of any obligation to any “Insider” (as the term is defined in section 101(31) of the Bankruptcy Code). The Debtors may seek separate authority with respect to any “insider,” to the extent necessary, and reserve all rights with respect to the “insider” status of any Employee.

including managers, directors and senior-level management (the “Employee Incentive Programs”), to preserve Employee morale and to ensure the Debtors maintain a motivated workforce at this critical juncture.

27. *Anagram Incentive Program.* The Debtors maintain an incentive program under which bonuses are awarded to eligible non-insider Employees with a manager-level or more senior title across the Debtors’ business, including the asset protection, production, program, quality, research and development, customer service, trade marketing, product and packaging design, human resources, controlling, accounts, information technology, sales, finance, supply chain planning, creative, maintenance, demand planning, national accounts and manufacturing functions (the “Anagram Incentive Program”). Payments to Employees under the Anagram Incentive Program are made after actual results on performance measures for the previous performance period have been finalized and approved, which typically occurs on or about March 15. To qualify for the Anagram Incentive Program, Employees must be actively employed on the date of payment.

28. Under the Anagram Incentive Program, the Debtors offer annual cash bonuses to eligible non-insider Employees based on certain financial performance objectives that are approved by members of the Debtors’ senior management team and board of directors. In the past 12 months, performance metrics under the Anagram Incentive Program were tied to the Debtors’ adjusted EBITDA and sales revenue as well as Party City’s adjusted EBITDA. As of the Petition Date, 26 non-insider Employees participate in the Anagram Incentive Program. The Debtors do not believe that any amounts will become payable under the Anagram Incentive Program in 2023.

29. *Employee Referral Program.* In the ordinary course of business, the Debtors also provide various incentive awards to eligible Employees who refer job applicants who are

subsequently hired and remain employed with the Debtors (the “Employee Referral Program”). Referral bonus are \$1,000 per successful referral. In the 12 months prior to the Petition Date, the Debtors paid approximately \$10,000 in incentive awards under the Employee Referral Program. The Debtors estimate that there is approximately \$16,500 in accrued but unpaid obligations owed under the Employee Referral Program, which the Debtors seek to pay in the ordinary course pursuant to this motion.

V. Benefits Programs

30. In the ordinary course of business, the Debtors provide the Employees with a variety of employee-related benefits (the “Benefits Programs”). The majority of the Debtors’ Benefits Programs (including the services of the Payroll Processor discussed above), are held in the name of, and administered by, Party City Holdco Inc. (together with certain of its affiliates “Party City”), which emerged from chapter 11 cases in this Court on October 12, 2023 (Case No. 23-90005 (MI)). Consequently, either (i) Party City pays various costs relating to the Benefits Programs on the Debtors’ behalf and, pursuant to the Services Agreement (discussed in more detail in the First Day Declaration), the Debtors reimburse Party City on a biweekly basis for the Debtors’ allocable portion of such costs relating to the Benefits Programs, which are passed through to the Debtors by Party City; or (ii) the Debtors pay the benefit provider and/or the applicable employee directly for such Benefits Programs.

31. The Benefits Programs confer substantial benefits to eligible Employees who rely on such programs for their physical and financial well-being. Failure to continue the Benefits Programs could cause Employees to experience severe hardship. In light of the substantial benefit the Employees have provided and will continue to provide to the Debtors’ estates, the Debtors wish to avoid imposing such hardship. Accordingly, the Debtors seek authority to: (a) pay any unpaid prepetition amounts, including reimbursing Party City for such amounts, due with respect

to the Benefits Programs in the ordinary course of business; and (b) continue the Benefits Programs in the ordinary course of business on a postpetition basis, including reimbursing Party City for such amounts, consistent with past practices in accordance with the Services Agreement.⁷

32. Additionally, the Debtors are in the process of transitioning certain Benefits Programs from Party City to be administered by the Debtors. Consequently, the Debtors request authority, to the extent the Debtors deem appropriate, to contract with alternative providers or administrators to provide and/or administer the Benefits Programs for the Debtors in lieu of the Debtors' participation in Party City's Benefits Programs. The Debtors believe that swiftly transferring the Benefits Programs to be administered by the Debtors will have a positive impact on the value of the estate by stabilizing the Debtors' businesses and further establishing the Debtors as a standalone company.

A. Health Benefit Plans

33. The Debtors (through Party City) offer their Employees the opportunity to participate in various health benefit plans, including medical and dental plans (collectively, the "Health Benefit Plans"). Specifically, the Debtors provide:

- Healthcare Plans: The Debtors' healthcare plans (the "Healthcare Plans") are fully funded and self-funded medical and prescription drug plans administered by several healthcare management companies, including Lucent Health, Aetna, Kaiser Permanente in California, Quantum, United HealthCare, and CVS Caremark. The Healthcare Plans provide coverage for, among other things, physician and ancillary care, inpatient or outpatient care, preventative care, and prescription drug services. On average, the Debtors pay approximately 75% of the Healthcare Plan premiums and Employees pay the remaining approximately 25%. Spouses, children, and other specified dependents are eligible dependents under the Healthcare Plans. Approximately 260 Employees enroll

⁷ Pursuant to the Cash Management Motion, the Debtors have also requested authority to continue entering into Intercompany Transactions (as defined therein) arising from the Services Agreement.

in the Healthcare Plans. The annual cost to the Debtors of the Healthcare Plans is approximately \$6,600,000.

- Dental Plans: The Debtors offer their Employees the option of participating in dental plans (the “Dental Plans”) administered by Aetna. The Debtors and Employees each pay for approximately 50% of Dental Plan premiums. The annual cost to the Debtors of the Dental Plans is approximately \$330,000.
- Vision Plans: The Debtors offer Employees the option of participating in vision plans (the “Vision Plans”) administered by United HealthCare. Employees are responsible for the entire amount of Vision Plan premiums and pay approximately \$2,200 in aggregate on account of Vision Plan premiums per month.

34. In the aggregate, the Debtors estimate that they owe approximately \$126,500 on account of the Health Benefit Plans (the “Unpaid Health Benefit Plan Amounts”), including claim reimbursement payments and administrative fees owed to Lucent Health, Quantum, CVS Caremark, Aetna, and United HealthCare. The Debtors seek authority to honor prepetition obligations on account of the Unpaid Health Benefit Plan Amounts and to continue the Health Benefit Plans on a postpetition basis in the ordinary course of business.

B. Health Savings Accounts

35. The Debtors (through Party City) provide certain Employees enrolled in high-deductible Healthcare Plans access to a health savings account (“HSA”) administered by HSA Bank. Participating Employees can choose to make pre-tax contributions to their individual HSA through payroll deductions up to the maximum amount permitted by the Internal Revenue Service. Amounts in HSAs can be used to pay for qualifying medical expenses. The Debtors contribute up to \$1,400 to each Employee’s HSA, depending on the Employee’s Healthcare Plan and completion of annual wellness exams or screenings, in an aggregate amount of approximately \$660,000 per year. As of the Petition Date, the Debtors estimate that approximately \$23,500 of Employee and Debtor contributions to HSAs has accrued but has not yet been remitted to Employee HSAs (the

“Unremitted HSA Amounts”). Accordingly, the Debtors seek authority to remit the Unremitted HSA Amounts and continue the HSAs in the ordinary course of business on a postpetition basis.

C. Flexible Spending Accounts

36. The Debtors (through Party City) provide Employees with access to three flexible spending accounts that allow Employees to contribute pre-tax dollars to cover eligible expenses for (a) health care, (b) dependent care, and (c) commuting (each, an “FSA”). The Debtors do not contribute to Employees’ FSAs and believe that the FSA amounts are generally held in trust by the Debtors and are therefore not property of the Debtors’ estates. The FSAs are administered by Benefits Resource Inc. (“BRI”). The Debtors pay BRI approximately \$2,100 in administrative fees in aggregate per month on account of the FSAs (the “FSA Fees”). As of the Petition Date, the Debtors estimate that there is approximately \$2,200 in unremitted FSA Employee contributions (the “Unremitted FSA Amounts”). The Debtors seek authority to pay any outstanding FSA Fees, remit the Unremitted FSA Amounts, and continue the FSAs in the ordinary course of business on a postpetition basis.

D. Workers’ Compensation Program

37. The Debtors (through Party City) maintain workers’ compensation insurance for Employees in the states and foreign jurisdictions in which the Debtors operate at the statutorily required levels for claims arising from or related to their employment with the Debtors (collectively, the “Workers’ Compensation Program,” and the Debtors’ obligations related thereto, the “Workers’ Compensation Obligations”).⁸

⁸ The Workers’ Compensation Program may change postpetition in the ordinary course of the Debtors’ business due to changes in applicable laws and regulations and the Debtors’ ability to meet requirements thereunder. By this Motion, the Debtors request authority to continue the Workers’ Compensation Program postpetition, including the authority to make any changes to current policy and practice, as necessary.

38. In most states, the Debtors maintain workers' compensation policies through Travelers Property Casualty Company of America ("Travelers"). The Debtors pay monthly premiums directly to Travelers based on the Debtors' estimated gross payroll for the applicable policy year. In Ohio, where the sale of workers' compensation insurance by private insurers is prohibited, the Debtors purchase workers' compensation coverage from government-operated insurance funds.

39. As of the Petition Date, the Debtors estimate that the total amount of reserves under the Workers' Compensation Program is approximately \$1.3 million and that they owe approximately \$5,500 in outstanding premiums owed to Travelers. The Debtors must continue the claims assessment, determination, adjudication, and payment process pursuant to the Workers' Compensation Program, without regard to whether such liabilities were outstanding before the Petition Date, to ensure that the Debtors comply with applicable workers' compensation laws and requirements during the pendency of these chapter 11 cases. The Debtors' inability to do so may result in adverse legal consequences that could potentially disrupt the Debtors' chapter 11 process. Accordingly, the Debtors seek authority to pay prepetition amounts owed with respect to the Workers' Compensation Obligations, and to continue the Workers' Compensation Program in the ordinary course on a postpetition basis.

E. Life Insurance

40. The Debtors (through Party City) provide life and accidental death and dismemberment insurance (the "Basic Life Insurance") to eligible full-time Employees through The Standard ("The Standard"). The Debtors pay for all expenses on account of the Basic Life Insurance, which historically has cost approximately \$25,300 in aggregate per month. As of the Petition Date, the Debtors estimate that they owe approximately \$8,800 on account of the Basic Life Insurance. Employees also have the option to purchase supplemental life insurance and

accidental death or dismemberment insurance (the “Supplemental Life and AD&D Insurance”) through The Standard. The Supplemental Life and AD&D Insurance is paid by the Debtors’ Employees, and the Debtors do not have any outstanding obligations on account of the Supplemental Life and AD&D Insurance program. By this motion, the Debtors seek authority to pay any prepetition obligations on account of the Basic Life Insurance and to continue providing Basic Life Insurance and Supplemental Life and AD&D Insurance in the ordinary course of business on a postpetition basis.

F. 401(k) Plan

41. The Debtors (through Party City) currently maintain a retirement savings plan (the “401(k) Plan”), which is administered by Fidelity Investments Operations Company, Inc. (“Fidelity”) for the benefit of (a) full-time Employees who are at least 18 years old, who become eligible to participate on the first day of the month on or after 30 days of employment with the Debtors, and (b) part-time and temporary Employees who are at least 21 years old, who become eligible to participate on the first day of the month on or after the completion of a 1,000-hour year of service. Approximately 250 Employees participate in the 401(k) Plan. The Debtors withhold approximately \$2,450,000 per year from Employees’ compensation on account of Employees’ 401(k) contributions to the 401(k) Plan. Party City pays Fidelity approximately \$165,000 in administrative fees per year for administering the 401(k) Plan. As of the Petition Date, the Debtors estimate that they do not owe Fidelity any administrative fees related to the 401(k) Plan.

42. The Debtors also provide certain matching contributions for the 401(k) Plan (the “401(k) Matching Contributions”). The Debtors match 100% of Employees’ contributions up to 3% of eligible compensation and 50% of Employees’ contributions between 3% and 5% of an eligible compensation. All 401(k) Matching Contributions become fully vested immediately. In the 12 months leading up to the Petition Date, the Debtors paid approximately \$814,000 in 401(k)

Matching Contributions. As of the Petition Date, the Debtors estimate that they owe approximately \$44,000 in accrued and unpaid 401(k) Matching Contributions (the “Unpaid Matching Contributions”). The Debtors request authority to (a) remit all Unpaid Matching Contributions, (b) remit all amounts contributed by Employees on account of the 401(k) Plan, and (c) continue honoring their obligations on account of the 401(k) Matching Contributions and 401(k) Plan on a postpetition basis in the ordinary course of business.

G. Disability Benefits Program

43. The Debtors (through Party City) provide basic short- and long-term disability benefits to eligible full- time Employees through The Standard (the “Disability Benefits Program”). Under the Disability Benefits Program, eligible Employees are entitled to 60% of their base weekly earnings up to \$750 per week for 180 days following a qualified non-work related illness or injury. After 180 days, eligible Employees are entitled to continue receiving 60% of base weekly earnings up to \$10,000 per month. As of the Petition Date, the Debtors estimate that they owe The Standard approximately \$3,300 on account of the Disability Benefits Program. By this motion, the Debtors seek authority to pay any prepetition obligations on account of the Disability Benefits Program and to continue offering the Disability Benefits Program to eligible Employees in the ordinary course of business on a postpetition basis.

H. Time Off Policies

44. The Debtors provide paid time off to all eligible Employees in the form of vacation time, sick time, and company holidays. The Debtors also permit their Employees to take paid and unpaid time off for other specified reasons, certain of which are required by law (collectively, the “Time Off Policies”).

45. For most Employees, the Debtors have a general paid time off policy (the “General PTO Policy”) under which eligible Employees—generally those working full-time or part-time in

corporate, manufacturing or distribution—are granted two (2) to six (6) weeks of annual paid vacation depending on the Employee’s position and tenure. Under the General PTO Policy, up to 40 hours of accrued but unused vacation time and up to 48 hours of accrued but unused sick time may be carried over from one calendar year to the next (except as required by state law); however, there is no accrual of unused paid time off and thus Employees do not receive compensation for “unused” paid time off upon leaving the Debtors’ employ (unless required by law in the state in which the Employee works).

46. For eligible Employees at the Director level and above, the Debtors have an unlimited paid time off policy (“Unlimited PTO Policy”) under which eligible Employees are afforded the flexibility to take planned time off for vacation, sickness, or personal reason to the extent the Employee’s supervisors or managers have approved such leave. Under the Unlimited PTO Policy, there is no accrual of unused paid time off and thus Employees do not receive compensation for “unused” paid time off upon leaving the Debtors’ employ (unless required by law in the state in which the Employee works).

47. The Debtors provide Employees with certain other forms of paid and unpaid time off, including:

- 11 paid holidays per year during which full-time Employees are not required to work and are paid their base rate of pay;
- unpaid leave under the Family and Medical Leave Act for: (a) birth, adoption, or foster care, (b) family care, (c) medical emergencies, (d) military exigencies, and (e) military caregiving needs; and
- other paid leaves of absence, many of which are required by law, including for bereavement, jury or court attendance, time spent voting, and military service, and unpaid leaves of absence, including medical leaves, domestic abuse leaves, and other personal leaves.

48. These other forms of paid and unpaid time off do not involve incremental cash outlays beyond standard payroll obligations.

49. The Debtors believe that continuing the Time Off Policies in accordance with prior practice is essential to maintaining Employee morale during these chapter 11 cases. Further, the policies are broad-based programs upon which all Employees have come to depend. The Debtors anticipate that their Employees will use paid and unpaid time off in the ordinary course of business, which will not create any material cash flow obligations beyond the Debtors' normal payroll obligations. The Debtors seek authority to allow eligible Employees to use their paid and unpaid time off under the Time Off Policies in the ordinary course of business consistent with past practice.

I. Non-Insider Severance Program

50. The Debtors maintain a discretionary severance program in the ordinary course of business for the benefit of certain non-insider Employees in connection with reductions in force or other terminations (the "Non-Insider Severance Program"). Under the Non-Insider Severance Program, upon termination and at the Debtors' discretion, eligible non-insider Employees may receive a lump sum payment or salary continuation depending on the Employee's length of employment and position (collectively, the "Non-Insider Severance Obligations"). Payments on account of the Non-Insider Severance Obligations are typically provided in exchange for entry into release and confidentiality agreements, pursuant to which Employees typically release any and all claims against the Debtors and agree to not disclose confidential information.

51. There are currently no former Employees benefitting from the Non-Insider Severance Program and there are no accrued but unpaid Non-Insider Severance Obligations. Out of an abundance of caution and because the Debtors believe that honoring the Non-Insider Severance Obligations is critical to maintaining Employee morale and loyalty, the Debtors seek authority, but not direction, to make payments pursuant to the Non-Insider Severance Program in the ordinary course consistent with the Debtors' historical practice. For avoidance of doubt, any

payment of severance obligations to any “insider,” as that term is defined in section 101(31) of the Bankruptcy Code, would be subject to the limitations of section 503(c)(2) of the Bankruptcy Code.

J. COBRA Benefits Program

52. Pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), former employees of the Debtors (the “COBRA Participants”) may, in certain cases, continue insurance coverage under various health benefit plans, including medical and dental plans, and life insurance following the termination of their employment with the Debtors (the “COBRA Benefits”). COBRA Participants are entitled by law to continue to receive COBRA Benefits for up to 18 months and, in certain cases, up to 36 months, following termination of employment. The COBRA Participants bear the cost of their insurance coverage subsequent to termination unless otherwise subsidized by the Debtors. The Debtors use the services of HealthEquity to assist in the administration of the COBRA Benefits.

53. As of the Petition Date, the Debtors estimate that they owe approximately \$1,600 on account of the COBRA Benefits. The Debtors request authorization, but not direction, to pay the COBRA Benefits, honor any obligations related to the COBRA Benefits that may be outstanding as of the Petition Date, and continue administering COBRA Benefits for all eligible former employees on a postpetition basis.

Basis for Relief

I. Sufficient Cause Exists to Authorize the Debtors to Honor the Compensation and Benefits and the Obligations Under the Benefits Programs

A. Certain of the Compensation and Benefits and Obligations Under the Benefits Programs Are Entitled to Priority Treatment

54. Sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code entitle the majority of the Compensation and Benefits and the obligations under the Benefits Programs to priority treatment. As priority claims, the Debtors are required to pay these claims in full to confirm a chapter 11 plan.

See U.S.C. § 1129(a)(9)(B). To the extent that an Employee receives no more than the statutory prescribed limit of \$15,150 on account of claims entitled to priority, the relief sought with respect to compensation only affects the timing of payments to Employees and does not have any material negative impact on recoveries for general unsecured creditors. Indeed, the Debtors submit that payment of the Compensation and Benefits and the obligations under the Benefits Programs at this time enhances value for the benefit of all stakeholders. Finding, attracting, and training new qualified talent would be extremely difficult and would likely require higher salaries, guaranteed bonuses, and more comprehensive compensation packages than are currently provided to Employees.

B. Payment of Certain Compensation and Benefits and Obligations Under the Benefits Programs Is Required by Law

55. The Debtors seek authority to pay the Withholding Obligations to the appropriate third-party payees. These amounts principally represent Employee earnings that governments, Employees, and judicial authorities have designated for deduction from Employees' wages. Indeed, certain Withholding Obligations are not property of the Debtors' estates because the Debtors have withheld such amounts from Employees' wages on another party's behalf. *See* 11 U.S.C. § 541(b)(1). Further, federal and state laws require the Debtors to withhold certain tax payments from Employees' wages and to pay such amounts to the appropriate taxing authority. 26 U.S.C. §§ 6672, 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95–97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *In re DuCharmes & Co.*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because the Withholding Obligations may not be property of the Debtors' estates, the Debtors request

authorization, but not direction, to transmit the Withholding Obligations to the proper parties in the ordinary course of business.

56. Similarly, state laws require the Debtors to maintain the Workers' Compensation Program. If the Debtors fail to maintain their Workers' Compensation Program, state laws may prohibit the Debtors from operating in those states. Payment of all obligations related to the Debtors' Workers' Compensation Program is therefore crucial to the Debtors' continued operations and the success of these chapter 11 cases.

II. Payment of the Compensation and Benefits and Obligations Under the Benefits Programs and the Relief Sought Herein Is a Sound Exercise of the Debtors' Business Judgment and Necessary to Preserve the Value of the Estates

57. Courts have acknowledged that it is often appropriate to authorize the payment of prepetition obligations where it advances Code-related objectives such as protecting and preserving the estate. *See, e.g., Czyewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 985 (2017) (noting the approval of first-day wages orders authorizing the payment of employees' prepetition wages). In authorizing payments of prepetition obligations, courts have relied on several legal theories rooted in sections 1107(a), 1108, 363(b), 507, and 105(a) of the Bankruptcy Code.

58. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries "holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the fiduciary duties of any debtor in possession is the obligation to "protect and preserve the estate, including an operating business's going-concern value." *Id.* Some courts have noted that there are instances in which a debtor can fulfill this fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." *Id.* The *CoServ* court specifically noted that satisfaction of prepetition claims would be a valid exercise of the

debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate." *Id.*

59. Section 363 of the Bankruptcy Code provides, in relevant part, that "[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Courts in the Fifth Circuit have granted a debtor's request to use property of the estate outside of the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code upon a finding that such use is supported by sound business reasons. *See, e.g., Inst. Creditors of Cont'l Air Lines, Inc. v. Cont'l Air Lines, Inc. (In re Cont'l Air Lines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("That is, for the debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.") (citation omitted).

60. Section 105(a) of the Bankruptcy Code further provides that a court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of" the Bankruptcy Code. 11 U.S.C. § 105(a). Courts apply section 105(a) pursuant to the "doctrine of necessity," which functions in a chapter 11 case as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code and which further supports the relief requested herein. *See In re CoServ, L.L.C.*, 273 B.R. at 497 (recognizing the "doctrine of necessity"); *see also In re Lehigh & New Eng. Ry.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to debtor's continued operation).

61. Moreover, the doctrine of necessity is designed to foster a debtor's rehabilitation, which courts have recognized is "the paramount policy and goal of Chapter 11." *In re Ionosphere*

Clubs, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989); *see also In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) (“The payment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code,” but “[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment.”).

62. Here, the requested relief satisfies the foregoing standards. For the reasons discussed herein, paying the Compensation and Benefits and allowing the Debtors to continue the Benefits Programs reflects a sound exercise of business judgment. The Debtors’ operations are complex and rely on the skill and expertise of their Workforce. Many Employees and Temporary Staff possess unique knowledge regarding specific aspects of the Debtors’ operations, which would be virtually irreplaceable should such Employees and Temporary Staff be lost through a failure to pay their obligations. Indeed, the Debtors believe that without the relief requested herein, their Workforce may seek alternative employment opportunities, perhaps with the Debtors’ competitors. If the Debtors do not pay the Compensation and Benefits and discontinue any of the Benefits Programs, their businesses and operations will suffer from falling morale and potential losses of key members of their workforce, all at the most inopportune moment as the Debtors transition into chapter 11 and work to maximize value. On the other hand, demonstrating the Debtors’ commitment to their Workforce will help engender goodwill, enthusiasm and loyalty in the face of these risks. Therefore, the Debtors submit that this Court should authorize the relief requested in this motion.

63. The majority of Employees rely exclusively on the Compensation and Benefits and the Benefits Programs to satisfy their daily living expenses and provide basic health and other

insurance coverage. Many of the Debtors' Employees expect and require their wages to arrive on a timely basis. Employees will be exposed to significant financial difficulties if the Debtors are not permitted to honor their Compensation and Benefits and the obligations under the Benefits Programs obligations expeditiously. Failure to satisfy such obligations will jeopardize Employee morale and loyalty at a time when Employee support is critical to the Debtors' businesses. Furthermore, if this Court does not authorize the Debtors to honor their various obligations under the Health Benefit Plans described herein, Employees will not receive health coverage and, thus, may be obligated to pay certain health care claims that the Debtors have not satisfied. The loss of health care coverage will result in considerable anxiety for Employees (and likely attrition) at a time when the Debtors need such Employees to perform their jobs at peak efficiency. Additionally, as set forth above, Employee attrition would cause the Debtors to incur additional expenses to find appropriate and experienced replacements, severely disrupting the Debtors' operations at this critical juncture.

64. In addition, the Debtors may continue to honor the postpetition Compensation and Benefits and Benefits Programs in the ordinary course of business, as permitted under section 363(c) of the Bankruptcy Code. However, to the extent that the Court finds that approval is necessary, and in an abundance of caution, the Debtors request that the Court grant the relief requested herein and enter orders authorizing them to pay such postpetition obligations, consistent with their compensation, vacation and other benefit policies and plans, and to permit, but not require, the Debtors, in their discretion, to maintain and continue the Compensation and Benefits and the Benefits Programs for their Employees as those practices, programs, policies and plans were in effect as of the Petition Date, as such may be modified, terminated, amended or supplemented from time to time hereafter.

III. The Debtors Seek a Waiver of the Automatic Stay as It Applies to Workers' Compensation Claims

65. Section 362(a)(1) of the Bankruptcy Code operates to stay:

[T]he commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or recover a claim against the debtor that arose before the commencement of the case under this title[.]

66. Section 362 of the Bankruptcy Code, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for “cause.” 11 U.S.C. § 362(d)(1).

67. The Debtors seek authorization, but not direction, under section 362(d) of the Bankruptcy Code, to permit Employees to proceed with their claims under the Workers' Compensation Program (the “Workers' Compensation Claims”) in the appropriate judicial or administrative forum. The Debtors believe that cause exists to modify the automatic stay because staying the Workers' Compensation Claims could have a detrimental effect on Employee financial well-being and morale and lead to the departure of certain Employees who are critical at this juncture. Such departures could cause a severe disruption in the Debtors' businesses to the detriment of all parties in interest.

IV. The Court Should Authorize the Debtors' Financial Institutions to Honor and Process the Debtors' Payments

68. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations, anticipated access to cash collateral, and the proceeds of the DIP Notes Facility and the DIP ABL Facility. Additionally, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of

the relief requested herein. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtors respectfully request that the Court authorize and direct all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion.

Emergency Consideration

69. Pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm,” and Bankruptcy Local Rule 9013-1(i), the Debtors respectfully request emergency consideration of this motion. An immediate and orderly transition into chapter 11 is critical to the viability of the Debtors’ operations. Failure to obtain the requested relief during the first 21 days of these chapter 11 cases would imperil the Debtors’ restructuring. The Debtors have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this motion on an emergency basis.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

70. The Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

71. Nothing contained herein is intended to be or should be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any claim on any grounds; (c) a promise or requirement to pay

any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested by this motion or a finding that any particular claim is an administrative expense claim or other priority claim; (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 or limitation of the Debtors', or any other party in interest's, rights 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 requested in this motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. If the Court grants the relief sought herein, any payment made pursuant to the Court's 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' or any other party in interest's rights to subsequently dispute such claim.

Notice

72. The Debtors will provide notice of this motion to the following parties or their respective counsel: (a) the Office of the United States Trustee for the Southern District of Texas; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the ABL Agent and to the agent under the DIP ABL Facility; (d) counsel to the Ad Hoc Group; (e) counsel to the First Lien Notes Trustee; (f) counsel to the Second Lien Notes Trustee; (g) counsel to the PC Noteholder Group; (h) counsel to the trustee under the DIP Notes Facility; (i) the United States Attorney's Office for the Southern District of Texas; (j) the Internal Revenue Service; (k) the United States Securities and Exchange Commission; (l) the state attorneys general for states in which the Debtors conduct business; (m) other regulatory agencies

having a regulatory or statutory interest in these cases; (n) counsel to Party City; (o) counsel to Barings, LLC, Arnold & Porter Kaye Scholer LLP, 70 West Madison Street Suite 4200, Chicago, IL 60602-4231, Attn: Tyler Nurnberg (Tyler.Nurnberg@arnoldporter.com) and Alex Hevia (alexander.hevia@arnoldporter.com); and (p) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter an order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

November 8, 2023

Respectfully submitted,

By: /s/ Tom A. Howley

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*Proposed Counsel to the Debtors and the Debtors
in Possession*

Certificate of Accuracy

I certify that the facts and circumstances described in the above pleading giving rise to the emergency request for relief are true and correct to the best of my knowledge, information, and belief. This statement is made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Tom A. Howley

Tom A. Howley

Certificate of Service

I certify that on November 8, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Tom A. Howley

Tom A. Howley

Exhibit A

Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

ANAGRAM HOLDINGS, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 23-90901 (MI)
)
) (Jointly Administered)
)
) **Re: Docket No. __**
)

**ORDER (I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION WAGES,
SALARIES, OTHER COMPENSATION, AND REIMBURSABLE EXPENSES AND (B)
CONTINUE EMPLOYEE BENEFITS PROGRAMS,
AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) (a) authorizing, but not directing, the Debtors to (i) pay certain prepetition wages, salaries, other compensation, and reimbursable expenses and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the Amended Standing Order; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Anagram Holdings, LLC (8535); Anagram International, Inc. (2523) and Anagram International Holdings, Inc. (5837). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 7700 Anagram Drive, Eden Prairie, MN 55344. For the avoidance of doubt, the Debtors’ chapter 11 cases are not proposed to be consolidated with the Party City debtors which emerged from chapter 11 cases in this Court on October 12, 2023. *See In re Party City Holdco Inc., et. al.*, Case No. 23-90005 (MI) (Bankr. S.D. Tex). Any reference herein to the Debtors does not include the debtor-entities that were administered in the Party City chapter 11 cases.

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

Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. § 1408; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Debtors are authorized, but not directed, to (i) continue and/or modify, change, or discontinue the Compensation and Benefits and the Benefits Programs and to honor and pay any claims or obligations on account of the Compensation and Benefits and Benefits Programs in the ordinary course and in accordance with the Debtors' prepetition policies and prepetition practices and the terms of this Order, irrespective of whether such obligations arose prepetition or postpetition and (ii) to the extent the Debtors deem appropriate, to contract with alternative providers or administrators of Benefits Programs to provide and/or administer the Benefits Programs for the Debtors in lieu of the Debtors' participation in Party City's Benefits Programs.

2. The automatic stay of section 362 of the Bankruptcy Code, to the extent applicable, is hereby lifted to permit: (a) Employees to proceed with their claims under the Workers' Compensation Program in the appropriate judicial or administrative forum; (b) the Debtors to continue the Workers' Compensation Program and pay all prepetition amounts relating thereto in the ordinary course; and (c) insurers and third party administrators to handle, administer, defend,

settle, and/or pay Workers' Compensation Claims and direct action claims. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers' Compensation Program.

3. The Debtors are authorized, but not directed, to forward any unpaid amounts on account of Withholding Obligations to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' prepetition policies and practices.

4. The Debtors are authorized, but not directed, to pay costs and expenses incidental to payment of the Compensation and Benefits and the Benefits Programs obligations, including all administrative and processing costs and payments to outside professionals in the ordinary course of business.

5. The Debtors are authorized, but not directed, to continue the Anagram Incentive Program and to continue to honor the Non-Insider Severance Obligations, in each case, in the ordinary course of business and consistent with historical practices and the terms of this Order, including making any payments or satisfying any obligations to non-insider employees with respect to the prepetition period. Before making any payments pursuant to the Anagram Incentive Program or paying any Non-Insider Severance Obligations in excess of (y) \$100,000 in the aggregate in any calendar month or (z) \$50,000 to any individual, the Debtors shall provide five (5) business days' advance notice to the U.S. Trustee, any statutory committee appointed in these cases, and the advisors to the Ad Hoc Group of (i) the title of the recipient to be paid, (ii) the amount of the payment to such recipient, and (iii) the proposed payment date.

6. The Debtors shall maintain a matrix/schedule of payments made under the Anagram Incentive Program or toward any Non-Insider Severance Obligations pursuant to this Order, including the following information: (a) the names of the payee; (b) the nature, date, and

amount of the payment; (c) the category or type of payment as characterized in the Motion; and (d) the Debtor or Debtors that made the payment. The Debtors shall provide a copy, on a confidential basis, of such matrix/schedule to the U.S. Trustee, any statutory committee appointed in these cases, and the advisors to the Ad Hoc Group by the last day of each calendar month.

7. The Debtors will provide notice of any material changes to the Anagram Incentive Program to the advisors to the Ad Hoc Group.

8. Debtors shall not (i) honor any prepetition Employee Compensation and Benefits and obligations under the Benefits Programs to any individual that exceeds the priority amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code nor (ii) pay any amounts to “insiders” of the Debtors as that term is defined in section 101(31) of the Bankruptcy Code under any bonus, incentive, or retention plan, in each case, except upon further order of this Court and subject to the consent of the Ad Hoc Group.

9. Nothing in this Order authorizes any payment subject to section 503(c) of the Bankruptcy Code, and nothing herein shall prejudice the Debtors’ ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

10. Nothing contained herein is intended or should be construed to create an administrative priority claim on account of the Compensation and Benefits and Benefits Programs obligations.

11. The banks and financial institutions on which checks were drawn or electronic fund transfer requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic fund transfer requests when presented for payment, and all such banks and financial institutions are authorized to rely on the

Debtors' designation of any particular check or electronic fund transfer requests as approved by this Order.

12. The Debtors are authorized, but not directed, to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

13. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in the Motion or this Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (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 or limitation of the Debtors', or any other party in interest's, rights 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 requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

14. Notwithstanding the relief granted in the Motion or this Order, any payment made or to be made by the Debtors pursuant to the authority granted herein, and any relief or authorization granted herein, shall be subject to and in compliance with each interim and final order entered by the Court in respect of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing, (B) Use Cash Collateral, and (C) Grant Liens And Superpriority Administrative Expense Claims, (II) Granting Adequate Protection to Certain Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief*, filed substantially contemporaneously herewith (collectively, such interim and final orders, the "DIP Order"), including compliance with any budget or cash flow forecast in connection therewith and any other terms and conditions thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Order, the DIP Notes Documents (as defined in the DIP Order), or the DIP ABL Agreement (as defined in the DIP Order). To the extent there is any inconsistency between the terms of the DIP Order and the terms of this Order or any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

15. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

16. Notice of the Motion as provided therein is hereby deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

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

18. The Debtors are authorized, but not directed, to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

19. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Houston, Texas

Dated: _____, 2023

UNITED STATES BANKRUPTCY JUDGE