

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

IN RE:	)	Chapter 11
	)	
MOLL INDUSTRIES, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 10-11371 (MFW)
	)	Joint Administration Pending
	)	
Debtors.	)	<b>Related Docket No. 12</b>

**INTERIM ORDER PURSUANT TO SECTIONS 361 AND  
363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 4001:  
(1) AUTHORIZING USE OF CASH COLLATERAL;  
(2) GRANTING ADEQUATE PROTECTION LIENS;  
(3) SCHEDULING AND APPROVING THE FORM AND METHOD OF  
NOTICE FOR A SUBSEQUENT HEARING; AND (4) FOR RELATED RELIEF**

Upon consideration of the motion (the "Motion")<sup>2</sup> of Moll Industries, Inc., *et al.*, the above-captioned debtors and debtors in possession (collectively, the "Debtors"), seeking entry of an order pursuant to sections 361 and 363 of the Bankruptcy Code and Rule 4001 of the Bankruptcy Rules: (1) authorizing the Debtors to use the Pre-petition Collateral (as defined herein) including cash collateral, as such term is defined in Section 363 of the Bankruptcy Code (the "Cash Collateral"); (2) granting adequate protection; (3) scheduling and approving the form and method of notice of the final hearing on the Debtors' Motion; and (4) for other related relief as necessary; and a hearing to consider the interim relief requested in the Motion having been held on \_\_\_\_\_, 2010 (the "Interim Hearing"); and pursuant to Bankruptcy Rule 4001, due and sufficient notice of the Motion having been given by the Debtors to the Notice Parties; and the Court having considered the offers of proof, evidence adduced, and the statements of counsel at the Interim Hearing; and all objections, if any, to the interim relief requested in the Motion having been withdrawn, resolved or overruled by the Court; and it appearing to the Court that

<sup>1</sup> The Debtors are the following entities: Moll Industries, Inc.; Moll Holdings, Inc.; Moll Europe Holdings, LLC; and Moll Latin America Holdings, LLC.

granting the interim relief requested is necessary to avoid immediate and irreparable harm to the Debtors pending a final hearing and otherwise is fair and reasonable and in the best interest of the Debtors, their estates, and their creditors and is essential for the continued operation of the Debtors' business; and after due deliberation and consideration and good and sufficient cause appearing therefor,

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. On April 27, 2010 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with this Court, thereby commencing these cases (the "Chapter 11 Cases"). The Debtors are now operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or official committee has been appointed in the Chapter 11 Case. The Debtors' cases are being jointly administered.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Notice of the Motion has been given the following pursuant to Bankruptcy Rules 2002, 4001(a), 4001(b) and Del. Bankr. L.R. 4001-2(a) and Rule 9013-1(m): (i) the Office of the United States Trustee for the District of Delaware; (ii) each of the Debtors' twenty largest unsecured creditors and/or their counsel; (iii) counsel for NexBank, SSB, as Administrative Agent and Collateral Agent for the Debtors' pre-petition secured lenders; (iv) the United States Department of Justice; (v) the Internal Revenue Service, (vi) the United States Environmental Protection Agency, (vii) the Banks; (viii) the administrators of the Debtors' Employee Benefit Plans; and (ix) all parties that have requested special notice pursuant to Bankruptcy Rule 2002.

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

D. Prior to the Petition Date, the Senior Lenders made certain loans and advancements to debtor Moll Industries, Inc. ("Moll Industries") pursuant to that certain Amended and Restated Loan and Security Agreement dated as of December 31, 2004 by and among Moll Industries, Inc, as Borrowers, the Lenders that are signatories hereto (the "Senior Lenders") and Heritage Bank, SSB, as the Administrative Agent (the "Senior Agent"),<sup>3</sup> as the same may have been amended from time to time thorough the Petition Date (the "Senior Credit Agreement"). All such loans, financial accommodations and other amounts owing by the Debtors to the Senior Agent and the Senior Lenders under, or in connection with, the Senior Credit Agreement and the other collateral and ancillary documentation executed in connection therewith (as amended, supplemented or otherwise modified, the "Senior Loan Documents") are hereinafter referred to as the "Senior Pre-Petition Obligations". The Senior Credit Agreement matured on December 31, 2009 and the Senior Pre-Petition Obligations became due and owing on that date.

E. Prior to the Petition Date, the Subordinated Lenders made certain loans and advancements to Moll Industries pursuant to that certain Amended and Restated Senior Subordinated Secured Note and Security Agreement dated as of December 31, 2004 by and among Moll Industries, Inc, as Borrowers, the Lenders that are signatories hereto (the "Subordinated Lenders") and Heritage Bank, SSB, as the Administrative Agent (the "Subordinated Agent"), as the same may have been amended from time to time thorough the Petition Date (the "Subordinated Note"). All such loans, financial accommodations and other amounts owing by the Debtors to the Subordinated Agent and the Subordinated Lenders under, or in connection with, the Subordinated Note and the other collateral and ancillary

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<sup>3</sup> Heritage Bank, SSB has since changed its name to NexBank, SSB. Thus, all references herein to the "Senior Agent" and "Subordinate Agent" are to NexBank.

documentation executed in connection therewith (as amended, supplemented or otherwise modified, the "Subordinated Note Documents") are hereinafter referred to as the "Subordinated Pre-Petition Obligations". The Subordinated Note matured March 10, 2010 and the Senior Pre-Petition Obligations became due and owing on that date.

F. The remaining Debtors executed individual guarantees and security agreements with respect to both the Senior Credit Agreement (collectively, the "Senior Guarantees") and Subordinated Note (collectively, the "Subordinated Guarantees").

G. Without prejudice to the rights, if any, of any other party (but subject to the limitations thereon described below in paragraphs 8 and 9, the Debtors admit that (i) the Senior Pre-Petition Obligations owing to the Senior Agent and the Senior Lenders under the Senior Credit Agreement, Senior Loan Documents and Senior Guarantees total at least \$57,714,652.01 as of the Petition Date, exclusive of attorneys fees, costs, expenses or other charges; (ii) the Subordinated Pre-Petition Obligations owing to the Subordinated Agent and the Subordinated Lenders under the Subordinated Note, Subordinated Loan Documents and Subordinated Guarantees total at least \$6,617,258.94 as of the Petition Date, exclusive of attorneys fees, costs, expenses or other charges (iii) the Senior Pre-Petition Obligations and Subordinate Pre-Petition Obligations constitute the legal, valid and binding obligations of the Debtors, enforceable in accordance with the Senior Loan Documents, Subordinated Note Documents, Senior Guarantees, and Subordinated Guarantees (collectively, the "Loan Documents"); (iv) no portion of the Indebtedness is subject to avoidance, subordination, recharacterization, offset, counterclaim or defense; and (v) the Debtors granted to the Senior Lenders and Subordinated Lenders valid, perfected and enforceable liens upon and security interests (the "Pre-Petition Liens") in the collateral described in the Loan Documents (the "Pre-Petition Collateral").

H. The Debtors have requested that the Court authorize their use of Cash Collateral for the purposes set forth in the budget that is attached as Exhibit 1 hereto, which may be supplemented or extended upon the express written agreement of the Agent (the "Budget").

I. The Debtors have requested immediate entry of this Order (the "Interim Order") pursuant to Bankruptcy Rule 4001(b)(1),(b)(2) and (c)(2). The Motion and this Interim Order comply with Local Bankruptcy Rules 4001-2 and 4001-3. The Debtors have an immediate need to obtain use of the Cash Collateral for, among other things, the continuation of their business operations, the preservation and orderly disposition of their businesses and assets as a going concern, and the orderly administration of their estates. Without the use of Cash Collateral, the Debtors will be unable to pay necessary expenses. The ability of the Debtors to obtain liquidity through the use of the Cash Collateral is vital to the Debtors efforts to maximize the value of their assets. Absent granting the relief sought by this Interim Order, the Debtors' estates will be immediately and irreparably harmed. Thus, the use of the Cash Collateral in accordance with this Interim Order is, therefore, in the best interest of the Debtors' estates.

J. The Senior Agent and Subordinated Agent (collectively referred to herein as, the "Agent") do no consent to the Debtors' use of the Pre-Petition Collateral, including the Cash Collateral, except in accordance with the terms and conditions contained in this Interim Order. Subject to compliance with the conditions of this Interim Order, the Debtors are permitted to use the Cash Collateral during the period covered by this Interim Order, and in the amounts set forth in the Budget and only for the purposes set forth therein and herein.

K. The terms of this Interim Order were negotiated in good faith and at arm's length between the Debtors the Senior Agent on behalf of the Senior Lenders and the Subordinated Agent on behalf of the Subordinated Lenders.

L. Good cause has been shown for the entry of this Interim Order. In addition, the terms and conditions of the Debtors' proposed use of the Cash Collateral are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

M. This Interim Order is entered pursuant to, and shall be construed and be consistent with, sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001(b)(2).

Based on the foregoing, and upon the record made before this Court at the Interim Hearing, and good and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED AND ADJUDGED THAT:**

1. **Motion Granted.** The Motion is GRANTED on an interim basis, as set forth herein. The Debtors shall be, and hereby are, authorized to use Cash Collateral on the terms and conditions set forth in this Interim Order. The Debtors are authorized to use Cash Collateral in accordance with the Budget; *provided, however*, that the Debtors may exceed any line item in the Budget by up to ten percent (10%) in any week, so long as the aggregate amount of the Budget for any week is not exceeded by more than ten percent (10%) (the "Variance"). Any unused portion of the variance will carry over to the following week.

2. **Reporting and Access.** The Debtors are directed to deliver to the Agent and any official committee appointed in these Chapter 11 Cases on Wednesday of each week (if not sooner) a reconciliation for the prior week of all budgeted amounts that compares for each line item the amounts forecast under the Budget to the actual amount achieved by the Debtors for such week, together with all other reasonably requested information. In addition, the Debtors shall provide the Agent with reasonable access to the Debtors' facilities, books and records, at reasonable times that shall not infringe upon the Debtors' normal operations.

3. **Adequate Protection Claim.** Because the Debtors' use of Cash Collateral may result in the diminution of the value of the Cash Collateral and Senior Lenders' and Subordinated Lenders' respective interests therein, the Court hereby grants super-priority administrative expense claims against the Debtors' estates in favor of the Senior Agent, on behalf of and for the ratable benefit of the Senior Lenders and the Subordinated Agent, on behalf of and for the ratable benefit of the Subordinated Lenders pursuant to section 507(a)(2) and 507(b) of the Bankruptcy Code, which claims shall be in the amount of any post-petition diminution in the value of the Senior Lenders' and Subordinated Lenders' interests in the Cash Collateral or any of the Pre-Petition Collateral from and after the Petition Date (the "**Adequate Protection Claims**"). In addition, the Adequate Protection Claims shall have priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code, including without limitation, 11 U.S.C. §§ 105, 326, 328, 330, 331, and 726 and shall at all times be senior to the rights of the Debtors, and any successor trustee or any creditor, in the Debtors' cases, or to the extent permitted by applicable law, any subsequent proceeding under the Bankruptcy Code, provided however that the Adequate Protection Claims shall be subject to the Carve-Out as defined in Paragraph 4 of this Order.

4. **Replacement Liens.** As additional adequate protection, and to secure the Adequate Protection Claims, the Senior Agent (on behalf of and for the ratable benefit of the Senior Lenders) and the Subordinated Agent (on behalf of and for the ratable benefit of the Subordinated Lenders), are hereby granted, effective immediately and without the necessity of the execution by the Debtors of financing statements, mortgages, security agreements, or otherwise, in accordance with section 361(2) of the Bankruptcy Code, replacement security interests and liens (collectively, the "**Adequate Protection Liens**") in and upon the Post-Petition Collateral (as defined below), all post-petition proceeds thereof and all post-petition assets of the

Debtors and their estates (excluding, however, all claims, causes of action and proceeds thereof arising under sections 510, 544, 545, 546, 547, 548, 549, 550 and 551 of the Bankruptcy Code, collectively, "Avoidance Actions," and all proceeds therefrom) and all proceeds, rents and products of all of the foregoing and all distributions thereon (the "Post-Petition Collateral," together with the Pre-Petition Collateral, the "Collateral"), in each case to the same extent, validity and priority as the security interests and liens of the Senior Lenders and Subordinated Lenders in and upon the Pre-Petition Collateral, whether such property and assets were acquired by the Debtors before or after the Petition Date, including: (a) all proceeds of the foregoing; (b) all accessions to, substitutions and replacements for, and profits and products of the foregoing; (c) the Pre-Petition Collateral; and (d) all property of the Debtors held by the Agent, Senior Lenders and/or Subordinated Lenders. The Adequate Protection Liens shall be subject only to (i) valid, perfected, enforceable and unavoidable liens and security interests that were superior in priority to the Pre-Petition Liens prior to the Petition Date, and only to the extent such Pre-petition Liens are not otherwise subject to avoidance or subordination; (ii) following the occurrence of the Termination Date (as defined herein), the payment of allowed professional fees and disbursements incurred by the Debtors or any official committee of unsecured creditors appointed in the Chapter 11 Cases (the "Creditors Committee") in an aggregate amount incurred after the Termination Date not in excess of \$75,000 (plus any unpaid professional fees and expenses authorized in the budget and allowed by the Court that were incurred prior to the occurrence of the Termination Date) (the "Professional Fee Carve-Out"); and (iii) the payment of United States Trustee Fees pursuant to 28 U.S.C. § 1930 (the "UST Carve-Out" and, together with the Professional Fee Carve-Out, the "Carve-Out"). The Adequate Protection Liens shall be of the same priority as the Pre-Petition Liens.

5. **Fees and Expenses.** As further adequate protection of the Agent's and Senior Lenders' and Subordinated Lenders' interests in the Pre-petition Collateral, the Debtors shall pay the reasonable fees and disbursements of the Agent's attorneys and financial advisors incurred in connection with this chapter 11 case upon submission of invoices to the Debtors with copies to the Creditors Committee and the U.S. Trustee, provided that such fees and disbursements shall be paid only to the extent that such fees and disbursements relate to Pre-petition Collateral in which the Agent and Senior Lenders and/or Subordinated Lenders have an interest or the granting of adequate protection to the Agent and Senior Lenders and/or Subordinated Lenders. Subject to the following objection procedures, the Debtors shall promptly pay all reasonable fees and expenses submitted by the Agent's professionals within eleven (11) business days after receipt of such invoices. Notwithstanding the foregoing, the Debtors, the Creditors Committee or the U.S. Trustee may object to the reasonableness of such fees and expenses in writing within ten (10) business days of receipt of such invoice. Any such objection must identify with specificity the particular objectionable entries. If such objection cannot be resolved within five (5) business days of service of such invoice (which deadline may be extended by mutual agreement of the Agent and the objecting party), the objecting party shall file with the Court and serve upon such professional a Fee Objection limited to the issue of the reasonableness of the disputed fees and expenses; provided that the Debtors shall timely pay in accordance with this Interim Order any fees, costs and expenses not subject to a Fee Objection. Upon the filing of a Fee Objection, this Court shall schedule and conduct a hearing to determine the reasonableness of the fees and expenses identified therein. Such hearing will, at the convenience of the Court, take place on the earliest to occur of (i) the next regularly scheduled pre-set hearing date in the Chapter 11 Cases; or (ii) such other date as the Court sets. The Debtors shall remit payment

promptly to the applicable professional for such fees and expenses as are determined by the Court to be reasonable.

6. **Payment of Professional Fees.** For so long as the Termination Date has not occurred, (i) the Debtors shall be permitted to pay administrative expenses allowable and payable under Sections 330, 331 and 503(b)(2) of the Bankruptcy Code, as the same becomes due and payable and in such amount as provided for in the Budget and (ii) such payments shall not be applied to reduce the Professional Fee Carve-Out.

7. **Taxes and Insurance.** The Debtors shall: (a) continue to keep the Collateral fully insured against all loss, peril and hazard; and (b) pay any and all post-petition taxes, assessments and governmental charges with respect to such Collateral in accordance with the Budget.

8. **Lien Review.** The Debtors' admissions and releases contained in paragraph G herein above (i) shall be binding on the Debtors and the Debtors' estates and (ii) shall be binding upon all other parties in interest, including the Committee and any other official committee appointed in these Chapter 11 Cases unless (1) a party has properly filed an adversary proceeding by no later than the date that is seventy-five days from the date of the entry of the Interim Order (or, in the case of the Committee, sixty (60) days from the appointment of such committee) (the "Investigation Termination Date") challenging the validity, perfection, enforceability, and extent of the Indebtedness and Pre-Petition Liens and any potential claims of the Debtors or their estates against Senior Agent, Subordinated Agent and/or the Senior Lenders and/or Subordinated Lenders provided, however, that, in the event of a conversion to chapter 7 or the appointment of a chapter 11 trustee prior to the Investigation Termination Date, the Investigation Termination Date shall be extended until sixty (60) days following the appointment of a chapter 7 trustee or a chapter 11 trustee. Any such adversary proceeding must be made by a party in interest with standing and must be properly commenced on or before the Investigation

Termination Date. Any statutorily appointed committee shall be deemed to have standing. If no such action is filed on or before the Investigation Termination Date, all holders of claims and interests as well as other parties in interest will be forever barred from bringing or taking any such action, and the Debtors' admissions and releases made in paragraph G herein above will be binding on all parties in interest. Professional fees and expenses incurred by the Committee or any other Court-appointed professional in connection with any review and investigation may not exceed \$25,000. All of the Agent's rights to (i) object to any professional fee applications, and (ii) seek disgorgement of any interim fees and expenses paid, are preserved in their entirety.

9. **Lien Contests.** No Court-appointed professional shall be entitled to payment of any fees or expenses from Cash Collateral or the Carve-Out for commencing or prosecuting any claim or action, the purpose of which is to seek or the result of which would be to obtain any order, judgment, determination, declaration or similar relief (x) invalidating, setting aside, avoiding or subordinating, in whole or in part, the liens and security interests of the Agent and the Senior Lenders and/or the Subordinated Lenders in the Collateral; or (y) preventing, hindering or otherwise delaying, whether directly or indirectly, the exercise by the Agent of any of its rights and remedies under this Interim Order.

10. **Books and Records.** The Debtors are directed to keep their books and records of original entry, including without limitation, records of sale, credits authorized (whether or not credit memoranda have been issued), purchases, accounts receivable, cash receipts, and cash disbursements, current and updated, so that all business activity is posted to them in the ordinary course of the Debtors' business.

11. **Termination Date.** Each of the following shall constitute a termination event (each, a "Termination Event"):

- i. the effective date of any confirmed plan of reorganization in the Chapter 11 Cases;
- ii. the occurrence of any breach by the Debtors of the Interim Order (including, but not limited to, the Debtors' failure to adhere to the Budget);
- iii. the dismissal of any of the Debtors' Chapter 11 Cases or the conversion of any such case to one under Chapter 7 of the Bankruptcy Code;
- iv. upon and following the entry of an order authorizing the appointment in any of the Debtors' Chapter 11 Cases of a trustee or an examiner with enlarged powers (beyond those set forth in § 1106(a)(3) and (4) of the Bankruptcy Code), relating to the operation of the business of the Debtors;
- v. the Interim Order is stayed, reversed, vacated, amended or otherwise modified in any respect without the prior written consent of Agent;
- vi. the Court enters an order granting a party relief from the automatic stay with respect to any portion of the Collateral valued at more than \$100,000;
- vii. this or any other Court enters an order or judgment in any of the Debtors' Chapter 11 Cases modifying, limiting, subordinating or avoiding the priority of any Indebtedness or the perfection, priority or validity of the Senior Lenders' and/or Subordinated Lenders' Pre-Petition Liens or Adequate Protection Liens to the extent that there is any remaining Secured Claim or Collateral subsequent to such a ruling; or
- viii. May 31, 2010 for purposes of the Interim Order.

12. **Rights Upon Occurrence of Termination Date.** Upon the occurrence of a Termination Event (the "Termination Date") and five (5) Business Days after Agent has provided notice of same to counsel for the Debtors, the Committee (if one has been appointed) and the Office of the United States Trustee, absent any further Order of this Court entered during such three-day period, the Debtors' ability to use Cash Collateral will terminate and the Senior Agent's and Subordinated Agent's consent to the use of Cash Collateral will be deemed withdrawn. Upon the occurrence of a Termination Date, the parties' rights to seek a Court order lifting the automatic stay, providing adequate protection, allowing for the continued use of Cash Collateral or any other relief are preserved. The parties agree that the hearing on any motion filed by either the Debtors, the Agent or the Committee following and arising from notice of a

Termination Date (including, but not limited to, a motion to continue using Cash Collateral, a motion to lift the automatic stay or a motion to terminate exclusivity) may be expedited, and will, at the convenience of the Court, take place on the earliest to occur of (i) the next regularly scheduled pre-set hearing date in the Chapter 11 Cases; or (ii) such other date as the Court sets.

13. **Survival of Liens.** The liens, security interests, administrative priorities and other rights and remedies granted to the Senior Agent for the ratable benefit of the Senior Lenders and the Subordinated Agent for the ratable benefit of the Subordinated Lenders by the provisions of this Interim Order shall continue beyond and survive the expiration of this Interim Order, and, to the extent permitted by applicable law, shall not be modified, altered or impaired in any manner by (a) any other financing or extension of credit or incurrence of indebtedness by the Debtors under section 364 of the Bankruptcy Code or otherwise, (b) the entry of an order or orders confirming any plan of reorganization or liquidation in these Chapter 11 Cases, or (c) the entry of an order converting any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases or terminating any joint administration of the Chapter 11 Cases, without the express written consent of the Agent.

14. **Immediate Effect of Order.** Notwithstanding Bankruptcy Rule 7062, the terms and conditions of this Interim Order shall: (a) be immediately enforceable pursuant to Bankruptcy Rule 8005; and (b) not be stayed absent: (i) an application by a party in interest for such stay in conformity with such Bankruptcy Rule 8005; and (ii) a hearing upon notice to the Debtors and the Agent.

15. **Notice to be Provided.** The Debtors shall forthwith serve by first-class United States Mail a copy of this Interim Order on the Notice Parties (which shall constitute adequate notice of the final hearing).

16. **Final Hearing.** The hearing to consider entry of a final order authorizing and approving the use of Cash Collateral and providing adequate protection is hereby scheduled for May 20, 2010 at 3:00 p.m. Objections to the entry of a final order, if any, shall be filed with the Court by not later May 13, 2010 at 4:00 p.m. EDT (the "Objection Deadline"). Copies of any objections must also be served, so as to be received by the Objection Deadline upon the following persons: (i) William A. Hazeltine, Sullivan Hazeltine Allinson LLC, 4 East 8<sup>th</sup> Street, Wilmington, DE 19801 (counsel for the Debtors); (ii) the Office of the United States Trustee, 844 King Street, Suite 2007, Wilmington, DE; (iii) Mark X. Mullin, Haynes and Boone, LLP, 2323 Victory Avenue, Dallas, Texas 75219 (counsel for NexBank); (iv) Richard W. Riley, Duane Morris LLP, 1100 North Market Street, Suite 1200, Wilmington, DE 19801-1246 (local counsel for NexBank); and (v) counsel for the Creditors Committee (if one is appointed).

17. **Retention of Jurisdiction.** The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

SIGNED this <sup>21<sup>st</sup></sup> day of April, 2010.

  
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THE HONORABLE BRENDAN L. SHANNON  
UNITED STATES BANKRUPTCY JUDGE