

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

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

**ORDER GRANTING MOTION OF DEBTORS PURSUANT TO
SECTIONS 105, 363, 364, 1107 AND 1108 OF THE BANKRUPTCY CODE AND
BANKRUPTCY RULES 6003 AND 6004 FOR AUTHORIZATION TO PAY
THE PRE-PETITION CLAIMS OF CERTAIN CRITICAL PROVIDERS**

Upon the motion, dated April 27, 2010 (the "Motion") of Moll Industries, Inc. and its affiliated debtors (the "Debtors"), pursuant to Sections 105, 363, 364, 1107 and 1108 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") and Federal Rules of Bankruptcy Procedure 6003 and 6004, to pay certain Critical Pre-Petition Claims of Critical Providers, consisting of (I) the pre-petition fixed, liquidated, and undisputed claims of certain of the Debtors' Critical Vendors² on the terms and conditions set forth herein, and (II) the pre-petition claims of certain Other Critical Providers, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and upon the Declaration of Jeffrey Merritt in Support of First Day Motions and Applications; and due and proper notice of the Motion having been given under the circumstances; and it appearing that no other or further

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

² Unless it is plainly apparent from the context that another meaning is intended, capitalized terms not otherwise defined shall have the meanings ascribed to them in the Motion.

notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interest of the Debtors, their creditors and all parties-in-interest; and the 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 the Court and after due deliberation and sufficient cause appearing therefore, it is

ORDERED that the Motion is granted as set forth herein, and it is further

ORDERED that the Debtors are authorized, but not directed, in their sole discretion, to pay the Critical Pre-Petition Claims of the Critical Providers in an amount not to exceed \$200,000 in the aggregate; and it is further

ORDERED that the Debtors are authorized, but not directed, in their sole discretion, to seek to cause each Critical Provider to enter into an agreement substantially in the form attached hereto as Exhibit 1 ("Supplier Protection Agreement") with the Debtors as a condition of payment of their Critical Pre-Petition Claim that includes some or all of the following terms:

- (a) in the Debtors' sole discretion, the Debtors may make some or all payments in cash or in kind (with the Consent of the Critical Provider), due the Critical Provider for pre-petition transactions, on the due date or as soon as reasonable practicable thereafter;
- (b) each participating Critical Provider agrees, through the earlier of nine (9) months after the Petition Date or the effective date of a chapter 11 plan, to be bound by the Customary Trade Terms (as defined below), which shall include, but not be limited to, credit terms, historical pricing conventions, historic product volumes, cash discounts, payment terms, allowances, rebates, normal product mix, and availability and other applicable terms and programs acceptable to the Debtors, so long as the Debtors are not then in post-petition default;
- (c) the "Customary Trade Terms" shall be defined as those trade terms with the Critical Provider that were most favorable to the Debtors at any time during the time period within 180 days of the Petition Date, or such other terms as mutually agreed to;
- (d) each participating Critical Provider acknowledges that it has reviewed the terms and provisions of this Order, and consents to be bound thereby;

- (e) each participating Critical Provider agrees that, to the extent it has received payment under the Critical Provider Program from the Debtors on a Critical Provider Claim, but the Critical Provider subsequently refuses to supply products or services to the Debtors on Customary Trade Terms, the Debtors may seek repayment from such Critical Provider for amounts paid to that Critical Provider that exceed the undisputed amounts owed on account of post-petition product or services provided without giving effect to any rights of setoff, recoupment, claims, defenses, provisions for payment of reclamation or trust fund claims, or otherwise; and
- (f) to the extent there exist any contract between the Debtors and the Critical Provider that contains a right of termination based on the Debtors' bankruptcy, insolvency, or other similar conditions, the participating Critical Provider agrees to waive the filing of bankruptcy by or the insolvency or other similar conditions of the Debtors as a termination right under those contracts for the duration of the Supplier Protection Agreement. All other default, suspension, and termination provisions in such contracts shall remain in effect, subject to applicable provisions of the Bankruptcy Code;

and it is further

ORDERED that if a Critical Provider refuses to provide product, supplies, or services on Customary Trade Terms (or such other terms as are agreed by the parties) following receipt of payment on its Critical Pre-Petition Claim, or fails to comply with any Supplier Protection Agreement entered into between such Critical Provider and the Debtors, the Debtors are authorized to, in their discretion and without further order of the Court, (a) declare that any Supplier Protection Agreement between the Debtors and such Critical Provider is terminated, and (b) declare that provisional payments made to such Critical Provider on account of its Critical Provider Claim, whether pursuant to a Supplier Protection Agreement or otherwise, shall be deemed to have been in payment of then-outstanding, undisputed, post-petition claims of such Critical Providers without further order of the Court or action by any person or entity; and it is further

ORDERED that if a Critical Provider refuses to provide supplies, material or services to the Debtors on Customary Trade Terms (or such other terms as are agreed by the parties)

following receipt of payment on its Critical Provider Claim, or fails to comply with any Supplier Protection Agreement entered into between such Critical Provider and the Debtors, the Debtors are hereby authorized, in their sole discretion, without further order of the Court, to exercise either or both of the rights set forth in the preceding paragraph. If the Debtors decide, in their business judgment, to exercise the rights set forth in clause (b) in the preceding paragraph, the Debtors may seek to recover any such payments which exceed the undisputed post-petition claims of such Critical Provider then outstanding without giving effect to any rights of setoff, recoupment, claims, defenses, provisions for payment of reclamation or trust fund claims, or otherwise; and it is further

ORDERED that nothing contained in this Order shall constitute a waiver of the Debtors' right to seek damages or other appropriate remedies against any breaching Critical Provider; and it is further

ORDERED that, notwithstanding the foregoing, the Debtors, in their business judgment, may reinstate a Supplier Protection Agreement if the underlying default under the Supplier Protection Agreement is fully cured by the Critical Provider not later than five (5) business days following the Debtors' delivery of written notice of default and demand for cure; provided, however, that nothing contained herein shall prohibit the Debtors, in their business judgment, from agreeing to a favorable alternative agreement with the Critical Provider; and it is further

ORDERED that nothing herein shall change the nature or priority of the underlying Critical Pre-Petition Claims; and it is further

ORDERED that nothing contained in this Order shall be deemed to constitute an assumption or adoption of any executory contract or pre-petition or post-petition agreement

between the Debtors and the holder of a Critical Prepetition Claim, or to require the Debtors to make any of the payments authorized herein; and it is further

ORDERED that the authority granted hereby to pay Critical Pre-Petition Claims shall not create any obligation on the part of the Debtors or their officers, directors, attorneys, or agents to pay the Critical Pre-Petition Claims. None of the foregoing persons or entities shall have any liability on account of any decision by the Debtors not to pay a Critical Pre-Petition Claim, and nothing contained in this Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect the Critical Provider Claims to the extent they are not paid; and it is further

ORDERED that the amount of such Critical Pre-Petition Claim set forth in connection with a Supplier Protection Agreement shall be used only for purposes of determining such Critical Provider's claim under this Order and shall not be deemed an claim allowed by the Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of the Court. Further, signing a Supplier Protection Agreement containing a claim amount for purposes of this Order shall not excuse such Critical Provider from filing a proof of claim in these cases; provided, however, that a Critical Provider shall not be required to file a proof of claim for any portion of its claim actually paid pursuant to this order and a Supplier Protection Agreement; and it is further

ORDERED that, except as provided in a Supplier Protection Agreement, no claimant who receives payment on account of a Critical Pre-Petition Claim is permitted to file or perfect a lien, reclamation claim, or a claim under section 503(b)(9) of the Bankruptcy Code on account of such Critical Pre-Petition Claim, and any such claimant shall take at the claimant's expense all necessary action to remove any existing lien or withdraw such reclamation claim or section

503(b)(9) claim relating to such Critical Prepetition Claim, even if the lien, reclamation claim, or section 503(b)(9) claim is against property of a non-debtor; and it is further

ORDERED that notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any person or entity; and it is further

ORDERED that all banks and other financial institutions are hereby authorized and required, when requested by the Debtors, to receive, process, honor, and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under this Order, whether presented prior to or after the Petition Date. Such banks and financial institutions are authorized to rely on the representation of the Debtors' or their agents as to which checks are issued or authorized to be paid pursuant to this Order; and it is further

ORDERED that nothing in this Order shall be deemed either a grant of administrative priority expense status to, or authority to pay, any amounts that are disputed by the Debtors; and it is further

ORDERED that nothing contained in this Order shall be construed as a waiver by the Debtors of their rights to contest any claim or invoice of a holder of a Critical Pre-Petition Claim under applicable law; and it is further

ORDERED that nothing in this Order shall prohibit the Debtors from seeking Court authority to increase the pre-petition amounts authorized to be paid hereunder; and it is further

ORDERED that the requirements of Rule 6003 of the Federal Rules of Bankruptcy Procedure are satisfied by the contents of the Motion and notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, or 9014, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order; and it is further

Date: April 29, 2010



The Honorable Brendan L. Shannon
United States Bankruptcy Judge

Exhibit 1

April 27, 2010

To: Provider
Address

Dear Provider:

As you may be aware, on April 27, 2010 (the "Petition Date"), Moll Industries, Inc. together with certain of its affiliates (collectively, the "Debtors"), filed voluntary petitions under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (The "Bankruptcy Cases" and the "Bankruptcy Court," respectively). On the Petition Date, the Debtors requested that the Bankruptcy Court's authority to pay certain vendors, suppliers and service providers (the "Providers") in recognition of, among other things, the importance of our relationship with such Providers and our desire that the Bankruptcy Cases have as little effect on our business as possible. On April ____, 2010, the Bankruptcy Court entered an order (the "Order") authorizing the Debtors, under certain conditions, to pay pre-bankruptcy claims of certain Providers that agree to the terms set forth below and to be bound by the terms of the Order.¹ A copy of the Order is enclosed.

To receive payment on pre-bankruptcy claims, we require each selected Provider to agree to continue supplying goods or services to the Debtors based on "Customary Trade Terms" as described in the Order and this agreement (the "Agreement"). In the Order, Customary Trade Terms are defined as the normal and customary trade terms, practices and programs (including, but not limited to, credit limits, historical pricing conventions, cash discounts, payment terms, allowances, rebates, normal product mix and availability and other applicable terms and programs) which were most favorable to the Debtors and in effect between such Provider and the Debtors on a historical basis for the period within 180 days of the Petition Date (the "Prepetition Trade Terms"), or such other trade terms as we mutually agree.

For purposes of administration of this program as authorized by the Bankruptcy Court, the Debtors and you agree as follows:

1. Subject to the below, the estimated balance of the prepetition claim (net of any setoffs, credits or discounts) (the "Claim") is \$ _____. Your Claim does not constitute a claim allowed by the Court in the Bankruptcy Cases, and signing this Trade Agreement does not excuse you from any requirement of filing a proof of claim in the Bankruptcy Cases, including, without limitation, for any portion of your Trade Claim not paid in accordance with this Agreement.
2. Within ten (10) days of the date of this agreement, the Debtors shall pay to you \$ _____ on account of your Claim.

¹ The parties agree that the effectiveness of this Agreement is expressly conditioned upon entry of the Order by the Bankruptcy Court. To the extent the Order has not been entered by the Bankruptcy Court upon execution of this Agreement, this Agreement shall become immediately effective upon entry of the Order.

3. In consideration for the obligations and payment terms described herein, you agree not to file, perfect or otherwise assert against any or all of the Debtors, their estates or any other person or entity or any of their respective assets or property (real or personal) any lien (a "Lien") or claim for reclamation ("Reclamation Claim") or claim under Section 503(b)(9) of the Bankruptcy Code ("503(b)(9) Claim"), regardless of the statute or other legal authority upon which such Lien, Reclamation Claim or 503(b)(9) Claim may be asserted, related in any way to any remaining prepetition amounts allegedly owed to you by the Debtors prior to the Petition Date and, to the extent you already obtained or otherwise asserted such a Lien, Reclamation Claim or 503(b)(9) Claim, you shall (at your expense) immediately take whatever actions are necessary to remove such Lien or withdraw such Reclamation Claim or 503(b)(9) Claim.
4. You will hereafter extend to the Debtors Customary Trade Terms, which are:

Your execution of this Letter Agreement and the return of the same to the Debtors constitutes an agreement by you and the Debtors:

- a. to the Customary Trade Terms and, subject to the reservations contained in the Order, to the amount of your Claim set forth above;
- b. that you will continue to supply the Debtors with goods pursuant to the terms hereof and that the Debtors will pay for such goods in accordance with terms hereof;
- c. that you have reviewed the terms and provisions of the Order and acknowledge that you are bound by such terms;
- d. that you will not separately seek payment for reclamation or similar claims outside the terms of the Order;
- e. that the payment of the portion of your Claim as set forth herein shall be applied first to the payment of goods received by the Debtors within 20 days prior to the Petition Date;
- f. that if you refuse to supply goods in accordance with the Customary Trade Terms or this Agreement, any payments received by you on account of your Claim will be deemed to have been in payment of postpetition obligations owed to you and the Debtors may seek repayment from you for amounts paid to you that exceed the undisputed amounts owed on account of post-petition product or services you provided without giving effect to any rights of setoff, recoupment, claims, defenses, provisions for payment of reclamation or trust fund claims, or otherwise.

- g. to the extent there exists any contract between the Debtors and you that contains a right of termination based on the Debtors' bankruptcy, insolvency, or other similar conditions, you agree to waive the filing of bankruptcy by or the insolvency or other similar conditions of the Debtors as a termination right under those contracts for the duration of the Supplier Protection Agreement. All other default, suspension, and termination provisions in such contracts shall remain in effect, subject to applicable provisions of the Bankruptcy Code.

The Debtors and you also hereby agree that any dispute with respect to this Agreement, the Order or the payment of your Trade Claim, in whole or in part, shall be determined by the Bankruptcy Court.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call _____ at _____.

Sincerely,

Moll Industries, Inc.

By: _____
Its: _____

Agreed and Accepted by:

[Name of Provider]

By: _____

Its: _____

Dated: _____