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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
DIA DEB INTERNATIONAL INC.,	:	Case No. 11-13376 (MG)
Debtor.	:	

**MOTION OF THE DEBTOR FOR AN ORDER PURSUANT
TO SECTION 105(a) OF THE BANKRUPTCY CODE
AUTHORIZING (I) USE OF EXISTING BUSINESS FORMS AND
RECORDS; (II) MAINTENANCE OF EXISTING CORPORATE BANK
ACCOUNTS; AND (III) MAINTENANCE OF CASH MANAGEMENT SYSTEM**

TO: THE HONORABLE MARTIN GLENN,
UNITED STATES BANKRUPTCY JUDGE:

Dia Deb International Inc. (the “Debtor”), debtor and debtor in possession in the above-captioned Chapter 11 case, as and for its motion for entry of an order, pursuant to section 105(a) of Title 11 of the United States Code, as amended (the “Bankruptcy Code”) authorizing the Debtor’s (a) continued use of existing business forms and records, (b) maintenance of existing corporate bank accounts; and (c) maintenance of its cash management system (the “Motion”) respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this application pursuant to 28 U.S.C. §§157 and

1334. This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue of this proceeding and this application is proper pursuant to 28 U.S.C. §§1408 and 1409. The statutory predicate for the relief requested herein is 11 U.S.C. §§ 105(a).

Background

2. Since 1969, the Debtor's primary business has been processing rough and loose diamonds into polished finished diamonds, which, along with other loose stones and diamond basics like studs and solitaires, are then supplied to major national retailers, manufacturers and wholesalers.

3. The Debtor's business has been negatively impacted by a number of factors over the last few years including the slowing economy and inordinately large returns of product by its retail partners. These returns lead to heavy margin dilution in an industry that, even in good times, operates on tight margins.

4. Margin loss was also affected by rapid surges in the prices of gold and diamonds, after the Debtor had committed to its customers at the lower prices for these goods.

5. While the Debtor was actively exploring options to restructure or sell its operations, it became unable to timely meet its obligations to its creditors.

6. This led to the filing of an involuntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") by (i) Apex Gems, Inc., (ii) Sanghavi Diamonds Inc. (iii) Bluerays, Inc. and (iv) D&P Diamond Inc. on July 14, 2011 (the "Petition Date").

7. On August 10, 2011, the Debtor moved to convert the Debtor's Chapter 7 case to a case under Chapter 11 of the Bankruptcy Code and on August 11, 2011 (the "Commencement Date"), the Bankruptcy Court entered an order for relief and converted the case to a case under

Chapter 11 (the “Case”). Since the Commencement Date, the Debtor has continued in the management and operation of its business as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

8. No trustee or committee has been appointed in the Debtor’s case.

Relief Requested

9. By this Motion, the Debtor respectfully requests entry of an Order, substantially in the form of the proposed Order annexed hereto as **Exhibit A**, authorizing the Debtor to (a) continue using existing business forms and records; (b) maintain existing corporate bank accounts; and (c) maintenance of its cash management system.

10. The Office of the United States Trustee has established certain operating guidelines for debtors-in-possession in order to supervise the administration of Chapter 11 cases. These guidelines require Chapter 11 debtors to, among other things, (a) close all existing bank accounts and to open new debtor-in-possession bank accounts, (b) establish one debtor-in-possession account for all estate monies required for the payment of taxes including payroll taxes, (c) maintain a separate debtor-in-possession account for cash collateral, and (d) obtain checks for all debtor-in-possession accounts which bear the designation “debtor-in-possession,” the bankruptcy case number and the type of account. These requirements are designed to provide a clear line of demarcation between pre-petition and post-petition transactions and operations and to prevent the inadvertent post-petition payment of pre-petition claims.

Basis for Relief

(i) Continued Use of Business Forms is Warranted

11. By this Application, the Debtor seeks to continue the use of its records system and business forms (including, but not limited to, letterhead, invoices, etc.) and checks (collectively,

the “Business Forms”). In the ordinary course of its business, the Debtor uses a computerized record keeping system, many invoices, stationery and other business forms. The Debtor respectfully submits that opening a new set of books and records and altering its Business Forms would create an unnecessary administrative burden, causing unnecessary expense, utilization of resources and delay. Consequently, the Debtor requires the ability to continue to use its existing Business Forms without alteration or change so as to maintain continuity and minimize administrative costs. Accordingly, the Debtor is requesting that it be authorized to continue to use its existing Business Forms.

12. The Debtor submits that the authorization to use the Business Forms will maximize the productivity of the Debtor’s Chapter 11 case (without violating the policies underlying the Bankruptcy Code), and enable the Debtor to proceed efficiently and expeditiously with this Case.

13. Courts in this district have routinely granted the same or similar relief to chapter 11 debtors. *See, e.g., In re Delphi Corp.*, Case No. 05-44481 (Bankr. S.D.N.Y. Nov. 4, 2005), *In re Northwest Airlines Corp.*, Case No. 05-17930 (Bankr. S.D.N.Y. Oct. 7, 2005); *In re Delta Air Lines, Inc.*, Case No. 05-17923 (Bankr. S.D.N.Y. Oct. 6, 2005); *In re Genuity Inc.*, Case No. 02-43558 (Bankr. S.D.N.Y. Dec. 2, 2002); *In re Ogden N.Y. Servs. Inc.*, Case No. 02-40826 (Bankr. S.D.N.Y. Apr. 2, 2002); *In re WorldCom, Inc.*, Case No. 02-13533 (Bankr. S.D.N.Y. Oct. 15, 2002); *In re Global Crossing. Ltd.*, Case No. 02-40188 (Bankr. S.D.N.Y. May 17, 2002); *In re Adelpia Bus. Solutions. Inc.*, Case No. 02- 1138902-11394 (Bankr. S.D.N.Y. Mar. 27, 2002).

14. Based on the foregoing, the Debtor respectfully requests that it be authorized to continue to use existing records system and Business Forms.

(ii) Continued Use of Continuing Bank Accounts and Cash Management System is Warranted

15. In the ordinary course of its business operations, the Debtor uses a centralized cash management system (“Cash Management System”). The Cash Management System is comprised of two (2) bank accounts (“Continuing Bank Accounts”), consisting of one (1) bank account at Capital One Bank (Account # 7047577416) and one (1) bank account at HSBC Bank (Account # 610-06307-3). The Continuing Bank Accounts are used primarily for payment of ordinary business expenses, including payroll, which is processed for the Debtor by ADP and for collection of accounts receivable.

16. By this Motion, the Debtor requests that it be allowed to maintain each of its Continuing Bank Accounts and its Cash Management System. The Continuing Bank Accounts and Cash Management System are necessary and essential for the continuation of the Debtor’s business and the realization of the greatest value of the Debtor’s estate.

17. The effective operation of the Debtor’s business requires the continued use of its Cash Management System, including its relationship with ADP, during the pendency of this Case. Compelling the Debtor to adopt a new cash management system at this early and critical stage of this case would be expensive and would create an unnecessary administrative burden. Any disruption, therefore, would have a severe and adverse effect upon the Debtor’s ability to reorganize. Consequently, maintenance of the Cash Management System is not only essential but is in the best interests of all creditors and other parties-in-interest.

18. In addition, the Debtor believes it is appropriate and beneficial to continue using the Continuing Bank Accounts in order to avoid substantial disruptions to the Debtor’s reorganization under the Bankruptcy Code. The Debtor has collected receivables and maintained payroll accounts and operating accounts through the Continuing Bank Accounts for an extended period of time. The Debtor believes that any confusion or disruption in the continuity of these

pre-existing procedures would severely hamper the Debtor's ability to operate its business and marshal its assets in the most efficient manner available. This type of disruption would create adverse economic and operational consequences which would negatively affect the Debtor's ability to maximize value for its creditors.

19. Upon information and belief, the banks where the Continuing Bank Accounts are maintained are approved or qualified to be an approved bank depository in the Southern District of New York.

20. From a purely administrative perspective, to require the Debtor to close the Continuing Bank Accounts and open new accounts would be burdensome and thereby disruptive to the Debtor's reorganization efforts. Conversely, maintenance of the Continuing Bank Accounts would avoid delays in the payment of administrative claims, insure a smooth transition into Chapter 11, permit the Debtor's management to focus their undivided attention on the Debtor's case, and would avoid the inconvenience, cost, confusion and delay associated with opening and transferring cash management operations to new accounts.

21. In conjunction with its request to maintain the Continuing Bank Accounts and the Cash Management System, the Debtor also requests authority to preserve various reporting and accounting mechanisms, such as signatory authorizations and the accounting system central to the maintenance of the Continuing Bank Accounts and the Cash Management System. The interruption or termination of such reporting and accounting mechanisms would undermine the utility of the Continuing Bank Accounts and the Cash Management System. In accordance with existing practices and the U.S. Trustee's requirements, the Debtor will maintain records of all receipts and disbursements from the Continuing Bank Accounts during the pendency of the Case.

22. No checks issued from the Continuing Bank Accounts prior to the

commencement of the Case will be honored, unless authorized by separate order of this Court. The Debtor will immediately advise the banks where the Continuing Bank Accounts are maintained not to honor pre-commencement checks absent an order of the Court. By so advising said banks, the Debtor will achieve the goals of (a) establishing a clear demarcation between pre-petition and post-petition checks and (b) blocking the inadvertent payment of pre-commencement checks, without disrupting the Debtor's ongoing operations.

23. The Debtor submits that the relief requested herein is appropriate and within the authority of this Court. A debtor's request for authorization to continue to use its cash management system has been held to be entirely consistent with section 363(c)(1) of the Bankruptcy Code, which allows a debtor in possession to "use property of the estate in the ordinary course of business." *See In re Charter Co.*, 778 F.2d 617, 621 (11th Cir. 1985). Additionally, relief similar to that requested herein has been repeatedly granted by courts in this and other jurisdictions in other chapter 11 cases including *In re Delphi Corp.*, Case No. 05-44481 (RDD) (Bankr. S.D.N.Y. Nov. 4, 2005); *In re Northwest Airlines Corp.*, Case No. 05-17930 (ALG) (Bankr. S.D.N.Y. Oct. 7, 2005); *In re Delta Air Lines, Inc.*, Case No. 05-17923 (Bankr. S.D.N.Y. Oct. 6, 2005); *In re Global Crossing, Ltd.*, Case No. 02-40188 (Bankr. S.D.N.Y. May 17, 2002); *In re Worldcom, Inc.*, Case No. 02-13533 (Bankr. S.D.N.Y. Oct. 15, 2002); *In re The Warnaco Group, Inc.*, Case No. 01-41643 (Bankr. S.D.N.Y. June 11, 2001); *In re Teligent, Inc.*, Case No. 01-12974 (Bankr. S.D.N.Y. June 13, 2001); and *In re The Singer Co. N.V.*, Case No. 99-10578 (Bankr. S.D.N.Y. Nov. 18, 1999). It is respectfully submitted that similar relief is appropriate in this Case.

24. In other Chapter 11 cases, bankruptcy courts have recognized that strict enforcement of bank account closing requirements does not serve the rehabilitative process of

Chapter 11. Bankruptcy courts in this district routinely have waived such requirements and replaced them with alternative procedures on a case-by-case basis. *See In re Delphi Corp., et al.*, No. 05-44481 (Bankr. S.D.N.Y. Oct. 8, 2005); *In re Dana Corp., et al.*, No. 06-10354 (BRL) (Bankr. S.D.N.Y. March 3, 2006); *In re Delta Air Lines, Inc.*, No. 05-17923 (ASH) (Bankr. S.D.N.Y. September 14, 2005). It is respectfully submitted that a similar authorization is appropriate in this case with respect to the Continuing Bank Accounts.

NOTICE

25. Notice of this Motion has been given by e-mail, facsimile transmission, hand delivery or overnight mail or courier service upon: (a) the Petitioning Creditors, by their counsel, (b) the Debtor's pre-petition lender, by its counsel, (c) the twenty (20) largest unsecured creditors of the Debtor; (d) all known creditors who have or assert liens against the Debtor's assets; (e) the Internal Revenue Service; (f) the United States Attorney's Office for the Southern District of New York; (g) the New York State Department of Taxation & Finance; (h) the Office of the United States Trustee; and (i) all parties filing a notice of appearance in this case (collectively, the "Notice Parties"). In light of the nature of the relief requested herein, the Debtor submits that no other or further notice need be given.

WHEREFORE, the Debtor respectfully requests that the Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York
August 11, 2011

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: : Chapter 11
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DIA DEB INTERNATIONAL INC., : Case No. 11-13376 (MG)
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Debtor. :

**ORDER AUTHORIZING DEBTOR’S (I) USE OF EXISTING BUSINESS FORMS
AND RECORDS, (II) MAINTENANCE OF EXISTING CORPORATE BANK
ACCOUNTS, AND (III) MAINTENANCE OF CASH MANAGEMENT SYSTEM**

Upon the motion (the “Motion”) of Dia Deb International Inc., the debtor and debtor in-
possession herein (the “Debtor”), for entry of an order, pursuant to § 105(a) of Title 11 of the
United States Code, as amended (the “Bankruptcy Code”), authorizing the Debtor’s (a)
continued use of existing business forms and records, (b) maintenance of existing corporate bank
accounts, and (c) maintenance of its cash management system; and there being due and sufficient
notice of the Motion under the circumstances; and upon the record of the _____, 2011 hearing
on the Motion; this Court having determined that granting the relief requested in the Motion is in
the best interests of the Debtor, its estate, creditors and equity security holders; and after due
deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the Motion is granted to the extent provided herein; and it is further

ORDERED, that, as set forth in the Motion, the Debtor is authorized (a) to continue to
use its existing business forms and records, (b) to maintain the Continuing Bank Accounts (as
defined in the Motion), and (c) to maintain its cash management system, as described in the
Motion; provided, however, that the Debtor shall cause the term “Debtor-in-Possession” to be
stamped or otherwise imprinted on all checks; and it is further

ORDERED that the Debtor is authorized to open any new bank account or close any Continuing Bank Account as it may deem necessary and appropriate in the ordinary course; provided, however, that the Debtor may open a new bank account only with a bank designated as an authorized depository under the U.S. Trustee Guidelines, unless first obtaining the consent of the U.S. Trustee; and it is further

ORDERED, that the Debtor is authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.

Dated: New York, New York
August __, 2011

UNITED STATES BANKRUPTCY JUDGE