

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

In re:	§	
	§	Chapter 11
	§	
UTEX INDUSTRIES, INC., et al.,	§	Case No. 20- 34932 (DRJ)
	§	
Debtors.¹	§	(Joint Administration Requested)
	§	(Emergency Hearing Requested)

DECLARATION OF ADAM DUNAYER IN SUPPORT OF EMERGENCY MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING, (II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL, (III) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (IV) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (V) MODIFYING AUTOMATIC STAY, (VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF

I, Adam Dunayer, pursuant to 28 U.S.C. § 1764, hereby declare and state:

1. I am Managing Director at Houlihan Lokey Capital, Inc. (“**Houlihan**”).

Together with my team from Houlihan, I have served as financial advisor to the Debtors since January 27, 2020. I submit this Declaration in support of the *Emergency Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Claims, (IV) Granting Adequate Protection to Prepetition Secured Parties, (V) Modifying Automatic Stay, (VI) Scheduling a Final Hearing, and (VII)*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: UTEX Industries, Inc. (9867), RSH Utex Holdings, LLC (4048), Industrial Sealing Solutions Holdings Inc. (0104), UI Sealing Technologies Intermediate Holdings, Inc. (9553), UTEX Holding, Inc. (8260), Applied Rubber Technology, Inc. (1790), CAM Specialty Intermediate Holdings, Inc. (9099), CAM Specialty Products, Inc. (8342), Duraquest, Inc. (7017), Work Manufacturing, L.L.C. (5341), Energy Products LLC (8160), and Arefco Seals, Inc. (5258). The Debtors’ mailing address is 10810 Katy Freeway, Suite 100, Houston, TX 77043.

Granting Related Relief (the “**DIP Motion**”)² and the *Emergency Motion of Debtors for Entry of an Order Authorizing Debtors to File DIP Agent Fee Letter Under Seal* (the “**Sealing Motion**”).

2. Houlihan is an internationally recognized investment banking and financial advisory firm, with twenty-two offices worldwide and more than 950 professionals. Houlihan’s Financial Restructuring Group, which has more than 225 professionals, is one of the leading advisors and investment bankers to unsecured and secured creditors, debtors, acquirers, and other parties-in-interest involved with financially troubled companies both in and outside of bankruptcy. Houlihan has represented debtors in some of the largest restructuring cases in the United States, including: *In re Barneys New York, Inc., et al.*, Case No. 19-36300 (CGM) (Bankr. S.D.N.Y. Sep. 20, 2019) [Docket No. 275]; *In re Ditech Holding Corp.*, Case No. 19-10412 (JLG) (Bankr. S.D.N.Y. Mar. 20, 2019) [Docket No. 225]; *In re New Cotai Holdings, LLC*, Case No. 19-22911 (Bankr. S.D.N.Y. June 12, 2019) [Docket No. 98]; *In re Bristow Group Inc.*, Case No. 19-32713 (DRJ) (Bankr. S.D. Tex. July 30, 2019) [Docket No. 482]; *In re PHI, Inc.*, No. 19-30923 (HDH) (Bankr. N.D. Tex. May 13, 2019) [Docket No. 441]; *In re Waypoint Leasing Holdings Ltd.*, Case No. 18-13648 (SMB) (Bankr. S.D.N.Y. Jan. 18, 2019) [Docket No. 290]; *In re Heritage Home Grp. LLC*, Case No. 18-11736 (KG) (Bankr. D. Del. Aug. 24, 2018) [Docket No. 176]; *In re Walter Inv. Mgmt. Corp.*, Case No. 17-13446 (JLG) (Bankr. S.D.N.Y. Dec. 22, 2017) [Docket No. 113]; *In re Seadrill Limited*, Case No. 17-60079 (DRJ) (Bankr. S.D. Tex. Oct. 31, 2017) [Docket No. 376]; *In re Angelica Corp.*, Case No. 17-10870 (JLG) (Bankr. S.D.N.Y. May 9, 2017) [Docket No. 162]; *In re Gawker Media LLC*, Case No. 16-11700 (SMB) (Bankr. S.D.N.Y. July 14, 2016) [Docket No. 97]; *In re Phoenix Brands, LLC*, Case No. 16-11242 (BLS) (Bankr. D. Del. July 5, 2016) [Docket No. 243]; *In re Relativity Fashion, LLC*, Case No. 15-11989 (MEW) (Bankr.

² Capitalized terms used but not otherwise defined herein have the meaning given them in the DIP Motion.

S.D.N.Y. Feb. 1, 2016) [Docket 1515]; *In re Trump Entertainment Resorts, Inc.*, Case No. 14-12103 (KG) (Bankr. D. Del. Oct. 6, 2014) [Docket No. 231]; *In re Northhampton Generating Co., LP*, Case No. 11-33095 (JCW) (Bankr. W.D.N.C. Jan. 3, 2012) [Docket No. 63]; *In re AES Thames, L.L.C.*, No. 11-10334 (KJC) (Bankr. D. Del. Mar. 30, 2011) [Docket No. 131]; *In re MSR Resort Golf Course LLC*, Case No. 11-10372 (SHL) (Bankr. S.D.N.Y. Mar. 6, 2011) [Docket No. 139]; *In re Truvo USA LLC*, No. 10-13513 (AJG) (Bankr. S.D.N.Y. Oct 12, 2010) [Docket No. 267]; *In re Premier Inter. Holdings, Inc.*, Case No. 09-12019 (CSS) (Bankr. D. Del. Oct 8, 2009) [Docket No. 772]; *In re Mark IV Indus., Inc.*, Case No. 09-12705 (SMB) (Bankr. S.D.N.Y. May 28, 2009) [Docket No. 167].

3. I am a member of Houlihan's Financial Restructuring Group. I have over 25 years of experience consummating transactions and providing strategic advice to companies and creditors in connection with in- and out-of-court special situations, mergers, acquisitions, and dispositions. I also have extensive experience raising debt and equity capital in public and private markets. My experience spans industries including energy and oilfield services, consumer products, food, healthcare, building products, general industrial, telecom, and technology. My recent engagements include Ciber Inc (company), Forest Park Medical Center (company), Smile Brands (secured creditors), Quicksilver Resources (company), Allen Systems Group (secured creditors), Sadler's Smokehouse (company), Spansion (secured creditors), Innovative Communication (company), Heartland Automotive (secured creditors), Pilgrim's Pride (equity committee), and Reddy Ice (bondholder). Specifically, in the energy and oilfield services industry, my recent engagements include Parker Drilling (unsecured noteholders), Preferred Proppants (secured creditors), Montco Offshore (company), AFGlobal Corporation (secured creditors), US Well Services (company), Key Energy Services (unsecured noteholders), Permian

Holdings (secured creditors), Stallion Oilfield Services (company), Seventy Seven Energy (unsecured noteholders), Globe Energy Services (company), Signal International (secured creditors), Platinum Energy Solutions (company), and Murphy Energy Corporation (company). I speak frequently on trends and issues in special situations and other topics. I have also testified as an expert witness on a variety of bankruptcy and special situations issues.

4. Before joining Houlihan, I was a Managing Director with Bear, Stearns & Co. In addition, I was an Executive Vice President and Chief Financial Officer with Miller Industries, where I also served as President of the company's largest subsidiary.

5. All facts and opinions set forth in this declaration are based upon: (a) my personal knowledge; (b) information learned from my review of relevant documents; (c) information supplied to me or verified by the company or other members of my team at Houlihan; and/or (d) my experience and knowledge concerning financial restructuring, mergers, acquisitions and dispositions, leveraged buyouts, and capital-raising activities.

6. The above-captioned Debtors-in-Possession (the "**Debtors**") commenced voluntary cases (the "**Bankruptcy Cases**") under chapter 11 of the Bankruptcy Code by the filing of petitions in the Bankruptcy Court for the Southern District of Texas (the "**Bankruptcy Court**") on [October 8, 2020] (the "**Petition Date**").

7. On January 27, 2020, Houlihan was engaged by the Debtors as investment banker charged with assisting and advising the Debtors with the analysis, evaluation, pursuit and effectuation of a financial restructuring or reorganization transaction. Houlihan agreed to (i) assist the Debtors in the development and distribution of selected information, documents and other materials, including, if appropriate, advise the Debtors in the preparation of a financing offering memorandum; (ii) assist the Debtors in evaluating indications of interest and proposals

regarding any transaction from current and/or potential lenders, equity investors, and/or strategic partners; (iii) assist the Debtors with the negotiation of any transaction(s), including participating in negotiations with creditors and other parties involved in any transaction(s); (iv) provide expert advice and testimony regarding financial matters related to any transaction(s), if necessary; (v) attend meetings of the Debtors' Board of Directors, creditor groups, official constituencies and other interested parties; and (vi) provide such other financial advisory and investment banking services as may be required by the Debtors.

Negotiation and Terms of Debtor-in Possession Financing

8. The Debtors' substantial prepetition secured indebtedness informs the negotiation and terms of the Debtors' proposed \$25 million Senior Secured Superpriority Debtor-in-Possession Credit Facility (the "**DIP Facility**"), convertible into the proposed \$42.5 million exit financing facility. As of the Petition Date, the Debtors have outstanding funded debt obligations in the aggregate amount of approximately \$763 million, which amount consists of (i) approximately \$563 million of borrowings of first lien term and revolver loans (the "**First Lien Facility**") pursuant to certain First Lien Credit Agreement, dated as of April 10, 2013, (as amended, restated, supplemented, or otherwise modified from time to time, the "**First Lien Credit Agreement**"); and (ii) approximately \$200 million in borrowings of second lien term loans (the "**Second Lien Facility**", and together with the First Lien Facility, the "**Prepetition Facilities**") pursuant to that certain Second Lien Credit Agreement, dated as of April 10, 2013, (as amended, restated, supplemented, or otherwise modified from time to time, the "**Second Lien Credit Agreement**"). Under the First Lien Facility, the Debtors faced a scheduled May 2020 maturity on their \$50 million revolving credit facility and a scheduled May 2021 maturity on approximately \$513 million of their term loan facility. I am advised that the Prepetition Facilities are secured by valid and perfected first-priority liens on substantially all of the Debtors' assets.

Houlihan has concluded, however, that the going-concern value of the Debtors' assets fall significantly short of the total outstanding obligations under the Prepetition Facilities. In addition, I understand that the secured creditors under the Prepetition Facilities will not consent to the priming of their security interests by a third party proposing postpetition financing.

9. Based upon my understanding of the Debtors' liquidity needs, the current state of debt markets, and inquiries to potential postpetition financing sources, I do not believe alternative sources of financing are readily available to the Debtors (whether unsecured or secured) on better or comparable terms than the DIP Facility.

10. It is unlikely that any third-party lenders would be willing to provide DIP Financing. First, a third party would be highly unlikely to lend on a non-priming basis, because there are insufficient unencumbered assets to secure postpetition financing of the size needed to permit the Debtors to successfully operate their businesses throughout the pendency of these Bankruptcy Cases. The DIP Lenders, who already have a significant economic interest in the Debtors, were unwilling to lend on an unsecured or junior secured basis. Second, a third party would be highly unlikely to finance a nonconsensual, priming postpetition financing (as would be required here given the prepetition secured parties' unwillingness to consent to priming), as such an attempt would require time and resources by the lender, would be expensive to litigate, and would be unlikely to succeed. The pricing of such a facility would undoubtedly be extremely expensive, reflecting this risk. Even if a third party was willing to incur this risk and cost, it is practically unthinkable that such financing would also be able to provided both the clear path to the exit from chapter 11, the conversion to a necessary exit facility, and also underwrite a chapter 11 plan with universal stakeholder support that pays, administrative, priority and general unsecured creditors in full.

11. In addition to the difficulties I set out in paragraph 10 above, which would likely be encountered regardless of economic conditions, the circumstances in which the Debtors would have to raise third party financing has been severely disrupted by both the COVID-19 pandemic and the dramatic decline in the price of crude oil and drilling activity, which compounds the difficulty, risk, and cost of third party financing, even if such financing was available.

12. Any alternative path for financing would, at best, substantially delay and increase the cost of the confirmation of the Debtors' plan of reorganization and emergence from chapter 11, or at worst, scuttle the Debtor's efforts to reorganize and force them into liquidation to the detriment of all economic stakeholders. As a result, I do not believe that third-party postpetition financing would be reasonably available or prudent given the realities imposed by the Debtors' existing secured debt obligations to creditors under the Prepetition Facilities.

13. Given these facts and my experience in finance and restructuring transactions, the Debtors and Houlihan approached the DIP Lenders, who hold a majority of the debt in the First Lien Facility, for postpetition financing because they were the most likely, if not the only, group willing to consummate such a transaction with the Debtors.

14. The Debtors, with the assistance of their advisors, therefore focused on negotiating with the DIP Lenders and their advisors to obtain the best terms available. Over the course of several weeks, HL, along with the Debtors and the Debtors' other advisors, actively negotiated the terms and provisions of the DIP Facility. Those arms'-length negotiations led to improvements in terms for the Debtors, including, among other things, an increase in the total committed amount, concessions on certain fees, and modifications to the initially proposed events of default and milestones. Despite the parties vigorously negotiating to protect their own interests,

all parties showed good faith throughout the negotiations. All parties were represented by experienced counsel and financial advisors. As a result of these arms'-length negotiations, the parties agreed upon, and the Debtors presently request authority to enter into, the DIP Facility on the terms set forth in the Motion, the Interim Order and the DIP Credit Agreement.

15. The size, terms and pricing of the DIP Facility are fair and reasonable given the Debtors' circumstances and the industry and economic pressures they face. In particular, as set out below, the ability to convert the DIP Facility to an exit facility is of substantial value to the Debtors, and in my opinion, the pricing, including the interest rate, issued discount, fees, and milestones of the DIP Facility are fair and reasonable, particularly when considered in the broader context of the availability of the exit conversion and not merely the expected term of the DIP Facility during these chapter 11 cases. As noted above, the pricing of the DIP Facility was negotiated at arms' length with the DIP Lenders.

16. I believe the provision of perfected first priority security interest and lien on substantially all of the Debtors' assets is also reasonable under the circumstances. That was also a requirement of the DIP Lenders, and, in my view and based on my work on this matter, absent such protections, no financier would have agreed to provide the DIP Facility without obtaining such protections. Moreover, the provision of adequate protection to the Prepetition Secured Parties to compensate them for any postpetition diminution in value, was necessary to allow the Debtors to continue to use the Cash Collateral. These provisions are customary when prepetition secured creditors consent to a senior postpetition facility and the terms thereof are, in my opinion, fair and reasonable.

Sufficiency of Adequate Protection

17. As part of the Prepetition Lenders' consent to use of Cash Collateral, the Debtors have agreed to provide the Prepetition Secured Parties with certain forms of adequate

protection to compensate for any postpetition diminution in value of their collateral. The proposed adequate protection package includes replacement liens and superpriority claims granted under section 507(b) of the Bankruptcy Code, payment of professional fees and expenses, and continued access to information and financial reporting, among other things, and reflects standard and customary terms for adequate protection in the context of the DIP Facility and a case of this size and nature.

Debtors' Need for DIP Financing and Use of Cash Collateral.

18. The Debtors require immediate access to the DIP Facility and the authority to use cash collateral throughout the chapter 11 process to ensure they have sufficient liquidity to operate their businesses, including meeting their employee payroll and working capital requirements, and administer their estates in the ordinary course for the duration of these chapter 11 cases. The Debtors are entering chapter 11 with limited cash on hand and available liquidity will be exhausted shortly after the Petition Date. Without approval of the DIP Facility on an interim basis, I believe the Debtors will suffer immediate and irreparable harm, as they will be unable to swiftly proceed to confirmation of their fully consensual prepackaged plan, supported by every major impaired stakeholder group or continue operating their businesses, and will instead likely exhaust remaining liquidity and be forced to liquidate, resulting in a significant deterioration in the value of the Debtors' businesses to the detriment of all stakeholders. Delay will only serve to deplete the assets of the Debtors' estates to the detriment of all stakeholders.

19. The proposed DIP Facility will provide the Debtors with immediate access to liquidity that is necessary to ensure that the Debtors' business is stabilized, chapter 11 administrative costs are paid in full, and value is preserved during the course of the Debtors' reorganization. Additionally, I do not believe it would be prudent, or even possible, to administer the Debtors' chapter 11 estates on a "cash collateral" basis. Without access to the DIP Facility,

the Debtors would have limited cash on hand, and I do not expect the Debtors to be able to generate sufficient levels of operating cash flow in the ordinary course of business to cover their working capital needs and the projected administrative costs of these chapter 11 cases.

20. In addition, the DIP Facility is convertible to an exit financing facility, granting the Debtors certainty they will be able to swiftly emerge from chapter 11, and permitting the case to be conducted on an accelerated timeline, minimizing both the substantial expenses which would be incurred in a longer bankruptcy case and disruption to the Debtors' business operations.

21. In the months leading up to the Petition Date, Houlihan, with the assistance of the Debtors' management and AlixPartners, LLP ("**AlixPartners**"), evaluated the Debtors' forecasted cash flow and liquidity needs in a chapter 11 scenario to determine the amount of post-petition financing that would be required to operate the Debtors' businesses and pay administrative costs during a chapter 11 process. Based on this analysis, the Debtors and their advisors concluded that the Debtors would require approximately \$42.5 million of new money, post-petition financing and access to cash collateral to finance their operations and maintain sufficient liquidity through the course of these chapter 11 cases, and fund their emergence from chapter 11 through conversion of the DIP Facility to an exit facility. The Debtors and their advisors continued to update the budget leading up to the Petition Date to account for changes in the Debtors' funding needs resulting from, among other things, the estimated timing of the commencement of these chapter 11 cases. The Debtors' current budget is attached to the DIP Motion as Exhibit C (the "**DIP Budget**"). The DIP Budget reflects the Debtors' need for DIP Financing to fund the Debtors' chapter 11 process, while maintaining an adequate liquidity cushion if confirmation of the prepackaged plan is delayed and the chapter 11 proceeds longer than anticipated. The DIP Budget,

along with previous iterations thereof, was shared with the certain lenders under the First Lien Facility in accordance with the terms of forbearances granted to the Debtors.

22. I believe the proposed DIP Facility is essential to fund these chapter 11 cases and provides significant benefit to the Debtors and their estates. First, as evidenced by the recent frequency of chapter 11 filings among oil and gas companies, the current commodity price and resulting capital market conditions in the oil and gas industry are volatile and distressed. Entry into the DIP Facility, providing the Debtors with sufficient capital to operate their business and fund their emergence at the outset of these chapter 11 cases provides a degree of certainty regarding the restructuring process and instills confidence in the Debtors' vendors, customer base, employees, counterparties, regulators, and business partners by assuring them that the Debtors will be able to continue operating "business as usual" and otherwise pay their obligations as they come due after the Petition Date.

23. Based on the foregoing, it is my belief that the proposed DIP Facility represents the best option available to address the Debtors' immediate liquidity needs, and that the terms and conditions of the DIP Facility are reasonable and appropriate under the circumstances.

24. Accordingly, I believe that the proposed DIP Facility should be approved on the terms and conditions described in the DIP Credit Agreement and the Interim DIP Order, and entry into the DIP Facility reflects a sound exercise of the Debtors' business judgment.

Sealing Motion

25. In support of the DIP Motion, the Debtors have filed the letter agreement (the "**DIP Agent Fee Letter**") among UTEX Industries, Inc., as borrower, and Alter Domus (US) LLC, as administrative agent (in such capacity, the "**DIP Agent**"), and have sought an order in the Sealing Motion that the DIP Agent Fee Letter be filed under seal. The terms of the DIP Agent Fee Letter are the product of extensive good faith, arms' length negotiations, and the Debtors have

agreed to keep such terms confidential. The DIP Agent has advised the Debtors that the DIP Agent Fee Letter contains closely-guarded, proprietary, and commercial information that is highly sensitive to the DIP Agent, namely, proprietary information describing the fees to be paid in connection with the foregoing, which is customarily considered by the DIP Agent, specifically, and the commercial lending industry, in general, to be highly sensitive and confidential information not typically disclosed to the public or made available to other competing financial institutions. Given the highly competitive nature of the investment banking and lending industries, disclosure of the terms of the DIP Agent Fee Letter would cause substantial harm to the DIP Agent, creating an unfair advantage to its competitors and would violate the Debtors' agreement to maintain the DIP Agent Fee Letter's confidentiality. In my experience, it is customary for an administrative agent's fee letter to be filed under seal in connection with DIP financings.

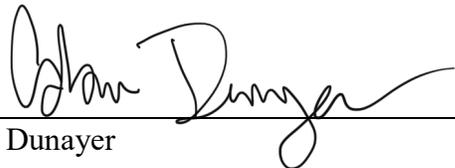
26. Accordingly, I believe that the Sealing Motion should be approved.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 8, 2020

Houston, Texas



Adam Dunayer

Certificate of Service

I hereby certify that on October 8, 2020, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, and will be served as set forth in the Affidavit of Service to be filed by the Debtors' proposed claims, noticing, and solicitation agent.

/s/ Alfredo R. Pérez
Alfredo R. Pérez