



ENTERED
10/23/2020

**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	§	(Jointly Administered)
	§	Re: Docket No. 11

**FINAL ORDER (I) AUTHORIZING DEBTORS TO
(A) CONTINUE PARTICIPATING IN EXISTING CASH MANAGEMENT
SYSTEM, AND USING BANK ACCOUNTS AND BUSINESS FORMS,
(B) CONTINUE INTERCOMPANY TRANSACTIONS, AND, (C) CONTINUE
USING CORPORATE CREDIT CARDS; AND (II) PROVIDING
ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION
INTERCOMPANY CLAIMS, AND (III) GRANTING RELATED RELIEF**

(Docket No. 11)

Upon the motion, dated October 8, 2020 (the “**Motion**”)², of UTEX Industries, Inc.

and its debtor affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), for a final order (a) authorizing, but not directing, the Debtors to (i) continue using their existing cash management system, (ii) maintain their existing business forms and bank accounts, (iii) continue their intercompany transactions, (iv) pay related prepetition obligations, and (b) granting related relief, pursuant to 105(a) 363(b), 345, and 363(c), 364, 503, and 507 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure, all as more fully set forth in the Motion; and the Court

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.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334(b), and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and all objections, if any, to the Motion having been withdrawn, resolved, or overruled; 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 it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; 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 Motion is granted as set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue to manage their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect, concentrate, and disburse cash in accordance with the Cash Management System, including through Intercompany Transactions, and to make ordinary course changes to their Cash Management System without further order of the Court; *provided that* the Debtors provide reasonable notice to the U.S. Trustee and any statutory committee appointed in these chapter 11 cases of material changes to the Cash Management System.
3. Subject to the Debtors continuing to make payments of amounts owing with respect to the Corporate Credit Cards, including any amounts relating to the prepetition period

(which for the avoidance of doubt are authorized hereby), the Debtors are authorized, but not directed, to continue using, and performing their obligations under, the Corporate Credit Cards.

4. Notwithstanding any other order of this Court, none of the Banks or Credit Card Providers will be required to file any proofs of claim in any of the chapter 11 cases or successor cases, whether such claim arose prepetition or postpetition or pursuant to this order, pertaining to the Cash Management System, any Bank Fees or the Corporate Credit Cards in order to preserve such claims.

5. Nothing in this order shall be deemed to affect any party's otherwise valid setoff or netting rights under applicable law or valid right under applicable law to impose an administrative freeze on any Bank Account and the rights of any Bank to seek to assert a setoff right (if any) with respect to any prepetition claim (other than in connection with the Bank Fees) or impose an administrative freeze on any Bank Account are reserved, subject to the automatic stay pursuant to section 362(d) of the Bankruptcy Code to the extent applicable.

6. The Debtors are authorized, but not directed, to continue using, in their present form (or as subsequently amended in accordance with this Order), the Business Forms, as well as checks (subject to paragraph 18 below) and other documents related to the Bank Accounts existing immediately before the Petition Date.

7. Each of the Banks is authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other

order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

8. The Debtors shall maintain accurate records of all transfers within the Cash Management System so that all postpetition transfers and transactions shall be adequately and promptly documented in, and readily ascertainable from, their books and records, to the same extent maintained by the Debtors before the Petition Date. The Debtors shall make such records available upon reasonable request by the U.S. Trustee and any statutory committee appointed in these chapter 11 cases.

9. The Debtors are further authorized to: (i) designate, maintain and continue to use any or all of their existing Bank Accounts in the names and with the account numbers existing immediately before the Petition Date; (ii) deposit funds in and withdraw funds from such accounts by all usual means, including, without limitation, checks, wire transfers, ACH transfers and other debits; (iii) pay any Bank Fees or other charges associated with the Bank Accounts, whether arising before or after the Petition Date, consistent with the Debtors' historical practice; and (iv) treat their prepetition Bank Accounts for all purposes as debtor-in-possession accounts.

10. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Interim Order.

11. The Debtors are authorized to open new bank accounts; *provided* that all bank accounts opened by any of the Debtors on or after the Petition Date at any Bank shall, for purposes of this Order, be deemed a Bank Account as if it had been listed on **Appendix 1** to this

Order; *provided further* that such opening of a bank account shall be timely indicated on the Debtors' monthly operating report and notice of such opening shall be provided within five (5) business days to the U.S. Trustee and counsel to any statutory committee appointed in the Chapter 11 Cases; *provided further* that the Debtors shall open any such new Bank Account at a bank that (i) has executed a Uniform Depository Agreement with the U.S. Trustee, or at such bank that is willing to immediately execute such agreement, (ii) insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (iii) designated as an authorized depository by the U.S. Trustee pursuant to the U.S. Trustee's Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees, and (iv) agrees to be bound by the terms of this Order.

12. Each Bank is authorized to accept and rely upon, without further inquiry, all representations from the Debtors as to which checks, drafts, wires or ACH transfers are dated prior to, on or after the Petition Date and which checks are to be honored or dishonored, regardless of whether or not such payment or honoring is or is not authorized by an order of the Court. No Bank shall incur, and each Bank is hereby released from, any liability for relying upon any Debtor's instruction as to which checks, drafts, wires or ACH transfers should be honored or dishonored or for such Bank's inadvertence in honoring any check, draft, wire or ACH transfer at variance from the Debtors' instructions unless such inadvertence constituted gross negligence or willful misconduct on the part of such Bank. Each Debtor shall promptly provide a list of checks to each Bank for each Bank Account maintained at such Bank specifying, by check sequencing number, dollar amount, date of issue and payee information, those checks that are to be dishonored by such Bank, which checks may include those issued after the Petition Date as well as those issued prior to the Petition Date that are not to be honored or paid according to any order of the Court, and each Bank may honor all other checks. Except for those checks, drafts, wires or ACH transfers

that are authorized or required to be honored under an order of the Court, the Debtors shall not instruct or request any Bank to pay or honor any check, draft or other payment item issued on a Bank Account prior to the Petition Date but presented to such Bank for payment after the Petition Date.

13. Nothing contained herein shall prevent the Debtors from closing any Bank Account(s) as they may deem necessary and appropriate, to the extent consistent with the terms of any prepetition financing agreement and postpetition financing agreement and any order(s) of this Court relating thereto, any relevant Bank is authorized to honor the Debtors' requests to close such Bank Accounts, and the Debtors shall give notice of the closure of any account within fifteen (15) days to the U.S. Trustee and counsel to any statutory committee appointed in the Chapter 11 Cases.

14. The Debtors are authorized pursuant to sections 363(c) and 364(a) of the Bankruptcy Code to continue to engage in the Intercompany Transactions in the ordinary course of business.

15. All Intercompany Claims arising after the Petition Date as a result of the Intercompany Transactions shall be accorded administrative expense priority status in accordance with sections 364(a) and 503(b) of the Bankruptcy Code.

16. The Debtors are authorized to use their existing Business Forms; *provided that* if the Debtors do not confirm a plan of reorganization within forty five (45) days of the Petition Date, (i) once the Debtors' existing check stock has been exhausted, the Debtors shall include, or direct others to include, the designation "Debtor-in-Possession" and the corresponding bankruptcy case number on all checks as soon as it is reasonably practicable to do so, and (ii) with respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor-In-Possession."

17. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

18. The Debtors shall have until December 14, 2020 (or such additional time as the U.S. Trustee may agree to) within which either to come into compliance with section 345(b) of the Bankruptcy Code and any of the U.S. Trustee's requirements or guidelines, or to make such other arrangements as agreed to by the U.S. Trustee; *provided, however*, that if the Prepackaged Plan is confirmed prior to the expiration of such time, the Debtors obligations to come into compliance with section 345(b) shall be waived. Such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code at a later date, including by entering and filing a stipulation with the U.S. Trustee on the Court's Docket, in which case no further order shall be required.

19. Nothing contained in the Motion or this Order, nor any payment made pursuant to the authority granted by this Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

20. Notwithstanding anything to the contrary contained in the Motion or this Order, any payment to be made and any relief or authorization granted hereunder shall not be inconsistent with, and shall be subject to, the requirements imposed on the Debtors in any orders

entered by this Court authorizing the Debtors to obtain debtor-in-possession financing and authorizing the use of cash collateral (any such order, a “**DIP Order**”). To the extent that there may be any inconsistency between the terms of this Interim Order and the terms of any DIP Order, the terms of the DIP Order will govern.

21. Notwithstanding entry of this Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

22. Under the circumstances of the Chapter 11 Cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

23. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

24. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

25. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Signed: October 23, 2020.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

Appendix 1

	Entity	Bank Name	Account Number (Last 4)	Account Type
1	UTEX Industries, Inc.	AmegyBank of Texas	6199	General Operating
2	UTEX Industries, Inc.	AmegyBank of Texas	1887	Zero Balance
3	UTEX Industries, Inc.	AmegyBank of Texas	6237	Payroll/ Zero Balance
4	UTEX Industries, Inc.	AmegyBank of Texas	1925	Zero Balance
5	UTEX Industries, Inc.	AmegyBank of Texas	7915	Checking
6	UTEX Industries, Inc.	AmegyBank of Texas	9720	Other
7	UTEX Industries, Inc.	Bank of America	4127	Checking
8	UTEX Industries, Inc.	Hill Bank	5040	Checking
9	Energy Products, LLC	AmegyBank of Texas	7881	General Operating
10	Energy Products, LLC	AmegyBank of Texas	8069	Other
11	Energy Products, LLC	AmegyBank of Texas	7899	Zero Balance