

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division**

IN RE:)	
)	
JOANNE'S BED & BACK STORES, INC.)	Case No. 08-14606 (TJC)
)	(Chapter 11)
Debtor)	

**NOTICE OF FINAL HEARING ON
MOTION FOR FINAL ORDER (1) AUTHORIZING DEBTOR-IN-POSSESSION
TO OBTAIN FINANCING, GRANT SECURITY INTERESTS PURSUANT TO
11 U.S.C. §§ 361 AND 364(d); AND (2) MODIFYING AUTOMATIC STAY
SCHEDULED FOR APRIL 21, 2008 AT 11:00 A.M.**

PLEASE TAKE NOTICE THAT a final hearing on the Motion for Final Order (1) Authorizing Debtor-in-Possession to Obtain Financing, Grant Security Interests Pursuant to 11 U.S.C. §§ 361 and 364(d); and (2) Modifying Automatic Stay (the "Motion") is scheduled for **April 21, 2008 at 11:00 a.m.**, in the United States Bankruptcy Court for the District of Maryland, 6500 Cherrywood Lane, Courtroom, 3rd Floor, Greenbelt, Maryland 20770. Objections to the Motion must be filed by 5:00 p.m. on April 18, 2008.

Respectfully submitted,

**SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.**

By: /s/ Michael J. Lichtenstein
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Dated: April 11, 2008

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division**

IN RE:)	
)	
JOANNE'S BED & BACK STORES, INC.)	Case No. 08-14606 (TJC)
)	(Chapter 11)
Debtor)	

**EMERGENCY MOTION FOR THE ENTRY OF INTERIM AND FINAL
ORDERS PURSUANT TO SECTION 364 OF THE BANKRUPTCY CODE
(A) AUTHORIZING THE DEBTOR TO OBTAIN DEBTOR-IN-POSSESSION
FINANCING (B) GRANTING SECURITY INTERESTS AND PRIORITY
CLAIMS, (C) APPROVING AGREEMENT RELATING TO THE FOREGOING
(D) GRANTING RELATED RELIEF, AND (E) SCHEDULING A FINAL
HEARING ON THE MOTION PURSUANT TO BANKRUPTCY RULE 4001(C)**

JoAnne's Bed & Back Stores, Inc. (the "Debtor"), debtor and debtor-in-possession in the above-styled chapter 11 case, files this emergency motion (the "Motion") for the entry of an order pursuant to section 105 and section 364 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the "Bankruptcy Code") and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") (a) authorizing the Debtor to obtain debtor-in-possession financing, (b) granting security interests and priority claims, (c) approving the agreement related to the foregoing, and (d) granting related relief. In support of this Motion, the Debtor respectfully states as follows:

PRELIMINARY STATEMENT

1. In order to provide the Debtor with the necessary funding to prevent the Debtor from having a cash shortfall, Mark Levin¹ (the "DIP Lender") has agreed to provide the Debtor with debtor-in-possession financing pursuant to that certain Post-Petition Revolving Credit and

¹ Mr. Levin is the Debtor's Chairman.

Security Agreement (the “Post-Petition Credit Agreement”), a copy of which is attached hereto as Exhibit A. Therefore, the Debtor requests that the Court authorize it to obtain post-petition financing from the DIP Lender pursuant to the Post-Petition Credit Agreement.

JURISDICTION AND VENUE

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On April 2, 2008, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its properties as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. The Debtor is a Maryland corporation with its principal place of business at 11714 Baltimore Avenue, Beltsville, Maryland 20705. Prior to the Petition Date, the Debtor operated sixteen (16) stores, including a warehouse in Maryland, Washington, DC and Virginia, which sell ergonomic mattresses, adjustable beds, office, lounge and massage chairs, seat lift chairs, comfort accessories and other furniture.

5. As of the Debtor’s last payroll, the Debtor employed approximately 43 employees.

RELIEF REQUESTED

6. Currently, the Debtor has insufficient funds to continue operating its business pending a sale of assets.

7. By this Motion, the Debtor respectfully requests the entry of interim and final orders pursuant to sections 105 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001 and 9014 (a) granting authority for the Debtor to obtain secured debtor-in-possession

financing, (b) granting security interests and priority claims, (c) approving the Post-Petition Loan and Security Agreement, and (d) granting related relief.

THE NEED FOR FINANCING

8. At this point, the Debtor has insufficient funds to continue to operate until the sale of substantially all of its assets and to fund expenses on a going forward basis.

9. The Debtor believes, in its business judgment, that conducting the sale will provide the greatest return to creditors.

10. Accordingly, the Debtor seeks authority to enter into the Post-Petition Credit Agreement with the DIP Lender to ensure that sufficient financing will be available to fund operations and to pay such other business expenses necessary to preserve the Debtor's business.

SUMMARY OF THE DIP FACILITY

11. As set forth in more detail in the Post-Petition Credit Agreement, the loan from the DIP Lender (the "Post-Petition Credit Facility") contains the following pertinent terms.²

<u>BORROWER:</u>	JoAnne's Bed & Back Stores, Inc.
<u>REVOLVING LOAN COMMITMENT:</u>	\$250,000.00 in the aggregate.
<u>USE OF PROCEEDS:</u>	The proceeds of the Loan shall be used to finance ordinary course working capital expenses and ongoing administrative expenses of Borrower during the Chapter 11 Case.
<u>INTEREST:</u>	Prime plus 2% per annum. Interest shall accrue and be due and payable in full on the Maturity Date.
<u>MATURITY</u>	The earlier of i) acceleration of maturity of the Obligations upon the occurrence an Event of Default, (ii) July 4, 2008, (iii) the effective date of a plan of reorganization approved by an

² This Motion contains only a summary of the terms of the Post-Petition Credit Agreement. Parties in interest are encouraged to review the Post-Petition Credit Agreement in detail. To the extent of any differences between this summary and the Post-Petition Credit Agreement, the Post-Petition Credit Agreement controls.

order of the Bankruptcy Court and (iv) the effective date of any Sale pursuant to Section 363 of the Bankruptcy Code.

OPTIONAL PREPAYMENT OF LOANS:

Optional prepayment, without penalty or premium.

LIENS AND PRIORITY CLAIMS:

Priority liens on the Collateral.

COLLATERAL:

All assets of Borrower.

REPRESENTATIONS AND WARRANTIES:

Limited customary representations and warranties for a transaction of this nature.

COVENANTS:

Limited customary covenants for a transaction of this nature.

EVENTS OF DEFAULT:

Customary events of default for a transaction of this nature.

BASIS FOR RELIEF

12. Section 364 of the Bankruptcy Code provides, in pertinent part, as follows:

(a) unless the court orders otherwise, the trustee³ may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable under section 503(b)(1) of this title as an administrative expense.

(b) The court, after notice and a hearing, may authorize the trustee to obtain unsecured credit or to incur unsecured debt other than under subsection (a) of this section, allowable under section 503(b)(1) of this title as an administrative expense.

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt –

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

³ Under section 1107(a) of the Bankruptcy Code, a debtor-in-possession has substantially all the rights and powers of a trustee in a chapter 11 case.

(3) secured by a junior lien on property of the estate that is subject to a lien.

(d) (1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

See 11 U.S.C. § 364(a) through (d)(1).

13. Section 364 of the Bankruptcy Code provides bankruptcy courts with the power to authorize post-petition financing for a Chapter 11 debtor-in-possession. See In the Matter of Vineyard Bay Develop. Co., Inc., 132 F.3d 269, 272 (5th Cir. 1998); see also In re Pro Set, Inc., 193 B.R. 812, 814 (Bankr. N.D. Tex. 1996) (court’s prior order authorized debtor to incur post-petition indebtedness under section 364); see also In re Defender Drug Stores, Inc., 126 B.R. 76, 81 (Bankr. D. Ariz. 1991). “Having recognized the natural reluctance of lenders to extend credit to a company in bankruptcy, Congress designed [section] 364 to provide ‘incentives to the creditor to extend post-petition credit.’” See Defender Drug Store, 126 B.R. at 81. The incentives enumerated in section 364 are not intended to be an exhaustive list of the inducements that a court may grant. Id. In fact, it is not uncommon for a court to approve a lending arrangement containing terms that far exceed those authorized by section 364. Id.

14. Generally, courts apply a three-part test to determine whether credit obtained may be granted under section 364(c). The three-part test includes demonstrating that (i) the debtor cannot obtain credit unencumbered or without superpriority status, (ii) the credit transaction is necessary to preserve the assets of the estates, and (iii) the terms of the credit agreement are fair, reasonable and adequate given the circumstances of the debtor-borrower and the proposed

lender. See In re Crouse Group, Inc., 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987), *aff'd*, 75 B.R. 553 (E.D. Pa. 1987).

15. Against this statutory backdrop, courts will evaluate the facts and circumstances of a debtor's case and accord significant weight to the necessity for obtaining the financing. See In re Ames Dep't Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990). Debtor-in-possession are generally permitted to exercise their basic business judgment consistent with their fiduciary duties when evaluating the necessity of proposed protections for a party extending credit under section 364 of the Bankruptcy Code. Id. at 38. Further, in satisfying the standards of section 364 of the Bankruptcy Code, a debtor does not need to seek credit from every possible source. Rather, it should make a reasonable effort to seek other sources of credit of the type set forth in sections 364(a) and (b). See In re Snowshoe Co., 789 F. 2d 1085, 1088 (4th Cir. 1986) (finding that trustee had demonstrated good faith effort that credit was not available without granting of senior liens: "the statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable").

16. In light of the circumstances in which the Debtor needs funding, including the limited amount of time within which such funding is needed, it was not possible for the Debtor to obtain its post-petition working capital financing on an unsecured basis pursuant to section 364(a) or 364(b) of the Bankruptcy Code. The Debtor determined that it would not be able to obtain financing other than by offering the relevant debtor-in-possession lender liens over the Debtor's property⁴. The circumstances of this case dictate that the Debtor obtains its financing under section 364(c) of the Bankruptcy Code. Authorizing the Debtor to enter into the Post-

⁴ The secured creditor has agreed to subordinate his first priority liens to the DIP lender.

Petition Credit Agreement with the DIP Lender is necessary and appropriate to preserve the value of the Debtor's estate for all parties-in-interest.

17. Finally, the Debtor believes that the terms and conditions of the Post-Petition Credit Agreement are fair and reasonable. The Post-Petition Credit Agreement is necessary to support the ongoing operations of the Debtor. The Debtor believes that the proposed Post-Petition Credit Agreement is the best financing available under the circumstances, is on better terms than other lenders were willing to offer, and is well within the exercise of sound business judgment. Based on the foregoing, the Debtor requests that the Court authorize it to enter into the Post-Petition Credit Agreement and to obtain postpetition financing from the DIP lender pursuant to the terms contained therein.

Interim Approval of the DIP Financing Should Be Granted

18. Bankruptcy Rule 4001(c) provides that a final hearing on a motion to obtain post-petition credit pursuant to section 364 of the Bankruptcy Code may not be commenced earlier than fifteen (15) days after the service of such motion. See Fed. R. Bankr. P. 4001(c)(2). Upon request, however, the Court is empowered to conduct a preliminary expedited hearing on the motion and authorize the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to a debtor's estate. Id.

19. Pursuant to Bankruptcy Rule 4001(c), the Debtor requests that the Court conduct a preliminary expedited hearing as soon as the Court's schedule permits (the "Interim Hearing") for the entry of an interim order (the "Interim Order") authorizing the Debtor to obtain working capital advances under the Post-Petition Credit Facility in an amount or amounts not to exceed \$150,000.00 pending a final hearing on the Motion (the "Final Hearing").

20. The Debtor has an urgent and immediate need for cash to continue to operate its business. Without sufficient cash to operate and pay expenses, the Debtor will not be able to conduct a sale efficiently.

21. The Debtor does not have sufficient time to attempt to obtain unsecured credit or debt allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code in an aggregate amount sufficient and readily available to pay the expense described above.

Moreover, under the present circumstances and posture of this proceeding, the Debtor does not believe it would be able to obtain unsecured credit to fund its operations. Therefore, absent interim approval of the Post-Petition Credit Facility at this critical juncture, the preservation of the value of the Debtor's business and assets for the benefit of all parties will be jeopardized. In the circumstances of this Chapter 11 Case, granting the relief requested in this Motion is in the best interests of the Debtor, its estate and creditors.

22. No prior request for the relief sought in this Motion has been made to this or any other court.

CONCLUSION

WHEREFORE, the Debtor respectfully request the entry of interim and final orders pursuant to Sections 105 and 364 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001 and 9014 (a) granting authority for the Debtor to obtain secured debtor-in-possession financing, (b) granting security interest and priority claims, (c) approving the Post-Petition Credit Agreement and all other documents related thereto and (d) granting related relief.

Respectfully submitted,

**SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.**

By: /s/ Michael J. Lichtenstein
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POST-PETITION REVOLVING CREDIT AND SECURITY AGREEMENT

THIS POST-PETITION REVOLVING CREDIT AND SECURITY AGREEMENT (the “**Agreement**”) dated as of March 28, 2008 is entered into between **JOANNE’S BED & BACK STORES, INC.** a Maryland corporation, (the “**Borrower**”), and **MARK LEVIN** (the “**Lender**”).

WHEREAS, Borrower commenced a case (the “**Bankruptcy Case**”) under Chapter 11 of Title 11, United States Code (as amended, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Maryland (together with any other court having jurisdiction over the Bankruptcy Case or any proceedings therein from time to time, the “**Bankruptcy Court**”) and Borrower is continuing to operate its business and manage its properties as a debtor and debtor-in-possession under Sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, Borrower has requested that Lender make available to Borrower a revolving credit facility (the “**DIP Loan**”) in a maximum principal amount at any time outstanding of up to Two Hundred Fifty Thousand Dollars (\$250,000) (the “**Obligations**”), the proceeds of which shall be used by Borrower exclusively for working capital purposes; and

WHEREAS, The Lender is willing to make the DIP Loan available to Borrower upon the terms and subject to the conditions set forth in this Agreement, and subject to the terms and conditions set forth in the Financing Orders.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which hereby are acknowledged, Borrower and Lender hereby agree as follows:

I. ADVANCES, PAYMENT AND INTEREST

1.1 The DIP Loan;

(a) Subject to the provisions of this Agreement and the Financing Orders, Lender shall make available to Borrower Advances under the DIP Loan upon Borrower’s request from time to time during the Term, provided that, prior to the entry of the Final Financing Order, the sum of the total outstanding Advances shall not exceed \$150,000 at any time outstanding. The DIP Loan is a revolving credit facility, which may be drawn, repaid and redrawn, from time to time as permitted under this Agreement and the Financing Orders.

1.2 The Advances; Maturity

All Advances under the DIP Loan shall be immediately due and payable in full in cash, if not earlier in accordance with the terms of this Agreement and the Financing Orders, without further application to or order of the Bankruptcy Court, on the earliest of (i) acceleration of maturity of the Obligations upon the occurrence an Event of Default, (ii) July 4, 2008, (iii) the effective date of a plan of reorganization approved by an order of the Bankruptcy Court and (iv) the effective date of any Sale pursuant to Section 363 of the Bankruptcy Code.

1.3 Interest on the Advances

Interest on outstanding Advances under the Revolving Facility shall be payable monthly in arrears on the first day of each calendar month at an annual rate equal to Prime plus 2%, calculated on the basis of a 360-day year and for the actual number of calendar days elapsed in each interest calculation period. Interest accrued on each Advance under the DIP Loan shall be due and payable upon payment in full of the Obligations as set forth above.

1.4 DIP Loan Disbursements

So long as no Default or Event of Default shall have occurred and be continuing, Borrower may give Lender written notice requesting an Advance under the DIP Loan.

1.5 Promise to Pay; Manner of Payment

Borrower absolutely and unconditionally promises to pay principal and interest to the Lender when due under this Agreement.

1.6 Grant of Security Interest; Collateral

(a) To secure the payment and performance of the Obligations, Borrower, upon entry of the Interim Financing Order by the Bankruptcy Court, hereby grants to Lender, a continuing security interest in and Lien upon, and pledges to Lender, all of its rights, title and interests in and to the DIP Loan Collateral, any and all additions and accessions thereto, and any and all replacements, products and Proceeds (including insurance proceeds) thereof (the “**Collateral**”), which Liens and security interests shall have the priorities set forth in the Financing Orders.

(b) As to all Collateral, including without limitation, all cash, cash equivalents, and real property the title to which is held by Borrower, or the possession of which is held by Borrower in the form of a leasehold interest, Borrower hereby assigns and conveys as security, grants a security interest in, hypothecates, mortgages, pledges and sets over unto Lender, all of the right, title and interest of Borrower in all of such Collateral, including without limitation, all cash, cash equivalents, and in all such leasehold interests, together in each case with all of the right, title and interest of Borrower in and to all buildings, improvements, and fixtures related thereto, any lease or sublease thereof, all general intangibles relating thereto and all proceeds thereof.

(c) The Liens, lien priority, administrative priorities and other rights and remedies granted to Lender, in the Financing Orders and the other DIP Loan Documents (specifically including, but not limited to, the existence, perfection and priority of the Liens and security interests provided therein, and the administrative priority provided therein) shall not be modified, altered or impaired in any manner by any other financing or extension of credit or incurrence of debt by Borrower (pursuant to Section 364 of the Bankruptcy Code or otherwise), or by any other act or omission whatsoever until the full performance and irrevocable payment in full in cash of the Obligations and termination of this Agreement in accordance with the terms hereof.

II. CONDITIONS PRECEDENT

2.1 Conditions to Initial Advance and Closing

The obligations of Lender to consummate the transactions contemplated herein, to make the Initial Advance or any additional Advance under the DIP Loan are subject, in each case, to the satisfaction, of the following:

(a) (i) Borrower shall have delivered to Lender (A) the DIP Loan Documents to which it is a party, each duly executed by an authorized officer of Borrower and the other parties thereto;

(b) The Bankruptcy Court shall have entered the Interim Financing Order in the Bankruptcy Case and such order shall be in full force and effect and shall not have been vacated, reversed, modified or stayed in any respect (and, if such order is the subject of a pending appeal, no further performance of any obligation of any party shall have been stayed pending appeal);

(c) Lender shall have received a written request for the Initial Advance to be made hereunder in form and substance acceptable to Lender;

III. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as of the date hereof, the Closing Date and each Borrowing Date as follows:

3.1 Organization and Authority

Borrower is a corporation duly organized, validly existing and in good standing under the laws of its state of formation. Borrower (i) has all requisite corporate or entity power and authority to own its properties and assets and to carry on its business as now being conducted and as contemplated in the DIP Loan Documents, and (ii) subject to the entry of the Financing Orders, has all requisite power and authority (A) to execute, deliver and perform the DIP Loan Documents, (B) to borrow hereunder, (C) to consummate the transactions contemplated under the DIP Loan Documents, and (D) to grant the Liens with regard to the Collateral pursuant to the DIP Loan Documents to which it is a party, the Interim Financing Order and the Final Financing Order.

3.2 DIP Loan Documents

Upon entry of the Interim Financing Order, the execution, delivery and performance by Borrower of the DIP Loan Documents, and the consummation of the transactions contemplated thereby, (i) have been duly authorized by all requisite action of Borrower and have been duly executed and delivered by or on behalf of Borrower. When executed and delivered, and upon entry of the Interim Financing Order, each of the DIP Loan Documents will constitute the legal, valid and binding obligation of Borrower, enforceable against such Person in accordance with its terms.

3.3 Litigation

There is no action, suit, arbitration, proceeding or investigation pending or, to Borrower's knowledge, threatened against Borrower that (i) questions, seeks to enjoin, or could in any way prevent the validity of any of the DIP Loan Documents or the right of Borrower to enter into any DIP Loan Document or to consummate the transactions contemplated thereby.

3.4 Disclosure

No DIP Loan Document nor any other agreement, document, certificate, or statement furnished to Lender by or on behalf of Borrower in connection with the transactions contemplated by the DIP Loan Documents, nor any representation or warranty made by Borrower in any DIP Loan Document, contains any untrue statement of material fact or omits to state any fact necessary to make the statements therein not materially misleading.

3.5 Insurance

Borrower has in full force and effect such insurance policies as are customary in its industry.

IV. AFFIRMATIVE COVENANTS

Borrower covenants and agrees that, until full performance and satisfaction, and indefeasible payment in full in cash, of all the Obligations and termination of this Agreement:

(a) Notices. Borrower shall promptly, and in any event within five (5) calendar days after Borrower or any authorized officer of Borrower obtains knowledge thereof, notify Lender in writing of (i) any pending or threatened litigation, suit, investigation, arbitration, dispute resolution proceeding or administrative proceeding brought or initiated by Borrower or otherwise affecting or involving or relating to Borrower or any of Borrower's property or assets or any application or motion of any Person seeking relief from the automatic stay under Section 362 of the Bankruptcy Code with respect thereto, (ii) any Default or Event of Default, which notice shall specify the nature and status thereof, the period of existence thereof and what action is proposed to be taken with respect thereto.

4.2 Payment of Obligations

Borrower shall make full and timely indefeasible payment in cash of the principal of and interest on the Loans, Advances and all other Obligations.

4.3 Conduct of Business and Maintenance of Existence and Assets

Borrower shall (i) conduct its business in accordance with good business practices customary to the industry and on a basis consistent with past practice, (ii) engage in the same lines of business substantially as heretofore conducted, (iii) maintain all of its material properties, assets and equipment used or useful in its business in good repair, working order and condition (normal wear and tear excepted and except as may be disposed of in the ordinary course of business and in accordance with the terms of the DIP Loan Documents and otherwise

as determined by Borrower using commercially reasonable business judgment), (iv) from time to time to make all necessary or desirable repairs, renewals and replacements thereof, as determined by Borrower using commercially reasonable business judgment.

4.4 Insurance

Borrower shall, (i) keep all of its insurable properties and assets including without limitation Inventory that is in transit (whether by vessel, air or land) adequately insured in all material respects against losses, damages and hazards as are customarily insured against by businesses engaging in similar activities or owning similar assets or properties and at least the minimum amount required by applicable law, including insurance under all applicable workers' compensation laws. All of the foregoing insurance policies name Lender as loss payee and additional insured thereunder.

4.5 Financing Orders

Borrower shall at all times comply with all terms and conditions of the Financing Orders.

V. EVENTS OF DEFAULT

5.1 Events of Default.

The occurrence of any one or more of the following shall constitute an "Event of Default:"

(a) Borrower shall fail to pay any amount on the Obligations or provided for in any DIP Loan Document when due (whether on any payment date, at maturity, by reason of acceleration, by required prepayment or otherwise);

(b) the Final Financing Order is not entered by the Bankruptcy Court within forty five (45) days of the entry of the Interim Financing Order; or

5.2 Remedies.

If an Event of Default shall have occurred and be continuing, and in any such event, notwithstanding any other provision of any Loan Document, Lender may, without notice or demand, do any of the following: (i) terminate Lender's commitments and obligations to make Advances hereunder, whereupon the same shall immediately terminate and (ii) declare all or any of Obligations to be due and payable immediately.

VI. RIGHTS AND REMEDIES AFTER DEFAULT

6.1 Rights and Remedies

(a) In addition to the acceleration provisions set forth above, upon the occurrence and continuation of an Event of Default, subject to the Financing Orders, Lender shall have the right to exercise any and all rights, options and remedies provided for in the DIP

Loan Documents, under the UCC, the Bankruptcy Code, the Financing Orders or at law or in equity

VII. WAIVERS AND JUDICIAL PROCEEDINGS

7.1 Delay; No Waiver of Defaults

No course of action or dealing, renewal, release or extension of any provision of any DIP Loan Document or the Financing Orders, or single or partial exercise of any such provision, or delay, failure or omission on Lender's part in enforcing any such provision shall affect the liability of Borrower or operate as a waiver of such provision or affect the liability of Borrower or preclude any other or further exercise of such provision.

VIII. EFFECTIVE DATE AND TERMINATION

8.1 Termination and Effective Date Thereof

Subject to Lender's right to terminate and cease Lender's commitments and obligations to make Advances upon or after any Event of Default, this Agreement shall continue in full force and effect until the full performance and indefeasible payment in cash of all Obligations. Borrower may terminate this Agreement at any time upon not less than forty-five calendar days' prior written notice to Lender and upon full performance and indefeasible payment in full in cash of all Obligations on or prior to such forty-fifth calendar day after receipt by Lender of such written notice.

8.2 Amendments, Lender Consent

No modification, amendment or waiver of any provision of this Agreement or waiver of any Event of Default, and no consent to any departure by the Borrower herefrom from any DIP Loan Document, shall in any event be effective unless the same shall be in writing and signed by the Lender and the Borrower and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Borrower shall entitle the Borrower to any other or further notice or demand in the same, similar or other circumstances

IX. MISCELLANEOUS

9.1 Governing Law; Jurisdiction; Service of Process; Venue

The DIP Loan Documents shall be governed by and construed in accordance with the internal laws of the State of Maryland without giving effect to its choice of law provisions and, to the extent applicable, the Bankruptcy Code. Any judicial proceeding against Borrower or Lender with respect to the Obligations, any DIP Loan Document or any related agreement must be brought in the Bankruptcy Court or, if the Bankruptcy Court does not have jurisdiction, any federal or state court of competent jurisdiction located in the State of Maryland.

9.2 Notice

Any notice or request under any DIP Loan Document shall be given to any party to this Agreement at such party's address set forth beneath its signature on the signature page to this Agreement, or at such other address as such party may hereafter specify in a notice given in the manner required under Agreement. Any notice or request hereunder shall be given only by, and shall be deemed to have been received upon (each, a "**Receipt**"): (i) registered or certified mail, return receipt requested, on the date on which received as indicated in such return receipt, (ii) delivery by a nationally recognized overnight courier, one (1) Business Day after deposit with such courier, or (iii) facsimile transmission, in each case upon telephone or further electronic communication from the recipient acknowledging receipt (whether automatic or manual from recipient), as applicable.

9.3 Severability; Captions; Counterparts; Facsimile Signatures

If any provision of any DIP Loan Document is adjudicated to be invalid under applicable laws or regulations, such provision shall be inapplicable to the extent of such invalidity without affecting the validity or enforceability of the remainder of the DIP Loan Documents which shall be given effect so far as possible. The captions in the DIP Loan Documents are intended for convenience and reference only and shall not affect the meaning or interpretation of the DIP Loan Documents. The DIP Loan Documents may be executed in one or more counterparts (which taken together, as applicable, shall constitute one and the same instrument) and by facsimile transmission, which facsimile signatures shall be considered original executed counterparts. Each party to this Agreement agrees that it will be bound by its own facsimile signature and that it accepts the facsimile signature of each other party.

9.4 Entire Agreement

This Agreement and the Financing Orders constitute the entire agreement between Borrower and Lender with respect to the subject matter hereof and thereof, and supersede all prior agreements and understandings, if any, relating to the subject matter hereof or thereof. Any promises, representations, warranties or guarantees not herein contained and hereinafter made shall have no force and effect unless in writing signed by Borrower and Lender.

9.5 Approvals

Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Lender with respect to any matter that is subject of any DIP Loan Document may be granted or withheld by Lender, as applicable, in their sole and absolute discretion.

9.6 Bankruptcy Court Orders Paramount

In the event of any direct conflict between the terms and conditions of this Agreement and the specific terms and conditions of the Financing Orders, the terms and conditions of the Financing Orders shall prevail. Nothing set forth in this Agreement shall require the Borrower to act or fail to act in a manner that would violate the Bankruptcy Code or any order of the Bankruptcy Court, without prejudice to Lender's ability to declare the occurrence of an Event of Default based upon such action or failure to act. In the event of any

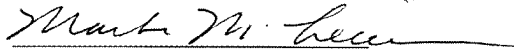
inconsistency between this Agreement and any of the other DIP Loan Documents, this Agreement shall control.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, each of the parties has duly executed this Post-Petition Revolving Credit and Security Agreement as of the date first written above.

LENDER:

MARK LEVIN



BORROWER:

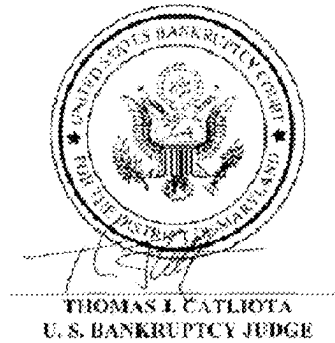
JOANNE'S BED & BACK STORES, INC.,
a Maryland corporation

By: _____

Name: _____

Its: _____

SO ORDERED



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division**

IN RE:)	
)	
JOANNE'S BED & BACK STORES, INC.)	Case No. 08-14606 (TJC)
)	(Chapter 11)
Debtor)	

**INTERIM ORDER (1) AUTHORIZING DEBTOR-IN-POSSESSION TO OBTAIN
FINANCING, GRANT SECURITY INTERESTS PURSUANT TO 11 U.S.C. §§ 361 AND
364(d); (2) GIVING NOTICE OF FINAL HEARING PURSUANT TO BANKRUPTCY
RULE 4001(b)(2) AND (c)(2);
AND (3) MODIFYING AUTOMATIC STAY**

This matter is before the Court on the Motion (the "Motion") of JoAnne's Bed & Back Stores, Inc., a Maryland corporation, as debtor and debtor-in-possession in the above-captioned Chapter 11 case (the "Debtor"), requesting entry of an order (1) authorizing Debtor to obtain financing and other extensions of credit from Mark Levin (the "DIP Lender"), grant security interests and liens in favor of DIP Lender pursuant to Sections 361 and 364(d)(1) of Title 11 of the United States Code (the "Bankruptcy Code"); and (2) giving notice of a final hearing pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2).

Based upon this Court's review of the Motion and all matters brought to the Court's attention at the interim hearing, which was held on April 9, 2008 , pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2) (the "Interim Hearing"), and after due deliberation and consideration, the Court makes the following findings of fact and conclusions of law applicable to the financing sought by Debtor from DIP Lender (to the extent any findings of fact constitute conclusions of law, they are adopted as such, and *vice versa*):

THE COURT HEREBY FINDS AND DETERMINES:

A. On April 2, 2008 (the "Petition Date"), Debtor filed with this Court a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code and is continuing to manage its properties and to operate its business as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed herein.

B. Debtor is engaged in the business of marketing and selling furniture and other home furnishings.

C. An immediate and ongoing need exists for Debtor to obtain financing to continue the operation of its business as debtor-in-possession under Chapter 11 of the Bankruptcy Code, to minimize the disruption of Debtor's business and to allow the Debtor to commence an orderly sale of its business. Despite diligent efforts, Debtor has been unable to obtain financing in the form of unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code as an administrative expense or solely in exchange for the grant of a special administrative expense priority pursuant to Section 364(c)(1) of the Bankruptcy Code; and other than the financing from DIP Lender pursuant to the DIP Credit Agreement (as hereinafter defined), the Debtor is unable to obtain

financing in the form of credit secured by liens that are junior to existing liens on property of the estates pursuant to Sections 364(c)(2) and (c)(3) of the Bankruptcy Code.

D. Debtor has requested that DIP Lender provide a DIP Loan in the amount of up to \$250,000.00.

E. DIP Lender is willing to provide the DIP Loan, upon the terms and conditions set forth herein and in a certain Post-Petition Revolving Credit and Security Agreement to be entered into by Debtor and DIP Lender, a copy of which is attached to the Motion as Exhibit A (the "DIP Credit Agreement").

F. A condition to the willingness of DIP Lender to establish the DIP Facility is that, as security for the prompt payment of all DIP Loans, all interest, fees, expenses and the charges at any time payable by Debtor under the DIP Credit Agreement, DIP Lender receive a security interest in and lien upon all of Debtor' pre-petition and post-petition assets, including, without limitation, all of Debtor' cash, accounts, inventory, equipment, fixtures, general intangibles, whether now in existence or hereafter created, acquired or arising and wherever located (and the proceeds thereof, being collectively hereinafter referred to as the "Collateral"), and that such liens have the priority hereinafter set forth.

G. Debtor requested in the Motion, pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2), that the Court hold the Interim Hearing to consider authorizing Debtor to (i) obtain, on an interim basis, DIP Loans for operating purposes.

H. Good cause has been shown for the entry of this Order and authorization for Debtor to obtain Credit Extensions pursuant to the DIP Credit Agreement as hereinafter provided pending a final hearing on the Motion pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2) (the

"Final Hearing"). Debtor's need for financing of the type afforded by the DIP Credit Agreement is immediate and critical. Entry of this Order will minimize disruption of Debtor's business and operations, will preserve the assets of Debtor's estate and is in the best interests of Debtor, its creditors and its estate. The terms of the proposed financing appear fair and reasonable, reflect Debtor's exercise of business judgment and are supported by reasonably equivalent value and fair consideration.

I. Based upon the record presented at the Interim Hearing, it appears that the DIP Credit Agreement and this Interim Order have been negotiated in good faith and at arm's length between Debtor, on the one hand, and the DIP Lender, on the other.

J. This Court has jurisdiction to enter this Order pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a core proceeding, as defined in 28 U.S.C. § 157(b)(2).

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, as follows:

1. Grant of Motion; Authorization of Interim Financing. The Motion is hereby granted and Debtor is hereby authorized (i) to execute and deliver the DIP Credit Agreement in substantially the form annexed to the Motion; (ii) to obtain a DIP Loan in accordance with the DIP Credit Agreement from time to time up to an aggregate principal amount outstanding at any time not to exceed \$250,000.00, and to incur any and all liabilities and obligations thereunder and to pay all interest, fees, expenses and other obligations provided for under the DIP Financing Documents; and (iii) to satisfy all conditions precedent and perform all obligations hereunder and thereunder in accordance with the terms hereof and thereof; provided, however, that, pending the

Final Hearing and subject to all of the terms and conditions in the DIP Credit Agreement, Debtor may obtain up to \$150,000.00.

2. Execution and Delivery of DIP Financing Documents. Upon execution and delivery thereof, the DIP Financing Documents shall constitute valid and binding obligations of Debtor, enforceable against Debtor in accordance with their terms.

3. DIP Liens. Subject to the provisions hereof, all credit extensions, together with all interest, fees and other charges, at any time or times payable by Debtor to DIP Lender in connection therewith or otherwise pursuant to the DIP Financing Documents (the "DIP Obligations") shall be, and hereby are, secured by security interests and liens in favor of DIP Lender with respect to all of the Collateral, as follows:

(a) pursuant to Section 364(d)(1) of the Bankruptcy Code, perfected first priority senior security interests in and liens upon all Collateral, and shall have an administrative claim. Such liens shall be subordinate to any expense reimbursement and break-up fee that may be earned by The Healthy Back Store, Inc. in connection with the sale of substantially all of the Debtor's assets.

All of the security interests and liens referred to above and those granted and conveyed pursuant to the DIP Financing Documents are referred to in this Order as "DIP Liens." Notwithstanding the foregoing provisions of this paragraph or anything to the contrary in the DIP Financing Documents, the DIP Liens shall not attach to any of the following property (unless any Debtor shall grant or consent to any lien or security interest therein in favor of any other party, in which event all such property shall be subject to the DIP Liens referred to in subparagraph (a) of this paragraph 3): (x) any claims pursuant to Sections 502(d), 544, 545, 547, 548, 549, 550, 551

or 553 of the Bankruptcy Code ("Avoidance Claims"), or (y) any proceeds or property recovered in connection with the successful prosecution or settlement of Avoidance Claims ("Avoidance Proceeds").

4. Repayment. The DIP Obligations shall be due and payable, and shall be paid, as and when provided in the DIP Financing Documents and as provided herein, without offset or counterclaim. In no event shall Debtor be authorized to offset or recoup any amounts owed, or alleged owed, by DIP Lender to Debtor against any of the DIP Obligations unless and to the extent expressly otherwise agreed to in writing by DIP Lender.

5. Preservation of Rights Granted Under This Order.

(a) There shall not be entered in this Chapter 11 case or in any successor case any order that authorizes the obtaining of credit or the incurrence of indebtedness by Debtor (or any trustee or examiner) that is (i) secured by a security, mortgage or collateral interest or lien on all or any part of the Collateral that is senior to the DIP Liens; provided, however, that nothing herein shall prevent the entry of an order that specifically provides that, as a condition to the granting of the benefits of clause (i) all of the DIP Obligations must be indefeasibly paid in full, in cash, from the proceeds of such credit or indebtedness.

(b) If this Chapter 11 case is dismissed, converted or substantively consolidated, then neither the entry of this Order nor the dismissal, conversion or substantive consolidation of this Chapter 11 case shall affect the rights of DIP Lender under the DIP Financing Documents or this Order, and all of the respective rights and remedies thereunder of DIP Lender shall remain in full force and effect as if this Chapter 11 case had not been dismissed, converted, or substantively consolidated. Debtor shall not seek, and it shall constitute an Event of

Default if Debtor seeks, or if there is entered, any Order dismissing the Chapter 11 case. If an order dismissing either Chapter 11 case is at any time entered, such order shall provide (in accordance with Sections 105 and 349 of the Bankruptcy Code) that (i) the DIP Liens granted to and conferred upon the DIP Lender shall continue in full force and effect and shall maintain their priorities as provided in this Order until all DIP Obligations shall have been paid and satisfied in full (and that such DIP Liens shall, notwithstanding such dismissal, remain binding on all interested parties) and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purpose of enforcing the DIP Liens referred to herein.

6. Automatic Perfection of DIP Liens. The DIP Liens shall be deemed valid, binding, enforceable and perfected upon entry of this Order. DIP Lender shall not be required to file any UCC-1 financing statements, mortgages, deeds of trust, security deeds, notices of lien or any similar document or take any other action (including possession of any of the Collateral) in order to validate the perfection of the DIP Liens. If DIP Lender shall, in its discretion, choose to file any such mortgages, deeds of trust, security deeds or UCC-1 financing statements, or take any other action to validate the perfection of any part of the DIP Liens, Debtor and its respective officers are directed to execute any documents or instruments as DIP Lender shall reasonably request, and all such documents and instruments shall be deemed to have been filed or recorded at the time and on the date of entry of this Order.

7. Service of Order. Promptly after the entry of this Order, Debtor shall mail, by first class mail, a copy of this Order, the Motion (and all exhibits attached to the Motion), and a notice of the Final Hearing, to counsel for DIP Lender, the U.S. Trustee, the 20 largest unsecured creditors of Debtor at their respective last known addresses, and all parties who have filed

requests for notices under Rule 2002 of the Bankruptcy Rules, and shall file a certificate of service regarding same with the Clerk of the Court. Such service shall constitute good and sufficient notice of the Final Hearing.

8. Final Hearing. The Final Hearing shall be held at 11 a.m., on April 21, 2008, at the U.S. Bankruptcy Court, Courtroom 3D, Greenbelt, Maryland. If no objection to the Motion or this Order is timely filed and asserted at the Final Hearing, then this Order shall continue in effect in accordance with its terms subject to such modifications as the Court may make at the Final Hearing and that are acceptable to DIP Lender.

9. Objection Deadline. If any party in interest shall have an objection to any of the provisions of this Order, such party shall be authorized to assert such objection at the Final Hearing, provided that a written statement setting forth the basis for such objection is filed with the Court, and concurrently served upon the Office of the United States Trustee for the District of Maryland at 6305 Ivy Lane, Suite 600, Greenbelt, Maryland 20770; counsel for Debtor, Shulman, Rogers, Gandal, Pordy & Ecker, P.A., 11921 Rockville Pike, 3rd Floor, Rockville, Maryland 20852, Attention: Michael J. Lichtenstein, Esq. in each case so that such objections and responses are filed on or before 5:00 p.m., prevailing Eastern time on April 18, 2008. Unless an objecting party shall be and appear at the Final Hearing to assert the basis for such objection before the Court, such objection shall be deemed to have been waived and abandoned by such objecting party.

10. Inconsistencies. To the extent that any provisions in the DIP Credit Agreement are inconsistent with any of the provisions of this Order, the provisions of this Order shall govern and control.

Copies to:

Michael J. Lichtenstein, Esq.

Morton A. Faller, Esq.

Stephen A. Metz, Esq.

Shulman Rogers Gandal

Pordy & Ecker, P.A.

11921 Rockville Pike, Suite 300

Rockville, MD 20852

END OF ORDER