

**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)	

**DEBTOR’S EMERGENCY MOTION FOR
AUTHORIZATION TO PAY CERTAIN
PREPETITION WAGES, SALARIES AND OTHER COMPENSATION**

JoAnne’s Bed & Back Stores, Inc., debtor and debtor-in-possession in the above-styled Chapter 11 case (the “Debtor”), by counsel, files this emergency motion for authorization to pay prepetition wages, salaries and other compensation (Motion), and in support thereof states:

Jurisdiction

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. 157 and 1334. Venue of this case and the Motion in this district is proper pursuant to 28 U.S.C. § 1408 and 1409.
2. The relief sought in this Motion is based upon section 105(a) of Title 11 of the United States Code (Bankruptcy Code).

The Chapter 11 Case

3. On April 2, 2008, the Debtor filed its 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 45 employees.

Relief Requested

6. By this Motion, the Debtor's seeks authority to pay certain prepetition obligations for the benefit of the Debtor's employees.

A. Wages and Salaries

7. A. The Debtor's Corporate employees were last paid on March 31, 2008 and the Sales Employees were last paid on March 31, 2008. The next scheduled payday is Friday, April 18, 2008. As a result, the Debtor's Corporate Employees are owed accrued but unpaid compensation for services rendered for April 1 and 2 and the Sales Employees are owed accrued but unpaid compensation for April 1 and 2.

B. The Debtor's Warehouse employees are paid bi-weekly in arrears on Thursdays, for the two-week period ending on the preceding Sunday. The Debtor's Warehouse employees were last paid on March 27, 2008 for the 2 week period ending March 23, 2008. The next scheduled payday is April 6, 2008. As a result, the Debtor's Warehouse employees are owed accrued but unpaid compensation for March 24, 2008 through April 2, 2008.

C. The Debtor's commissions are paid to Sales Employees monthly in arrears on the 18th of each month for the preceding month. As a result Sales Employees are due commission for March, 2008 and April 1 and 2.

8. The approximate aggregate prepetition accrued but unpaid gross compensation, including estimated employer payroll taxes, and other incidental benefits totals \$35,173.50 (the "Unpaid Compensation"). The Unpaid Compensation is an estimated amount and generally is based upon the Debtor's previous payroll. In addition, the Unpaid Compensation does include commissions payable to certain employees for the month of March 2008 and does not include the pre-petition portion of April 1, 2008 through the petition date of April 2, 2008. The commissions for March are scheduled for payment to the employees on April 18th 2008, the April 1 and 2 pre-petition commissions are scheduled for payment on May 18, 2008 and can not be calculated at the present time.

9. The continued loyalty of the Debtor's employees is necessary to allow for a successful sale of substantially all of the Debtor's assets. The period immediately following a chapter 11 filing is stressful and uncertain for the Debtor's employees. Such circumstances threaten employee morale just when a debtor most needs its employees' loyalty. Moreover, some employees simply live paycheck to paycheck and would be devastated by not receiving their full compensation.

10. Accordingly, to minimize employee hardship and prevent wholesale loss of critical employees, the Debtor seeks to continue to pay employee compensation in the ordinary course.

11. Based upon the Debtor's records for a standard pay period, no employee is owed Unpaid Compensation exceeding the \$10,000.00 priority established under section 507(a)(3) of

the Bankruptcy Code. Attached hereto as Exhibit A is a list of the employees and approximate amounts the Debtor proposes to pay. The total amount is \$37,423.50. There will be no potential prejudice to any party in interest from payment of the Unpaid Compensation because the employees' pre-petition wages are entitled to priority.

12. Further, as part of the Debtor's customary payroll practices, the Debtor withholds specified amounts from employees' salaries or wages including, but not limited to federal, state and local payroll taxes, and employee contributions to a 401k plan ("Designated Payments"). The Debtor seeks authority to pay all Designated Payments unpaid as of the Petition Date as follows: employee 401k contributions \$3,000; Virginia pre-petition withholding taxes \$1,200; Washington, DC. Pre-petition withholding taxes \$400, Wage Garnishment withholdings of \$350.00.

Applicable Standards

13. Pursuant to sections 363(b) and 105(a) of the Bankruptcy Code and the "necessity of payment" doctrine, the Debtor seeks authority to pay their outstanding Unpaid Compensation. Section 363(b)(1) provides:

The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

11 U.S.C. § 363(b)(1). Section 105(a) further provides in pertinent part:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

11 U.S.C. § 105(a). Accordingly, this Court is authorized to grant the relief requested.

14. The Debtor's inability to pay the outstanding Unpaid Compensation would cause employees to endure significant stress and hardship and could adversely impact the sales of substantially all of the Debtor's assets.

15. The Debtor's Employees are essential to a successful reorganization. Deterioration in employee morale and welfare at this critical time would harm the Debtor, the value of its assets and business and, ultimately, the Debtor's ability to reorganize. Accordingly, the relief sought is in the best interests of the Debtor's estate and its creditors, and would enhance the Debtor's ability to continue to operate their business with minimal disruption.

WHEREFORE, the Debtor respectfully requests entry of the attached Order, and such other and further relief as this Court may deem just and proper.

Respectfully submitted,

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

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