

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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	:	
<i>In re:</i>	:	Chapter 11
	:	
GOLDEN COUNTY	:	Case No. 15-11062 (KG)
FOODS, INC., <i>et al.</i> , ¹	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----	X	Re: D.I. 9, 58, 121, 122

RESPONSE OF BRAZOS EQUITY
FUND II, L.P. TO THE OBJECTIONS
OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO (A) DEBTORS' EMERGENCY MOTION
FOR INTERIM AND FINAL ORDERS AUTHORIZING
DEBTOR-IN-POSSESSION FINANCING AND GRANTING
RELATED RELIEF AND (B) DEBTORS' MOTION FOR ENTRY OF
ORDERS (I) APPROVING BIDDING PROCEDURES, SCHEDULING AN
AUCTION, AND A SALE HEARING AND (II) GRANTING RELATED RELIEF

Brazos Equity Fund II, L.P. ("**Brazos**") hereby files this response (the "**Response**") to the (i) *Official Committee of Unsecured Creditors' Objection to the Debtors' Motion for Entry of Orders (I) Approving Bidding Procedures, Scheduling an Auction, and a Sale Hearing, and (II) Granting Related Relief* [D.I. 121] (the "**Bid Procedures Objection**") and (ii) *Official Committee of Unsecured Creditors' Objection to the Debtors' Emergency Motion for Interim and Final Orders Authorizing Debtor-in-Possession Financing and Granting Related Relief* [D.I. 122] (the "**DIP Objection**") and together with the Bid Procedures Objection, the "**Committee Objections**"), each filed on June 11, 2015 by the Official Committee of Unsecured Creditors (the "**Committee**"), and respectfully represents as follows:

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Golden County Foods, Inc. (3018); GCF Franchisee, Inc. (4385); and GCF Holdings II, Inc. (3151). The address of the Debtors' corporate headquarters is 300 Moore Road, Plover, Wisconsin 54467.



I. PRELIMINARY STATEMENT²

1. The issues the Court must resolve to approve the Bid Procedures Order and Final DIP Order on June 15, 2015 are actually quite narrow. This small handful of unsettled points are the last issues that stand between the Debtors and an Auction that has the potential to resolve many of the other issues the Committee seeks to have the Court resolve prematurely by its objections. The Committee would have the Court consider bare allegations of recharacterization without the benefit of any supporting evidence; the forced disgorgement of one non-Debtors' rights with respect to another non-Debtor for the purpose of earning the Committee undeserved leverage; and solving for a problem that may be illusory by subverting the priority scheme under the Bankruptcy Code. The Court need not consider any of these requests at this time and yet keep these Debtors on a path toward the timely sale of their assets and distributions to their creditors.

II. BACKGROUND

A. The Chapter 11 Cases

2. On May 15, 2015 (the "***Petition Date***"), the above-captioned debtors and debtors-in-possession (collectively, the "***Debtors***") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "***Bankruptcy Code***") in the United States Bankruptcy Court for the District of Delaware (the "***Bankruptcy Court***"). Concurrently, the Debtors filed the *Declaration of James J. Bradford in Support of Certain First Day Pleadings* [D.I. 10] (the "***First Day Declaration***") in support of its various first day pleadings.

3. On May 18, 2015, the Debtors filed the *Debtors' Emergency Motion for Interim and Final Orders Authorizing Debtor-in-Possession Financing and Granting Related Relief* [D.I. 9] (the "***DIP Motion***"). On May 20, 2015, the Bankruptcy Court entered an order

² Capitalized terms not defined in this Preliminary Statement shall be defined herein.

permitting the Debtors to borrow up to \$2,409,000 on an interim basis [D.I. 43] (the “**Interim DIP Order**”) under the terms of the DIP credit agreement (the “**DIP Credit Agreement**”). The DIP Motion also seeks entry of a final order (the “**Final DIP Order**”) that would permit the Debtors to borrow up to \$4,000,000.

4. On May 22, 2015, the Debtors filed *Debtors’ Motion for Entry of Orders (I) Approving Bidding Procedures, Scheduling an Auction, and a Sale Hearing, and (II) Granting Related Relief* [D.I. 58] (the “**Bid Procedures Motion**”). Among other requested relief, the Bid Procedures Motion seeks approval of an asset purchase agreement (the “**APA**”) with Monogram Appetizers, LLC (“**Monogram**”), seeks to establish procedures (the “**Bid Procedures**”) for the purpose of conducting an auction (the “**Auction**”), and sets July 2, 2015 as the hearing date for approval of the sale of the Debtors’ assets to the winner of the Auction (the “**Sale Hearing**”).

5. On June 11, 2015, the Committee filed the Committee Objections. These pleadings sought to characterize the Debtors’ prepetition capital structure, asserted objections to certain relief requested by the DIP Motion and Bid Procedures Motion, and sought relief from the Court. On June 12, 2015, Brazos, which is a participant in the Debtors’ Prepetition Credit Agreement (as defined below), filed this Response to the Committee Objections.

B. The Debtors’ Prepetition Capital Structure

6. As described in the DIP Motion, PNC Bank, National Association (“**PNC**”) is the prepetition agent and primary lender under the terms of a Revolving Credit, Term Loan and Security Agreement, dated as of November 13, 2013 (the “**Prepetition Credit Agreement**”), with Debtors Golden County Foods, Inc. and GCF Franchisee, Inc. as borrowers

(the “*Prepetition Borrowers*”).³ As amended, the Prepetition Credit Agreement provided for a revolving credit advances of up to \$12,750,000 (the “*Revolving Advances*”), first out term loans of \$10,000,000 (the “*First Out Term Loans*”), and a last out term loans of \$12,500,000 (the “*Last Out Term Loans*”).⁴

7. The amounts owed pursuant to all three pieces of the Prepetition Credit Agreement—the Revolving Advances, the First Out Term Loans, and the Last Out Term Loans—are secured by senior liens on all of the Debtors’ assets, including: (i) receivables; (ii) equipment; (iii) general intangibles; (iv) inventory; (v) real property; (vi) investment property; (vii) leasehold interests; (viii) contract rights; and (ix) all proceeds and products of the foregoing (collectively the “*Prepetition Collateral*”).⁵ As of the Petition Date, there was approximately \$21,527,982.89 due and owing under the Prepetition Credit Agreement, consisting of approximately \$7,303,063.91 in Revolving Advances, \$5,690,476.18 in First Out Term Loans, and \$8,534,442.80 in Last Out Term Loans.⁶ Pursuant to the Final DIP Order, the Debtors seek the Bankruptcy Court’s approval of a “roll-up” of the Revolving Advances and the First Out Term Loans (collectively, the “*DIP Advances*”). The DIP Advances are secured by first priority senior and priming liens and security interests in all of the Debtors’ property (as defined in the DIP Motion, the “*DIP Collateral*”).⁷ The Final DIP Order does not contemplate the “roll-up” of the Last Out Term Loans.

8. The Prepetition Credit Agreement was fully guaranteed by Debtor GCF Holdings II, Inc., non-Debtor affiliate Golden County Foods Holdings, Inc., and Brazos. Brazos’

³ See DIP Motion, ¶ 6.

⁴ *Id.*

⁵ *Id.* at ¶ 7.

⁶ *Id.*

⁷ See Final DIP Order, ¶ 3.

guaranty was limited to a maximum of \$12,500,000 pursuant to that certain limited guaranty dated as of November 13, 2013 between Brazos and PNC (the “**Limited Guaranty**”).⁸ Pursuant to the terms of the Limited Guaranty, upon an event of default by the Prepetition Borrowers and subsequent demand of PNC, Brazos would pay to PNC on account of its guaranty obligations.⁹ The Limited Guaranty specified that all amounts paid by Brazos to PNC were to be applied by PNC to pay for the purchase by Brazos of a participation interest in the Last Out Term Loans.¹⁰

9. On two separate occasions – December 5, 2013 and August 29, 2014 – Brazos was required to pay PNC on account of its obligations as guarantor of the Prepetition Credit Facility. In both instances, the funds paid by Brazos were used by PNC to purchase participation interests (the “**Participation Interests**”) in the Last Out Term Loans on behalf of Brazos, as contemplated by the terms of the Limited Guaranty. The purchase of these Participation Interests in the Last Out Term Loans were memorialized pursuant to two participation agreements between Brazos and PNC, also dated December 5, 2013 and August 29, 2014 (the “**Participation Agreements**”).

10. In total, Brazos purchased \$8,000,000 of Participation Interests prior to the Petition Date. Pursuant to the terms of these Participation Agreements, Brazos is entitled to receive payments of principal and interest on account of its Participation Interests.¹¹ As described above, the Last Out Term Loans in which Brazos holds Participation Interests are secured by senior liens in the Prepetition Collateral. PNC is the lender of record on the Last Out

⁸ See First Day Declaration, ¶ 8. A copy of the Limited Guaranty is attached to the DIP Objection as Exhibit A.

⁹ See Limited Guaranty § 2.02.

¹⁰ *Id.* at § 5.

¹¹ See Participation Agreements, § 2(c). As described above, the total value of the Last Out Term Loans in which Brazos holds Participation Interests was \$8,534,442.80 as of the Petition Date.

Term Loans, while as a participant, Brazos “obtains the benefits of the lender’s security interest and priority of payment.”¹²

C. Brazos’ Additional Positions in the Capital Structure

11. In addition to its Participation Interests in the Last Out Term Loans, Brazos is a lender to the Debtors and non-Debtor affiliate Golden County Foods Holdings, Inc. pursuant to the terms of an unsecured, senior subordinated note dated November 13, 2013.¹³ Brazos also holds equity interests in Debtors Golden County Foods, Inc.¹⁴ and GCF Holdings II, Inc.¹⁵ and is a general unsecured creditor of the Debtors.

III. RESPONSE

A. [REDACTED]

[REDACTED] Brazos is a participant in the Prepetition Credit Agreement by virtue of its Participation Interests in the Last Out Term Loans. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹² Natwest USA Credit Corp. v. Alco Standard Corp., 858 F. Supp. 401, 408 (S.D.N.Y. 1994).

¹³ See First Day Declaration, ¶ 9.

¹⁴ See *Voluntary Petition of Golden County Foods, Inc.* [D.I. 1] at 17.

¹⁵ See *Voluntary Petition of GCF Holdings II, Inc.* [Case No. 15-11064, D.I. 1] at 16.

[REDACTED]

[REDACTED]

13.

[REDACTED]

[REDACTED]

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[REDACTED] The Last Out Term Loan—the only portion of Prepetition Credit Agreement that Brazos holds a Participation Interest in—is specifically excluded from the DIP Advances that are being “rolled-up” in the Final DIP Order. Brazos has neither received nor sought to receive the proposed releases given in the Interim DIP Order or Final DIP Order. Nothing in the Final DIP Order purports to grant Brazos any superpriority or administrative claim status or pay any of the fees or expenses of Brazos’ counsel. [REDACTED]

[REDACTED]

[REDACTED]

16. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. The Committee's Assertion that PNC Should be Required to Enforce the Guaranty Against Brazos in Entirely Inappropriate and Rooted in Neither Law nor Equity

18. The Committee also inappropriately targets Brazos in its request for relief with respect to the waiver of marshaling in the DIP Order. Disregarding that such waivers are typical in DIP orders in this Circuit²⁷ and without citing any case law in support of its position,

²⁷ See, e.g., *In re Mach Gen, LLC*, Case No. 14-10461 (MFW) (Bankr. D. Del. Mar. 27, 2014); *In re Tuscany Int'l Holdings (U.S.A.) Ltd.*, Case No. 14-10193 (KG) (Bankr. D. Del. Mar. 21, 2014); *In re Longview Power, LLC*, Case No. 13-12211 (BLS) (Bankr. D. Del. Nov. 21, 2013); *In re Rural Metro Corp.*, Case No. 13-11952 (KJC) (Sept. 10, 2013); *In re Exide Tech.*, Case No. 13-11482 (KJC) (Bankr. D. Del. Jul. 25, 2013); *In re Conexant Sys., Inc.*, Case

the Committee asserts that marshaling is important to preserve because, “PNC should first be required to enforce the Limited Guaranty against Brazos and then collect the remaining amounts owed on account of the PNC Secured Claims from the sale proceeds.”²⁸ In essence, the Committee tacitly requests that the Bankruptcy Court order a non-Debtor to disregard its own business judgment and enforce an optional provision in a contract with another non-Debtor for the express purpose of circumventing the priority scheme for the benefit of its constituents. Such a request would unquestionably exceed the jurisdiction of the Bankruptcy Court.

19. The Committee continues its argument against the waiver of marshaling by asserting that, “[a]t a minimum, PNC’s rights vis-à-vis Brazos under the Limited Guaranty should be preserved for the benefit of the estates.”²⁹ The Committee offers no legal theory under which PNC’s rights under the Limited Guaranty would be treated as property of the estate. PNC’s rights under the Limited Guaranty are the property of PNC, and it is axiomatic that a debtor cannot use or distribute to its creditors any property in which it does not hold a legal or equitable interest.³⁰ The unsupportable marshaling arguments made by the Committee to do nothing more than foment a controversy where none exists.

No. 13-10367 (MFW) (Bankr. D. Del. Apr. 19, 2013); *In re Ormet Corp.*, Case No. 13-10334 (MFW) (Bankr. D. Del. Mar. 22, 2013); *In re THQ Inc.*, Case No. 12-13398 (MFW) (Bankr. D. Del. Jan. 11, 2013); *In re WP Steel Venture LLC*, Case No. 12-11661 (KJC) (Bankr. D. Del. June 21, 2012); *In re A123 Sys., Inc.*, Case No. 12-12859 (KJC) (Bankr. D. Del. Nov. 26, 2012); *In re AFA Inv., Inc.*, Case No. 12-11127 (MFW) (Bankr. D. Del. Apr. 30, 2012); *In re Delta Petroleum Corp.*, Case No. 11-146006 (KJC) (Bankr. D. Del. Jan. 11, 2012); *In re Xerium Tech., Inc.*, Case No. 10-11031 (KJC) (Bankr. D. Del. Apr. 28, 2010); *In re Source Interlink Co.*, Case No. 09-11424 (KG) (Bankr. D. Del. May 28, 2009); *In re Eastman Kodak Co.*, No. 12-10202 (ALG) (Bankr. S.D.N.Y. Feb. 16, 2012); *In re Hostess Brands, Inc.*, No. 12-22052 (RDD) (Bankr. S.D.N.Y. Feb. 2, 2012); *The Great Atl. & Pac. Tea Co., Inc.*, No. 10-24549 (RDD) (Bankr. S.D.N.Y. Jan. 11, 2011); *In re Lyondell Chem. Co.*, Case No. 09-10023 (REG) (Bankr. S.D.N.Y. Mar. 1, 2009).

²⁸ DIP Objection, ¶ 28.

²⁹ *Id.*

³⁰ *Pearlman v. Reliance Ins. Co.*, 371 U.S. 132, 135-36 (1962) (“[t]he Bankruptcy Act simply does not authorize a [debtor] to distribute other people’s property among a bankrupt’s creditors. . . . [S]uch property rights existing before bankruptcy in persons other than the bankrupt must be recognized and respected in bankruptcy.”) (citations omitted).

C. **The Bankruptcy Court Need Not Carve Out for Administrative Claims at this Time**

20. In both of its objections, the Committee argues at length that the result of the 363 sale process contemplated by the Bid Procedures Motion could potentially leave the Debtors' estates administratively insolvent. Rather than address this issue when it would be most appropriate—at the Sale Hearing following the completion of the Auction when the parties in interest can determine if the Committee's concerns are even valid—the Committee instead asks the Court to invert the well-established claim priorities and place unsecured administrative creditors ahead of secured creditors. Such a result prematurely adjudicates a contentious issue that the Bankruptcy Court is not compelled to resolve at this time, limits the ability of potential bidders to improve their bid vis-à-vis the stalking horse bidder, favors a tentative financial waterfall analysis over a definite one, and significantly reduces the probability that the parties in interest can reach a global settlement by gifting the Committee a bargaining chip it would not otherwise be entitled to. In the alternative, in just over two weeks, after completion of the robust market process that has already resulted in 19 parties accessing and reviewing diligence information related to the Debtors' assets,³¹ this Court and the parties in interest will know with certainty whether the Auction provided enough to pay admin claims in full without the need for conjecture.

21. Courts in this Circuit have allowed 363 sales of substantially all of a debtor's assets to go forward, even in situations where the sale process was conducted without any assurance that administrative claims would be paid in full, and without requiring that

³¹ *Declaration of Teri Stratton in Support of Debtors' Motion for Entry of Orders (I) Approving Bidding Procedures, Scheduling an Auction, and a Sale Hearing, and (II) Granting Related Relief*, ¶ 6 [D.I. 127] (filed June 11, 2015) (the "**Stratton Declaration**").

amounts be reserved for administrative expense claims in advance.³² Indeed, even where the debtor intends to fully pay administrative expense claims, this Court has held that the debtor may deny payment of such claims until confirmation of a plan.³³

22. Courts have also permitted the payment of secured lenders in full from 363 sale proceeds where administrative claimants were not paid in full.³⁴ Such a result is consistent with the well-established distribution priority scheme, or as the Bankruptcy Court explained in *In re Blitz USA*,³⁵ “where all the assets are subject to a security interest, and if a sale of the entire enterprise produces proceeds less than the amount of the secured claim, then no Creditor other than the Secured Creditor is entitled to anything.”³⁶

23. Importantly though, the Bankruptcy Court need not decide these issues pursuant to Final DIP Order or Bid Procedures Order. At the time of the hearing on Monday, June 15, 2015, there will be only two weeks under the bid deadline proposed by the Bid Procedures and only 16 days until the scheduled Auction takes place. Nothing in section 363 of the Bankruptcy Code compels the Bankruptcy Court to predetermine the distribution of funds obtained through a sale of a debtor’s assets, as the Committee essentially requests in its Committee Objections.

³² See *In re Allen Family Foods*, Case No. 11-11764 (Bankr. D. Del. June 9, 2011) (KJC) Tr. at 40-44 (July 27, 2011) (considering the allocation of proceeds among secured lenders and administrative claimants following a completed 363 sale process); *In re Real Mex Restaurants, Inc.*, Case No. 11-13122 (Bankr. D. Del. October 4, 2011) (BLS) (approving the sale of the debtors’ assets in an administratively insolvent case over the objection of the committee).

³³ *In re Global Home Products*, 2006 WL 3791955 at *4 (Dec. 21, 2006) (KG).

³⁴ *Id.*

³⁵ *In re Blitz USA, Inc.*, Case No. 11-13603 (Bankr. D. Del. Nov. 9, 2011).

³⁶ *Id.*, Tr. at 42:12-42:15 (April 19, 2012).

D. Even if the Court Were to Require a Carve-Out for Administrative Expense Claims, any such Carve-Out Must be Tied to Actual Costs

24. The Committee argues for a carve-out of [REDACTED] (the “*Carve-Out*”) to be set aside to cover all administrative expense claims based on the most recent version of the DIP budget, attached to the DIP Objection as Exhibit B (the “*Budget*”) and the Waterfall Analysis Summary prepared by the Debtors and attached to the DIP Objection as Exhibit C (the “*Waterfall Analysis*”). The Committees’ Carve-Out includes reservations for claims based on section 503(b)(9) of the Bankruptcy Code (“*503(b)(9) Claims*”), administrative expenses related to the wind down of the Debtors’ estates (the “*Wind down Expenses*”), administrative claims related to the Worker Adjusted and Retraining Notification Act (the “*WARN Act Claims*”), postpetition vendor claims (“*Vendor Claims*”), postpetition payroll and healthcare claims (the “*Employee Claims*”), administrative expense claims related to professional fees (the “*Professional Fees*”), including the success fee of Piper Jaffray, and more.³⁷ The Committee’s Carve-Out analysis is based on flawed premises and faulty math, resulting in a Carve-Out request that far exceeds what is necessary to protect the narrow class of administrative claimants that Delaware courts have occasionally protected with carve-outs. But, the Committee proposes no mechanism for how the funds for this Carve-Out will be allocated is proposed in the DIP Objection or Bid Procedures Objection. Nor does it provide whether funds would be released from the Carve-Out if the Waterfall Analysis overestimates certain categories of proposed administrative expenses or if a bidder agrees to pay certain of the administrative expenses.

25. Therefore, if the Court were to determine a Carve-Out for certain of the administrative claims of the estate, Brazos respectfully requests that it should only do so after a

³⁷ Of note, Brazos does not object to the payment of claims on account of the Perishable Agricultural Commodities Act of 1930 (“*PACA Claims*”) in full in by the Debtors, as such claims have priority over secured lenders.

more thorough record and analysis than the one conducted by the Committee. First, any Carve-Out should be subject to specific caps for each category of administrative expenses intended to be paid and must be subject to certain adjustments at the conclusion of the Sale Hearing. Additionally, the total amount of the Carve-Out should be set only after the delivery of an updated Waterfall Analysis that is accompanied by evidentiary support on the part of the preparer in the form of a declaration or affidavit.

26. Brazos' primary concern regarding the Waterfall Analysis is that it assumes a closing date for the sale of July 14, 2015. This was the only date calculated for on the Waterfall Analysis. Currently, the Sale Hearing is scheduled for July 2, 2015, at which time the Bankruptcy Court will be asked to enter a Sale Order approving the results of the Auction. Under the terms of the DIP Credit Agreement, provided the Bankruptcy Court waives the stay imposed by Bankruptcy Rule 6004(h), the sale must be closed within three (3) days of the entry of the Sale Order.³⁸

27. Given the tight budget and that these chapter 11 cases are operating under and the specter of administrative insolvency claimed by the Committee, it would be in the best interest of all parties in interest to close as quickly as possible to reduce expenses, especially Professional Fees.³⁹ As such, a Waterfall Analysis contemplating a closing date twelve (12) days after the likely entry of the Sale Order should not be the basis for calculation of the Carve-Out, especially when Budget shows the incurrence of \$1,327,000 in non-payroll obligations between July 3 and July 14, and \$229,000 in payroll obligations between July 3 and July 14.

³⁸ DIP Credit Agreement § 6.19(e). The DIP Credit Agreement uses real days, not business days.

³⁹ Brazos notes that while the Professional Fees for the Debtors, Committee, and PNC are all being paid for by the estate, each directly reducing the proceeds available to pay the secured Last Out Term Loan, Brazos' Professional Fees are not being paid by the estate.

28. To the extent the Committee's requested Carve-Out sets aside money for WARN Act Claims, that money should be removed from the proposed Carve-Out as well. The Debtors have determined, and the Waterfall Analysis shows, that in their judgement that the terms of Monogram's APA will result in no liability under the WARN Act. The Monogram APA will be subject to higher and better offers at the Auction, but any bid that failed to protect the Debtors' estates from incurring WARN Act Claims would unquestionably require a purchase price adjustment to cover the additional liabilities.⁴⁰

29. Additionally, for the reasons described above, the Carve-Out should not include any payments for 503(b)(9) Claims, nor has the Committee cited to any case law in the Committee Objections whereby a secured creditor was required to carve-out of its secured claim money to be used for the purpose of paying Wind Down Expenses.

30. Finally, the Budget shows that \$830,000 will be available to be borrowed under the DIP Credit Agreement on July 3. Brazos respectfully requests that in calculating the value of a Carve-Out, the amount Carve-Out be reduced by this unused availability under the DIP Credit Agreement.

E. PNC Should be Entitled to Credit Bid on Behalf of Brazos Without Posting a Bond

31. Both Committee Objections request that if PNC wishes to credit bid the full value of its secured debt, that it should be required to post a cash bond sufficient to cover the amounts that it is credit bidding.⁴¹ Brazos believes that it has reached an agreement with the Committee with respect to this issue, but expressly reserves all rights to contest any relief

⁴⁰ The Committee, which has been granted the right to evaluate bids in advance of and during the Auction by the Debtors, will be in the best position to insure that contingencies are made with respect to any such WARN Act liability.

⁴¹ DIP Objection, ¶ 38; Bid Procedures Objection, ¶ 23.

requested by the Committee in respect of the right to credit bid under section 363(k) of the Bankruptcy Code.

WHEREFORE Brazos respectfully requests that the Court deny the relief requested in the Committee's Objections and approve the Bid Procedures Order and Final DIP Order.

Dated: June 12, 2015
Wilmington, Delaware

Respectfully submitted,

/s/ Katherine Good

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