

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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In re : Chapter 11  
: :  
RathGibson, Inc., et al.,<sup>1</sup> : Case No. 09-12452 (CSS)  
: :  
Debtors. : Jointly Administered  
: :  
-----X **Ref. Docket No. 13**

**ORDER AUTHORIZING DEBTORS TO PAY PREPETITION  
OBLIGATIONS OF CERTAIN CRITICAL VENDORS AND SERVICE PROVIDERS**

Upon the motion (the "Motion") of RathGibson, Inc. and Greenville Tube Company (the "Debtors"), two of the debtors and debtors in possession in the above-captioned cases, for entry of an order, pursuant to sections 105(a), 363(b), 503(b), 1107(a) and 1108 of title 11 of the United States Code (the "Bankruptcy Code"), as supplemented by Rule 6003 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), authorizing, but not directing the Debtors to pay prepetition amounts (the "Critical Vendor Claims") due to certain vendors and service providers that are essential to the Debtors' business operations (the "Critical Vendors"); and upon the Declaration of Jon M. Smith in Support of Chapter 11 Petitions and First Day Pleadings (the "Smith Declaration"); and due and sufficient notice of the Motion having been given as set forth in the Motion; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Motion is in the best interests of these estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby

<sup>1</sup> The last four digits of the taxpayer identification numbers of the debtors follow in parentheses: (i) Greenville Tube Company (2689); (ii) RathGibson, Inc. (3283); (iii) RG Tube Holdings LLC (4080); and (iv) RGCH Holdings Corp. (9683). The debtors' executive headquarters' address is 475 Half Day Road, Suite 210, Lincolnshire, Illinois 60069.

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is granted to the extent set forth herein.
2. Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Motion.
3. The Debtors are authorized, but not directed, in their sole discretion, to pay in the ordinary course all or part of the Critical Vendor Claims, including the claims of foreign Critical Vendors and International Operations Providers, in an amount not to exceed \$4 million in the aggregate.
4. The Debtors are authorized, but not directed, to undertake commercially reasonable efforts to cause Critical Vendors to enter into agreements with the Debtors substantially similar to that annexed as Exhibit A to the Motion, as a condition of payment of each Critical Vendor Claim.
5. The Debtors are authorized, in their sole discretion, to pay Critical Vendor Claims, subject to the other limits set forth herein, even in the absence of a Trade Agreement, if the Debtors have used commercially reasonable efforts to negotiate with the relevant Critical Vendor and the Debtors determine, in their business judgment, that failure to pay such Critical Vendor Claim is likely to result in irreparable harm to the Debtors' business operations.
6. If a Critical Vendor: (a) refuses to supply goods and/or services to the Debtors on Customary Trade Terms (or such other terms as are agreed by the parties) following receipt of payment on its Critical Vendor Claim (regardless of whether such Critical Vendor has entered into a Trade Agreement); or (b) fails to comply with any Trade Agreement entered into between such Critical Vendor and the Debtors, then the Debtors may, in their sole discretion:
  - (a) declare that any Trade Agreement between the Debtors and such Critical Vendor is terminated;

- (b) declare that payments made to such Critical Vendor, on account of its Critical Vendor Claims be deemed to have been in payment of then-outstanding (or subsequently accruing) postpetition claims of such Critical Vendor without further order of the Court or action by any person or entity; and
- (c) recover any payment made to such Critical Vendor, on account of its Critical Vendor Claims to the extent that such payments exceed the postpetition claims of such Critical Vendor, without giving effect to any rights of setoff, claims, provision for payment of reclamation or trust fund claims, or other defense.

Nothing herein shall constitute a waiver of the Debtors' rights to seek damages or other appropriate remedies against any breaching Critical Vendor.

7. Notwithstanding the foregoing, the Debtors may, in their sole discretion, reinstate a Trade Agreement if:

- (a) the underlying default under the Trade Agreement is fully cured by the Critical Vendor not later than five (5) business days following the Debtors' notification to the Critical Vendor of such a default; or
- (b) the Debtors, in their sole discretion, reach a favorable alternative agreement with the Critical Vendor.

8. Nothing herein shall be construed to limit, or in any way affect, the Debtors' ability to object to any Critical Vendor Claim.

9. Nothing contained in this Order shall be deemed to constitute an assumption or rejection of any executory contract or unexpired lease between the Debtors and a Critical Vendor.

10. The authorization granted hereby to pay Critical Vendor Claims shall not create any obligation on the part of the Debtors or their officers, directors, attorneys or agents to pay the Critical Vendor Claims and none of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay a Critical Vendor Claim. Further, nothing

contained in this Order shall be deemed to increase, reclassify, elevate to an administrative expense status or otherwise affect the Critical Vendor Claims to the extent they are not paid.

11. The amount of each Critical Vendor's Critical Vendor Claims set forth in connection with a Trade Agreement shall be used only for purposes of determining such Critical Vendor's claim under this Order and shall not be deemed a claim allowed by the Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of the Court. Further, signing a Trade Agreement containing a claim amount for purposes of this Order shall not excuse such Critical Vendor from the requirement to file a proof of claim in these cases.

12. No claimant who receives payment on account of a Critical Vendor Claim (whether or not such claimant signs a Trade Agreement) shall be permitted to: (a) file or perfect a Lien on account of such claim, and any such claimant shall take all necessary action to remove any existing lien relating to such claim, even if the Lien is against property of a non-Debtor; or (b) seek payment for a Reclamation Claim, 503(b)(9) Claim, or similar claim outside of the terms of this Order.

13. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by, any person.

14. Nothing in this Order shall prohibit the Debtors from seeking Court authority to increase the prepetition amounts authorized to be paid hereunder.

15. The execution of a Trade Agreement by the Debtors shall not be declared a waiver of any other cause of action, including avoidance actions, that may be held by the Debtors.

16. All applicable banks and other financial institutions are hereby authorized and required to receive, process, honor, and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under this Order whether presented prior to or after the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Order.

17. Notwithstanding any other provision of this Order, no bank or other financial institution that honors a prepetition check or other item drawn on any account that is the subject of this Order either: (a) at the direction of the Debtors; (b) in a good faith belief that the Court has authorized such prepetition check or item; or (c) as the result of a good faith error made despite implementation of reasonable item handling procedures, shall be deemed to be liable to the Debtors or their estates or otherwise in violation of this Order.

18. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

19. The notice provisions under Bankruptcy Rule 6004(a) are hereby deemed waived.

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

21. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: Wilmington, Delaware  
July 17, 2009

  
CHRISTOPHER S. SONTCHI  
UNITED STATES BANKRUPTCY JUDGE