

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: )	Chapter 11
GSC GROUP, INC., <u>et al.</u> , <sup>1</sup> )	Case No. 10-14653 (AJG)
Debtors. )	(Joint Administration Requested)
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**DECLARATION OF PETER R. FRANK IN SUPPORT OF FIRST DAY MOTIONS  
AND APPLICATIONS AND IN COMPLIANCE WITH LOCAL RULE 1007-2**

I, Peter R. Frank, pursuant to 28 U.S.C. § 1746, do hereby declare under penalty of perjury as follows:

1. I am the Senior Managing Director of GSC Group, Inc. ("GSC Group"), a Delaware corporation, the President and Senior Managing Director of GSCP (NJ), Inc. ("NJ Inc."), a Delaware corporation, and the Senior Managing Director of GSCP, LLC ("GSCP LLC"), a Delaware limited liability company (collectively with their debtor affiliates herein, the "Debtors"), and collectively with their debtor and non-debtor affiliates, "GSC"). I have worked for GSC since 2001, and am familiar with the day to day operations, businesses and financial affairs of the Debtors.

2. I submit this declaration (the "Declaration") in support of the First Day Motions (defined herein) pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York (the "Local Rules").

3. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C.

<sup>1</sup> The Debtors along with the last four digits of each Debtor's federal tax identification number are GSC Group, Inc. (6382), GSCP, LLC (6520), GSC Active Partners, Inc. (4896), GSCP (NJ), Inc. (3944), GSCP (NJ) Holdings, L.P. (0940), GSCP (NJ), L.P. (0785), and GSC Secondary Interest Fund, LLC (6477).

§§ 101-1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of New York. The Debtors are seeking entry of an order directing that these chapter 11 cases be jointly administered for procedural purposes. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No official committee, trustee, or examiner has been appointed.

4. To enable the Debtors to operate effectively and minimize certain of the potential adverse effects of the commencement of these chapter 11 cases, the Debtors have requested certain relief in “first day” motions filed with the Court (collectively, the “First Day Motions”). Among other things, the First Day Motions seek relief that would (i) approve the use of cash collateral to allow the Debtors to continue to operate in chapter 11, (ii) ensure the continuation of the Debtors’ cash management system and other business operations without interruption, (iii) maintain employee morale and confidence, and (iv) establish administrative procedures to promote a seamless transition into chapter 11.

5. I am generally familiar with the contents of each First Day Motion and believe that the relief sought therein is necessary for the Debtors to operate in chapter 11 with minimum disruption or loss of productivity or value and to prevent immediate and irreparable harm to the Debtors’ estates. I believe that the relief sought in the First Day Motions is in the best interest of the Debtors, their estates, their creditors, and other parties in interest.

6. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, information supplied to me by other members of the Debtors’ management and professionals, were learned from my review of relevant documents, or are my opinion based upon my experience and knowledge of the Debtors’ operations and

financial condition. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am duly authorized to submit this Declaration.

7. As set forth herein, Part I of this Declaration describes the Debtors' business, capital structure, and the circumstances leading to the filing of these chapter 11 cases, Part II sets forth the relevant facts in support of the First Day Motions and Part III contains statements and schedules providing additional information about the Debtors, as required by Local Bankruptcy Rule 1007-2(a) and (b).

**I. THE DEBTORS' BUSINESS, CAPITAL STRUCTURE, AND THE CIRCUMSTANCES LEADING TO CHAPTER 11 FILING**

**A. The Debtors' Business**

8. GSC (initially established as Greenwich Street Capital Partners, Inc.) was founded in 1994 by Alfred C. Eckert III as a subsidiary of Travelers Group Inc. to invest in private equity transactions. In 1998, following the merger of Travelers Group Inc. and Citicorp, GSC became independent from Citigroup and is now a diversified alternative asset manager.

9. GSC provides debt-focused investment management of alternative assets with a full spectrum of complementary investment product offerings. GSC is privately owned and has approximately thirty-one (31) full-time employees. At its peak, GSC had \$28 billion of assets under management. As of March 31, 2010, GSC had approximately \$8.4 billion of assets under management in approximately 28 separately managed investment funds.

10. The Debtors offer investment management and advisory services through their principal subsidiary, GSCP (NJ), L.P. ("NJLP"). NJLP has been a registered investment advisor with the Securities and Exchange Commission since March 2001. The Debtors, through GSCP (NJ) Holdings, LP ("Holdings LP") and GSC Secondary Interest Fund, LLC ("SIF"), hold investments in certain affiliated investment funds. NJ Inc. serves as the general partner of NJLP

and Holdings LP. GSCP LLC is a subsidiary of GSC Group that provided investment advisory services to NJLP and monitoring and management services to certain portfolio companies of the funds.<sup>2</sup> Non-debtor GSC Active Partners Holdings, L.P. (“AP Holdings”) holds one hundred percent of the Class A common stock of GSC Group. AP Holdings was created in 2006 as part of a restructuring transaction pursuant to which some of the former owners of GSC contributed their partnership ownership interests in GSC in exchange for limited partnership interests in AP Holdings. Debtor GSC Active Partners, Inc. (“AP Inc.”) was created as part of the same restructuring transaction and acts as the general partner of AP Holdings. A chart outlining the organizational structure of the Debtors is attached hereto as Exhibit A.

11. The Debtors focus their business and funds along certain product lines: Distressed Debt, U.S. Corporate Debt, European Corporate Debt and European Mezzanine Lending, and U.S. ABS CDOs.

12. Distressed Debt. The Debtors’ Recovery Funds employ a control distressed debt investment strategy that targets companies which the funds believe are operationally sound but overburdened with high levels of debt. GSC focuses on securities that are either the most senior in the capital structure or have only a moderate level of debt senior to them. The acquired debt securities often are converted into new “restructured” equity at a cost basis that GSC believes represents attractive acquisition valuations. Post-restructuring, the funds seek to further enhance value as an active owner through various strategic and financial initiatives.

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<sup>2</sup> GSCP LLC’s principal place of assets is New York. Specifically, it has a lease of two floors of office space in Manhattan, one of which is subleased and the other is recently vacated. Other assets include the furniture, fixtures, equipment and computers in the Manhattan leased space, bank accounts and certain investment receivables. At all relevant times, New York was GSCP LLC’s principal place of business.

13. U.S. Corporate Debt. The Debtors are an experienced U.S. loan manager with eight CLOs and CDOs under management.

14. European Corporate Debt. The Debtors have a strong presence as a manager of European CLOs with three such CLOs under management. The portfolios consist of loans and some mezzanine securities. The Debtors have expertise in credit analysis, diverse industries, and all parts of capital structure in many legal jurisdictions in Europe.

15. European Mezzanine Lending. The Debtors' corporate mezzanine lending team provides mezzanine lending in the form of subordinated debt and preferred equity to support financial sponsors, corporations and others seeking to finance leveraged buyouts, strategic acquisitions, growth strategies or recapitalizations in Europe.

16. U.S. ABS CDOs. The Debtors are an experienced ABS CDO manager with approximately eleven ABS CDO Funds under management. On November 7, 2008, the Debtors entered into an agreement with Institutional Credit Partners, LLC ("ICP") for ICP to act as sub-advisor on the ABS CDO Funds. That relationship was recently terminated.

17. The Debtors generate revenue through management fees, transaction and portfolio monitoring fees, incentive fees and returns on investments. The Debtors, through NJLP, earn fees for the management of funds. The nature and amount of the management fees earned are governed by the applicable management or advisory agreement and vary widely across the funds. The transaction fees are earned by GSC for structuring and negotiating transactions with portfolio companies in which the Debtors' funds invest. Portfolio monitoring fees are earned by the Debtors for providing management advisory services to portfolio companies owned by GSC-managed funds. Incentive fees are generally earned if the performance of an investment exceeds a threshold set forth in the applicable management

contract. The Debtors also co-invest in their funds. As investors, the Debtors are entitled to returns on such investments in accordance with the provisions of the applicable fund documents.

**B. Capital Structure**

*(i) Prepetition Credit Agreement*

18. NJLP, as borrower, and certain of NJLP's debtor and non-debtor affiliates, as guarantors, are parties to that certain Fourth Amended and Restated Credit Agreement dated as of February 28, 2007 (as amended, restated, supplemented or otherwise modified from time to time, the "Prepetition Credit Agreement,"), with Black Diamond Commercial Finance, L.L.C., as Administrative Agent and Collateral Agent (the "Agent") and the lenders (the "Prepetition Lenders"), and together with the Agent, the "Prepetition Secured Parties") from time to time party thereto.

19. Pursuant to the Prepetition Credit Agreement, the Debtors borrowed \$193,500,000 in term loans (comprised of \$73,500,000 in new term loans and \$119,100,000 in continuing and refinanced existing term loans) and gained access to up to \$56,500,000 (subsequently reduced to \$38,000,000) in revolving credit commitments.

20. As of the Petition Date, there was outstanding indebtedness under the Prepetition Credit Agreement of approximately \$209.6 million, comprised of \$163 million in term loans, \$36.4 million in revolving loans and \$10.2 million on account of the Swap (as defined below).

21. The Debtors' obligations under the Prepetition Credit Agreement are secured by liens and security interests in substantially all of the Debtors' assets. As of the Petition Date, the Debtors were in default under the Prepetition Credit Agreement.

*(ii) Swap Agreement*

22. In accordance with the terms of the Prepetition Credit Agreement, the Debtors entered into a \$97 million notional principle interest rate hedge contract (the “Swap”) with Calyon New York Branch (“CALNY”) that matures February 15, 2012. Under the Swap, the Debtors were obligated to pay a fixed rate of interest and were entitled to receive from CALNY a three-month LIBOR flat rate. On April 7, 2009, CALNY presented NJLP with a Notice of Early Termination, indicating a termination date of April 14, 2009. The value of the settlement due from NJLP on that date was \$10,192,828, which remains unpaid.

**C. Circumstances Leading To Chapter 11 Filing**

23. As a financial advisory firm, GSC is materially impacted by both the financial markets and worldwide economic conditions. During 2008 and continuing through the first half of 2009, GSC operated in an extremely unfavorable global business environment, which included, among other things, a lack of liquidity in the credit markets and declining asset values. These factors resulted in a substantial decline in GSC’s revenues.

24. Specifically, GSC suffered a significant loss of asset value based on the significant decline of the investments held in the funds they managed. Based on the overall market conditions and the performance of certain funds, GSC resigned as manager to certain funds while other funds opted for early termination. GSC also experienced significant losses in certain of its CDO funds that were invested in securities impacted by the subprime meltdown. Each of these factors impacted GSC’s asset values and revenues. Due to economic conditions beyond its control, it was unable to monetize certain investments requiring GSC to maintain positions in illiquid assets.

25. Compounding these issues, GSC also experienced a deterioration in investor relations. Decreasing asset values and liquidity constraints significantly strained investor relations.

26. In order to address these financial concerns and liquidity issues, starting in 2009, GSC commenced negotiations with the Agent and the Prepetition Lenders regarding a possible out-of-court restructuring of GSC's capital structure. In the spring of 2010, those negotiations shifted, and the parties began exploring the possibility of a chapter 11 filing. After exhausting all other strategic options, the Debtors believe chapter 11 is the most effective option available in order to maximize value for the benefit of all of the Debtors' stakeholders.

27. As part of the chapter 11 proceedings, the Debtors intend to sell substantially all of their assets with economic value. Shortly, the Debtors intend to file a motion seeking approval of procedures governing the sale of such assets. The Debtors received a bid from the Agent, the terms of which are being negotiated. The Debtors have also received interest from a number of potential bidders interested in purchasing all or a portion of the Debtors' assets and expect the auction to involve robust bidding.

28. The Debtors' Chief Executive Officer and I have negotiated employment packages with a potential bidder, Black Diamond, for employment after the sale has been completed.

29. Prior to the filing of these chapter 11 cases, the Debtors posted a \$1 million escrow for the protection of its remaining senior executives in the event that the Debtors are unable to satisfy their indemnification obligations with respect to the self-insured portion under the Debtors' pre-petition directors' and officers' insurance policy.

## II. FIRST DAY MOTIONS AND FACTS IN SUPPORT THEREOF<sup>3</sup>

### A. Filing of Bankruptcy Case and First Day Motions

30. I understand that on the Petition Date the Debtors filed the following First Day Motions, among other pleadings:

- A. Motion of Debtors for an Order Directing Joint Administration of Related Chapter 11 Cases (“Joint Administration Motion”);
- B. Motion of Debtors for an Order (I) Authorizing the Debtors to Prepare a List of Creditors in Lieu of a Formatted Mailing Matrix, (II) Authorizing the Debtors to File a Consolidated List of the Debtors’ Unsecured Creditors, and (III) Authorizing the Debtors to Send Notices to Creditors (the “Mailing Matrix Motion”);
- C. Application of Debtors to Employ and Retain Epiq Bankruptcy Solutions, LLC as Notice and Claims Agent for The Debtors And Debtors In Possession *Nunc Pro Tunc* to the Petition Date (the “Notice and Claims Agent Application”);
- D. Motion of Debtors for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 1015(c) and 9007 Implementing Certain Notice and Case Management Procedures (“Case Management Motion”);
- E. Motion of Debtors for Interim and Final Orders Approving (I) the Debtors’ Continued Use of Their Cash Management System, (II) the Continuation of the Intercompany Transactions, (III) the Debtors’ Continued Use of Existing Bank Accounts, Checks, and Business Forms, and (IV) a Waiver of the Bond Requirement Contained in Bankruptcy Code Section 345(b) (the “Cash Management Motion”);
- F. Motion of Debtors for Interim and Final Orders (I) Authorizing the Payment of Prepetition Wages and Salaries and the Payment and Honoring of Prepetition Employee Policies and Benefits, and (II) Continuing Employee Wages and Benefits During these Chapter 11 Cases (the “Wages Motion”); and
- G. Motion of Debtors for Interim and Final Orders (I) Authorizing the Debtors to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363; (II)

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<sup>3</sup> Capitalized terms not otherwise defined herein have the meanings ascribed to them in the applicable First Day Motion.

Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361 AND 363; (III) Scheduling Final Hearing Pursuant to Bankruptcy Rule 4001(b); and (IV) Granting Related Relief (the “Cash Collateral Motion”).

**A. Joint Administration Motion**

31. The Joint Administration Motion seeks an order consolidating the Debtors’ cases for administrative purposes only. It seeks permission to treat the Debtors under a single caption and for related relief.

32. Joint administration of the Debtors’ cases will eliminate the need for duplicative notices, applications and orders, allowing the Debtors to avoid the time and expense that otherwise would be required to separately administer individual cases. The rights of creditors will not be adversely affected because the Joint Administration Motion seeks only administrative, and not substantive, consolidation of the Debtors’ cases. All creditors will benefit from the reduced costs that will result from the joint administration of these cases. The Court will be relieved of the burden of entering duplicative orders and maintaining redundant files, and the amount of resources that the United States Trustee (the “U.S. Trustee”) will need to spend supervising these cases will be lessened.

33. I believe that joint administration of the Debtors’ chapter 11 cases is in the best interests of the Debtors’ estates, their creditors, and all parties-in-interest.

**B. Mailing Matrix Motion**

34. The Mailing Matrix Motion seeks authority for the Debtors to prepare a list of creditors in lieu of a formatted mailing matrix, for the Debtors to file a consolidated list of the Debtors’ unsecured creditors, and for the Debtors to mail notices through their proposed notice and claims agent (described below).

35. The Debtors have over 1,000 creditors and other interested parties, and converting the Debtors' computerized information to a format compatible with the matrix requirements would be a burdensome task and greatly increase the risk of error with respect to information already intact on computer systems maintained by the Debtors or their agents.

36. The Debtors submit that it is more efficient and appropriate to file a consolidated list of the all unsecured creditors rather than to file lists for each individual Debtor because the Debtors have less than twenty (20) unsecured creditors on a consolidated basis. Moreover, as some of the Debtors have no identifiable unsecured creditors, filing separate lists would be of limited utility.

37. In addition, the Debtors have filed an application to retain Epiq Bankruptcy Solutions, LLC ("Epiq") as their notice and claims agent in these chapter 11 cases ("Proposed Notice and Claims Agent"). Using Epiq for this purpose will maximize administrative efficiency in these chapter 11 cases and reduce the administrative burdens that would otherwise fall upon the Court, the Clerk's Office and the U.S. Trustee.

38. The relief requested in the Mailing Matrix Motion is necessary and appropriate and is in the best interest of the Debtors' estates, creditors, and other parties-in-interest.

**C. Notice and Claims Agent Application**

39. The Debtors believe that these chapter 11 cases will involve a large number of creditors and other parties in interest to whom certain notices, including the notice of the commencement of these cases and the initial meeting of the Debtors' creditors, must be sent. The numerous creditors and other parties in interest involved in these chapter 11 cases may impose heavy administrative and other burdens on the Court and the Clerk's Office. To relieve

the Clerk's Office of these burdens, the Debtors seek an order appointing Epiq as the notice and claims agent (the "Claims Agent").

40. The Debtors selected Epiq because it is one of the country's leading chapter 11 administrators, with extensive experience in noticing, claims administration, solicitation, and facilitating other administrative aspects of chapter 11 cases. It has substantial experience in matters of this size and complexity, and it has acted as the official notice and claims agent in many large bankruptcy cases pending in this District and other districts nationwide. The Debtors believe that Epiq is well qualified to serve in this role

41. As the Claims Agent, Epiq will, among other things, (i) distribute required notices to parties in interest, (ii) receive, examine, maintain and docket all proofs of claim and proofs of interest filed in these chapter 11 cases and maintain the associated claims registers, and (iii) provide such other administrative services as the Court, the Clerk's Office, and the Debtors may require in connection with these chapter 11 cases.

42. The retention and employment of Epiq in connection with these chapter 11 cases is in the best interests of the Debtors' estates, creditors, and other parties-in-interest.

**D. Case Management Motion**

43. The Case Management Motion seeks the establishment of certain notice and case management procedures (the "Procedures") intended to avoid unnecessary cost, delay and confusion related to proceedings involving these cases in this Court.

44. Among other things, the Case Management Motion seeks orders limiting service, in certain circumstances, to the parties most likely to be affected by the noticed actions, permitting email notice in certain instances, and scheduling omnibus hearings at which the Court, the Debtors and other parties in interest can address several motions at once, thereby avoiding the substantial time and expense of scheduling separate hearings on discrete matters,

and avoiding the confusion that could ensue if regularly scheduled hearings were not established. The Case Management Motion also seeks the establishment of procedures both allowing the Debtors to file agendas prior to each omnibus hearing and governing motion practice.

45. The notice procedures outlined in the Case Management Motion are appropriate because a large number of parties-in-interest may be entitled to receive notice in these chapter 11 cases. Providing notice of all pleadings filed to each creditor and party-in-interest is unnecessary and would be extremely burdensome and costly to the estate, in light of the photocopying, postage, and other expenses associated with such large mailings.

46. The administration of these chapter 11 cases would be more efficient and cost-effective if the relief requested in the Case Management Motion were granted. The nature of the Debtors' financial difficulties has placed significant demands on the Debtors and their personnel and professionals. In addition to the discharge of their ordinary duties, the Debtors' personnel now carry the additional burdens imposed by the commencement of these chapter 11 cases. By authorizing the Debtors to schedule omnibus hearing dates, establishing clear timelines for the filing of requests for relief, and allowing, with certain exceptions, electronic service, such Procedures will assist the Debtors' management in preserving the Debtors' time and directing the attention of their personnel to issues in these chapter 11 cases.

47. The relief requested in the Case Management Motion is necessary and appropriate and is in the best interest of the Debtors' estates, creditors, and other parties-in-interest.

**E. Cash Management Motion**

48. Prior to the Petition Date, the Debtors maintained a cash management system in connection with the day-to-day operation of their business (the "Cash Management

System”). The Cash Management System constitutes a customary and essential business practice and is similar to systems currently utilized by comparable corporate enterprises.

49. Through the Cash Management Motion, the Debtors seek to continue to use the Cash Management System, to engage in certain intercompany transactions (the “Intercompany Transactions”), and to use existing bank accounts, checks, and business forms during these chapter 11 cases. The Debtors also seek an extension of time to comply with the bond requirement contained in section 345(b) of the Bankruptcy Code.

50. The use of the Debtors’ existing Cash Management System provides numerous benefits to the Debtors, including providing them with central management and control of corporate funds, ensuring cash availability, and reducing overhead costs by facilitating the movement of funds. Requiring the Debtors to adopt new, segmented cash management systems at this critical juncture would be expensive, create unnecessary administrative burdens, and be disruptive to the operation of the business. Moreover, there have been significant reductions in the number of employees, and tasking those remaining employees with introducing new cash management systems would not be the most effective use of their time. In light of the foregoing, maintenance of the existing Cash Management System is not only essential but in the best interests of all creditors and other parties-in-interest.

51. In the ordinary course of business, the Debtors also engage in Intercompany Transactions, which involve the accounting for various cash receipts and disbursements made by and between the Debtors and certain of their non-debtor affiliates. Each Intercompany Transaction is accounted for through book entries on the appropriate Debtor’s, or non-debtor affiliate’s, books and records. The continuation of ordinary course Intercompany Transactions is necessary to operate the Debtors’ businesses. The Intercompany Transactions

also reduce the administrative costs incurred by the Debtors. If the Intercompany Transactions were to be discontinued, the Cash Management System and related administrative controls would be disrupted.

52. NJLP, GSCP LLC and Holdings LP maintain the Debtors' operating bank accounts for the purpose of collecting fees and other revenue and disbursing operating expenses. The Bank Accounts, held with certain banks through which the Cash Management System is operated, are part of the accounting and cash concentration and disbursement system used by the Debtors. NJLP maintains zero balance bank accounts and a securities accounts, and Holdings LP maintains a securities account, that are unrelated to the Debtors' daily operations. The Debtors believe that maintaining these Debtors' bank accounts, as part of the Cash Management System, is essential to a smooth and orderly transition into chapter 11. Permitting existing accounts to remain open would help the Debtors preserve business continuity, as well as avoid the operational and administrative difficulties that closing the accounts and opening new ones would necessarily entail, to the benefit of the Debtors and all parties in interest.

53. Certain of the Debtors' cash is located at Wachovia Bank, National Association ("Wachovia"), a financial institution approved by the U.S. Trustee. The Debtors believe that any funds that are deposited in those accounts are secure and, thus, the Debtors are in compliance with section 345 of the Bankruptcy Code. As further described in the Cash Management motion, the Debtors also maintain two other accounts with two institutions that, while not on the U.S. Trustee's approved list, are nonetheless large and well-known financial institutions, and the Debtors believe that funds deposited with these institutions are secure. The Debtors believe that the cost of obtaining bonds to secure the funds in both of these accounts, as required by section 345(b) of the Bankruptcy Code, is unnecessarily costly and would be

detrimental to the Debtors' estates and creditors. The Debtors seek a forty-five (45) day extension to comply with the requirements of 345(b) with respect to both of these accounts, and authority to move funds from these accounts to Wachovia or another institution acceptable to the U.S. Trustee.

54. In the ordinary course of business, the Debtors use a number of business forms, including pre-printed checks and letterhead. The Debtors believe that if they were required to obtain new business forms and stationery as a result of the filing of these chapter 11 cases, they would incur significant expenses and would experience costly delays in effectuating certain postpetition transactions. Accordingly, the Debtors seek authority to, among other things, continue use of business forms, including checks and letterheads.

55. The relief requested in the Cash Management Motion is in the best interests of the Debtors' estates, creditors, and other parties in interest.

**F. Wages Motion**

56. The Debtors seek an order (i) authorizing the payment of prepetition wages and salaries and the payment and honoring of prepetition employee policies and benefits, and (ii) continuing employee wages and benefits during these chapter 11 cases.

57. As of the Petition Date, the Debtors have thirty-one (31) full-time employees and four (4) temporary employees. In addition to their salary and compensation programs, the Debtors are obligated to pay and to provide certain medical, dental, life, and disability insurance, and other related benefits to their employees, and the Debtors reimburse employees for ordinary business expenses incurred on behalf of the Debtors.

58. While the Debtors do not believe there are outstanding prepetition employee wage, salary or benefit expenses, except with respect to certain expense reimbursement obligations, the Debtors nonetheless believe it is necessary to have any such

amounts paid promptly after the Petition Date, and to continue such wages, salaries and benefits during these chapter 11 cases. The Debtors depend on their employees to oversee virtually every aspect of their business. The employees' skills, their relationships with investors and their specialized knowledge and understanding of the Debtors' operations are all essential to the Debtors' ability to continue operations. The Debtors believe that unless any amounts owed for prepetition wages and benefits are paid, and that such benefits and wages continue during these chapter 11 cases, the Debtors will lose a significant number of employees, and that such a loss would substantially diminish the Debtors' ability to maximize the value of the funds for the benefit of all stakeholders.

59. The relief requested in the Wages Motion is necessary to maintain the morale and loyalty of their workforce and maximize the value of the Debtors' estates.

**G. Cash Collateral Motion<sup>4</sup>**

60. The Cash Collateral Motion seeks authorization to utilize Cash Collateral and to grant certain adequate protection to the Prepetition Secured Parties. The Debtors have reached an agreement with the Agent regarding, and request that the Court approve, the Debtors' use of Cash Collateral on the terms set forth in the Cash Collateral Motion.

61. In order to maintain the value and integrity of their business, the Debtors believe that it is essential to have use of the Cash Collateral. Use of Cash Collateral is required to fund day-to-day operating expenses, including payments to employees, that are necessary to preserve the value of the funds for the benefit of all stakeholders.

62. Unless this Court authorizes use of the Cash Collateral, the Debtors will be unable to pay for services and expenses necessary to preserve and maximize that value.

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<sup>4</sup> Capitalized terms used in this section but not otherwise defined in this Declaration have the meaning ascribed to such terms in the Cash Collateral Motion.

Indeed, absent sufficient funds to support the Debtors' businesses, those businesses will fail and the value of their assets will be destroyed. The Debtors are proposing to sell a significant portion of their assets, and preserving the businesses is central to maximizing value for the Debtors' estates and creditors. Without authorization to utilize the Cash Collateral, the Debtors may not be able to remain in business to consummate the contemplated asset sales.

63. The Debtors recognize that the Prepetition Secured Parties are entitled, pursuant to sections 361 and 363(e) of the Bankruptcy Code, to adequate protection of their interests in the Cash Collateral. In consideration for the Debtors' use of the Cash Collateral, the Debtors have agreed, subject to this Court's approval, to provide the Prepetition Secured Parties with the adequate protection described in the Cash Collateral Motion. The Debtors believe that the requested use of Cash Collateral and the protections afforded the Prepetition Secured Parties in the Interim Order are reasonable, appropriate, and sufficient to satisfy the legal standard of adequate protection.

64. The relief requested in the Cash Collateral Motion is in the best interests of the Debtors' estates, creditors, and other parties in interest.

### **III. LOCAL RULE 1007-2 DISCLOSURES**

65. Pursuant to Local Rule 1007-2 (a)(1), a statement regarding the nature of the Debtors' businesses and the circumstances leading to the filing of their chapter 11 petitions is set forth in Part I of this Declaration.

66. These cases were not originally commenced under chapter 7 or chapter 13 of the Bankruptcy Code; accordingly, Local Rule 1007-2(a)(2) is inapplicable.

67. No committee was organized prior to the filing of these chapter 11 cases; accordingly, Local Rule 1007-2(a)(3) is inapplicable.

68. In accordance with Local Rule 1007-2(a)(4), Schedule A-4 lists the Debtors' unsecured claims on consolidated basis, excluding the claims of insiders. To the extent available, Schedule A-4 includes a list of the names and addresses of these creditors and the names, addresses, and telephone numbers of persons familiar with the Debtors' account. When available, the amount of the claim is also included. In each case, the claim amounts listed on Schedule A-4 are estimated, on a preliminary basis, and subject to verification. The Debtors reserve any and all rights (i) as to whether any claim is contingent, unliquidated, disputed or subject to setoff, (ii) to challenge the priority, nature, amount and status of any claim or debt, and (iii) to assert any remedies, defenses, counterclaims and offsets with respect to each of the foregoing.

69. In response to Local Rule 1007-2(a)(5), the Debtors represent that SIF and AP Inc. do not have any secured creditors. A list of the names and addresses of the five largest secured creditors of GSC Group, NJLP, GSCP Inc., Holdings LP and GSCP LLC, as of the Petition Date, excluding insiders, is attached hereto as Schedule A-5-1 through Schedule A-5-5 (together, "Schedule A-5"). Any amounts or collateral values listed on Schedule A-5 are estimated, on a preliminary basis, and subject to verification. The Debtors reserve any and all rights as to the validity, enforceability and priority of each claim and lien and reserve any and all rights to assert remedies, defenses, counterclaims and offsets with respect to each such claim and lien.

70. As required by Local Rule 1007-2(a)(6), the Debtor's books and records reflect assets and liabilities for the Debtors and their non-debtor affiliates on a consolidated basis as of July 31, 2010, as follows:

Total Assets: \$119,790,643

Total Liabilities: \$313,562,470

71. In accordance with Local Rule 1007-2(a)(7), the Debtors represent that none of the Debtors have issued publicly held equity or debt instruments.

72. In response to Local Rule 1007-2(a)(8), Schedule A-8 contains a list of all of the Debtors' property in the possession or custody of any custodian, public officer, mortgagee, pledgee, assignee of rents, or secured creditor, or agent for any such entity, giving the name, address and telephone number of such entity. The Debtors represent that there are no proceedings related to any of the above pending in any court.

73. In accordance with Local Rule 1007-2(a)(9), the Debtors represent that they lease the following properties: (i) 888 7th Ave, 26<sup>th</sup> and 27<sup>th</sup> Floors, New York, NY 10019 (GSCP LLC), (ii) 300 Campus Drive, Suite 100, Florham Park, NJ 07932 (NJLP), and (iii) 500 Campus Drive, Suite 220, Florham Park, NJ 07932 (NJLP). The Debtors represent that they do not own any real property.

74. In accordance with Local Rule 1007-2(a)(10), and as detailed on Schedule A-10 attached hereto, the Debtors disclose that their general books and records and day-to-day operating records are maintained at 500 Campus Drive, Florham Park, NJ 07932. The Debtors' substantial assets are located at the locations listed on Schedule A-10.

75. In response to Local Rule 1007-2(a)(11), to the best of my knowledge, information, and belief, there are no actions or proceedings, pending or threatened against the Debtors or their property where a judgment or a seizure of property is imminent.

76. As required by Local Rule 1007-2(a)(12), a list of the Debtors' existing senior management, including their tenure with the Debtors and a brief summary of their responsibilities and experience, is attached hereto as Schedule A-12.

77. In accordance with Local Rule 1007-2(b)(1), the Debtors estimate that the payroll for employees, exclusive of officers, directors, stockholders and partners, for the thirty (30) days following the Petition Date, will be approximately \$330,000 plus applicable taxes.<sup>5</sup>

78. In accordance with Local Rule 1007-2(b)(2)(A), the Debtors estimate that the amount to be paid to the Debtors' officers and directors for the thirty (30) days following the Petition Date will be approximately \$92,000 plus applicable taxes.<sup>6</sup>

79. In accordance with Local Rule 1007-2(b)(2)(C), the Debtors estimate that the amount to be paid to financial and business consultants retained by the Debtor for the thirty (30) days following the Petition Date will be approximately \$450,000.

80. In accordance with Local Rule 1007-2(b)(3), set forth on Schedule B-3 hereto are the estimated consolidated cash receipts, disbursements, net cash gain or loss, obligations and receivables expected to accrue but remain unpaid for the thirty (30) days following the Petition Date, other than professional fees.

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<sup>5</sup> The Debtors estimate that the payroll for U.K. employees, exclusive of officers, directors, stockholders and partners, for the 30 days following the Petition Date, will be approximately \$52,000 plus applicable taxes. These wages are being paid by a non-Debtor entity as a result of an intercompany transaction with a Debtor entity (as more fully discussed in the Cash Management Motion and Wages Motion).

<sup>6</sup> The Debtors estimate that the payroll for U.K. officers and directors for the 30 days following the Petition Date will be \$28,000 plus applicable taxes. These wages are being paid by a non-Debtor entity as a result of an intercompany transaction with a Debtor entity (as more fully discussed in the Cash Management Motion and Wages Motion).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that this

Declaration is true and correct to the best of my knowledge, information, and belief.

Dated: August 31, 2010  
New York, New York

By: /s/ Peter R. Frank  
Peter R. Frank  
Senior Managing Director, GSC Group, Inc., on  
behalf of the Debtors and Debtors in Possession