

ENTERED

August 11, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§ Chapter 7
	§
COUNTRY FRESH HOLDING COMPANY INC., et. al.¹	§ Case No.: 21-30574 (MI)
	§
Debtors.	§ Jointly Administered
	§

**STIPULATION AND AGREED ORDER REGARDING RELEASE OF ESCROWED
FUNDS BY CITIBANK, N.A. TO BUYER**
[Related to Docket No. 645]

This stipulation and agreed order (“**Stipulation and Agreed Order**”) is entered into by and between Janet Northrup, as chapter 7 trustee (the “**Trustee**”) of the estates of Country Fresh Holding Company Inc., et al. (collectively, the “**Debtors**”), the Ad Hoc Group of Secured Lenders, and Stellex/CF Buyer (US) LLC (the “**Buyer**”, and together with the Trustee, on behalf of the Debtors, and the Ad Hoc Group of Secured Lenders, collectively, the “**Parties**”). The Parties hereby stipulate and agree as follows:

RECITALS

WHEREAS, on February 15, 2021, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code;

WHEREAS, on March 29, 2021, the Court approved the sale of substantially all the Debtors’ assets to the Buyer pursuant to the *Order Authorizing Country Fresh Holdings Company*

¹ The Debtors in these Chapter 7 cases and the last four digits of each Debtors’ taxpayer identification number are as follows: Country Fresh Holding Company Inc. (7822); Country Fresh Midco Corp. (0702); Country Fresh Acquisition Corp. (5936); Country Fresh Holdings, LLC (7551); Country Fresh LLC (1258); Country Fresh Dallas, LLC (7237); Country Fresh Carolina, LLC (8026); Country Fresh Midwest, LLC (0065); Country Fresh Orlando, LLC (7876); Country Fresh Transportation LLC (8244) CF Products, LLC (8404) Country Fresh Manufacturing, LLC (7839); Champlain Valley Specialty of New York, Inc. (9030); Country Fresh Pennsylvania, LLC (7969); Sun Rich Fresh Foods (NV) Inc. (5526); Sun Rich Fresh Foods (USA) Inc. (0429); and Sun Rich Fresh Foods (PA) Inc. (4661). The Debtors’ principal place of business is 3200 Research Forest Drive, Suite A5, The Woodlands, TX, 77381.

Inc. and Its Affiliated Debtors to (I) Sell Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, (II) Authorizing and Approving the Debtors' Performance under the APA, (III) Authorizing and Approving the Assumption and Assignment of Certain of the Debtors' Executory Contracts, Unexpired Leases, And Permits Related Thereto, and (IV) Granting Related Relief [Docket No. 437] (as the same has been and may further be amended, supplemented, or otherwise modified from time to time in accordance with its terms, together with all exhibits thereto, the "**Sale Order**");

WHEREAS, as authorized by the Sale Order, the Debtors and the Buyer entered into that certain Asset Purchase Agreement, dated as of April 29, 2021 (as the same has been and may further be amended, supplemented, or otherwise modified from time to time in accordance with its terms, together with all exhibits and schedules thereto, the "**APA**");

WHEREAS, as authorized by the Sale Order and the APA, the Debtors and the Buyer entered into the Transition Services Agreement, dated as of April 29, 2021 (as the same has been and may further be amended, supplemented, or otherwise modified from time to time in accordance with its terms, together with all exhibits and schedules thereto);

WHEREAS, in accordance with the APA, the Parties entered into an escrow agreement dated April 29, 2021 (the "**Escrow Agreement**")² whereby the Buyer placed the Adjustment Escrow Amount, License Escrow Amount, and Replenishment Funds (if any) into escrow with Citibank, N.A., as escrow agent;

WHEREAS, on April 29, 2021, the Closing of the sale with the Buyer occurred;

WHEREAS, on May 24, 2021, the Court entered the *Stipulation and Agreed Order Resolving (I) Stellex/CF Buyer (US) LLC's Emergency Motion to Enforce the APA and the Sale*

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the APA or the Escrow Agreement, as applicable.

Order and (II) Debtors' Emergency Motion for Entry of Order Enforcing Sale Order [Docket No. 645] (the “**May 24 Stipulation and Agreed Order**”);

WHEREAS, on June 21, 2021, the Court entered the *Order (I) Authorizing and Approving the Conversion of the Chapter 11 Cases, (II) Extending the Designation Rights Period, and (III) Granting Related Relief* [Docket No. 719];

WHEREAS, on June 21, 2021, Janet Northrup was appointed as the Trustee in the above-captioned cases;

WHEREAS, on June 30, 2021, the Court entered the *Order Granting Trustee's Emergency Motion for Authority to Operate Pursuant to 11 U.S.C. § 721 as of June 21, 2021* [Docket No. 736];

WHEREAS, the Buyer circulated to the Trustee a request to pay certain CF Payables and SR Payables (each as defined in the May 24 Stipulation and Agreed Order);

WHEREAS, the Trustee reviewed the request to pay, conferred with Ankura Consulting Group, LLC and the Ad Hoc Group of Secured Lenders and does not dispute the payment of the CF Payables and SR Payables set forth on **Exhibit A** (the “**Allowed Payables**”); and

WHEREAS, in accordance with the May 24 Stipulation and Agreed Order, the Parties agree that funds from the Adjustment Escrow Amount shall be released to Buyer for the sole purpose of paying the Allowed Payables; and

WHEREAS, pursuant to the *Order (I) Denying the Trustee's Expedited Motion for Turnover of Funds Pursuant to 11 U.S.C. § 543 and Oral Court Order and (II) Granting Related Relief* [Docket No. 847], the Trustee is substituted for the Debtors under the Escrow Agreement for all purposes and the authorized representative of the Debtors set forth on **Schedule 1-B** thereof is replaced with Janet Northrup in her capacity Trustee.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. The recitals to this Stipulation and Agreed Order are incorporated as if fully set forth herein.

2. The Trustee is authorized and directed to execute a Joint Instruction Letter releasing the amount of the Allowed Payables from the Adjustment Escrow Amount to the Buyer.

3. Upon receipt of the amount of the Allowed Payables from the Adjustment Escrow Amount, the Buyer shall pay the Allowed Payables as set forth in the May 24 Stipulation and Agreed Order.


4. The Parties are authorized to take all actions necessary to effectuate the relief granted pursuant to this Stipulation and Agreed Order.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Stipulation and Agreed Order.

6. This Stipulation and Agreed Order is effective and immediately enforceable upon entry.

IT IS SO ORDERED.

Signed: August 11, 2021



Marvin Isgur
United States Bankruptcy Judge

AGREED AND ACCEPTED:

HUGHES WATTERS & ASKANASE

/s/ Heather McIntyre

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