

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

IN RE: COUNTRY FRESH HOLDING § Chapter 7
COMPANY, INC., *et al.*,¹ § Case No. 21-30574
Debtors § Jointly Administered

**VERNON CENTRAL WAREHOUSE, INC. DBA SWEETENER PRODUCTS
COMPANY'S APPLICATION AND REQUEST FOR
ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM OF
SWEETENER PRODUCTS COMPANY PURSUANT TO 11 U.S.C. § 503(b)(9)**

A hearing will be conducted on this matter on September 24, 2021 at 9:00 am in Courtroom 404, 4th floor, 515 Rusk, Houston, Texas 77002. You may participate in the hearing either in person or by audio/video connection. Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. You will be responsible for your own long-distance charges. Once connected, you will be asked to enter the conference room number. Judge Isgur's conference room number is 954554.

You may view video via GoToMeeting. To use GoToMeeting, the Court recommends that you download the free GoToMeeting application. To connect, you should enter the meeting code "Judge Isgur" in the GoToMeeting app or click the link on Judge Isgur's home page on the Southern District of Texas website. Once connected, click the settings icon in the upper right corner and enter your name under the personal information setting. Hearing appearances must be made electronically in advance of the hearing. To make your electronic appearance, go to the Southern District of Texas website and select "Bankruptcy Court" from the top menu. Select "Judges' Procedures," then "View Home Page" for Judge Isgur. Under "Electronic Appearance" select "Click here to submit Electronic Appearance". Select the case name, complete the required fields and click "Submit" to complete your appearance.

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within 21 days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief

¹ The Debtors in these chapter 7 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: 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.

requested.

TO THE HONORABLE MARVIN ISGUR, U. S. BANKRUPTCY JUDGE:

Vernon Central Warehouse, Inc. dba Sweetener Products Company (“Sweetener”) files its Application and Request for Payment of an administrative expense claim (the “Application”) pursuant to 11 U.S.C. § 503(a) and 11 U.S.C. § 503(b)(9). In support of the Application, Sweetener states the following:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper per 28 U.S.C. § 1409(a). This case is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the relief requested by this Application may be granted pursuant to 11 U.S.C. § 105 and § 503.

II. FACTUAL BACKGROUND

2. On February 15, 2021, Country Fresh Holding Company, Inc. and its affiliated debtors (the “Debtors”) filed petitions for relief under Chapter 11 of the United States Bankruptcy Code. These cases are jointly administered (Doc. No. 24).

3. Sweetener asserts an administrative expense claim pursuant to 11 U.S.C. § 503(b)(9) against the Debtors in the amount of \$7,175.27 (the “Administrative Expense Claim”) for goods provided to Debtors prior to February 15, 2021 (“the Petition Date”).

4. Movant is a commercial vendor in the business of selling goods, specifically sweetener goods (“goods”). On January 27, 2021, Sweetener sold and delivered goods to the Debtors in the ordinary course of Debtors’ business. The goods were received by Debtors within 20 days prior to the filing of the Petition Date. Specifically, the details of the sale of goods are summarized as follows:

Invoice #C-5217172;

Invoice Date: 01/27/21;

Shipment Date: 01/27/21;

Shipment Delivery Date : 1/27/21;

Price: \$7,050.27 (\$7,175.27- \$150, fuel surcharge)

5. The total value of the goods sold to and received by Debtors during the 20 day period prior to the Petition Date was \$7,050.27, which amount was to be paid by Debtors. No portion of Sweetener's Administrative Expense Claim relates to services.

6. A true and correct copy of the invoice comprising the Administrative Expense Claim (the "Invoice") is attached hereto as **Exhibit "A"** and incorporated herein by reference for all purposes. A true and correct copy of the delivery receipt related to the goods shipped by Sweetener to Debtor on January 27, 2021, as per the Invoice (the "Receipt") showing Debtors received the shipment of the goods the same day the goods were shipped, is attached hereto marked as **Exhibit "B"** and is incorporated herein by reference for all purposes.

III. LEGAL ARGUMENT

7. Sweetener is entitled to an administrative expense claim against the Debtors under §503(b)(9) of the U.S. Bankruptcy Code (the "Bankruptcy Code"), which provides that, after notice and a hearing, there shall be allowed administrative expenses including "the value of any goods received by the Debtor within 20 days before the date of the commencement of a case under this title in which the goods have been sold to the Debtor in the ordinary course of such debtor's business." 11 U.S.C. § 503(b)(9). Thus, "to qualify for administrative priority treatment, a claim must be (1) for goods, (2) that are received by the debtor within the 20 days prior to case commencement, and (3) that are

sold to the debtor in the ordinary course of its business”. *See e.g., In re Pilgrim’s Pride Corp.*, 421 B.R. 231, 235 (Bankr. N.D. Tex. 2009). As shown above, Sweetener has met the requirements for allowance of a 503 (b)(9) claim in this case.

8. Sweetener reserves the right to amend its Administrative Expense Claim should it, in its sole discretion, deem it necessary to do so.

9. WHEREFORE, Vernon Central Warehouse, Inc. dba Sweetener Products Company requests that the Court enter an order allowing its Administrative Expense Claim in the amount of \$7,050.27 against Debtors, with payment to be made in accordance with the timing and priorities set forth in the Bankruptcy Code.

Dated: August 31, 2021.

Respectfully submitted,

Law Offices of Elizabeth G. Smith
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By: /s/ Elizabeth G. Smith

Elizabeth G. Smith

State Bar No. 18577200

ATTORNEY FOR VERNON CENTRAL
WAREHOUSE, INC. DBA SWEETENER
PRODUCTS COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Vernon Central Warehouse, Inc. dba Sweetener Products Company’s Application and Request for Allowance and Payment of Administrative Claim of Sweetener Products Company Pursuant to 11 U.S.C. § 503(B)(9) was filed with the Court using the CM/ECF System which will provide notice of such filing to all parties requesting such notice; specifically:.

Debtor Attorneys: John P. Melko, Foley & Lardner LLP, 1000 Louisiana, Suite 2000, Houston, TX 77002, jmelko@foley.com;

Janet S. Casciato-Northrup, Chapter 7 Trustee; and,

Counsel for CH7 Trustee: Wayne Kitchens and Heather McIntyre, Hughes Walters Askanase, LLP, 1201 Louisiana, 28th FL., Houston, TX 77002, wkitchens@hwa.com, hmcintyre@hwa.com

s/ Elizabeth G. Smith

Elizabeth G. Smith