

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

IN RE: COUNTRY FRESH HOLDING	§	CHAPTER 7
COMPANY, INC., <i>et al.</i> , ¹	§	
	§	CASE NO. 21-30574
Debtors	§	
	§	(Jointly Administered)
	§	

**PACKER SANITATION SERVICES, INC., LTD'S APPLICATION FOR ALLOWANCE
AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM
PURSUANT TO 11 U.S.C. § 503(b)(1)(A)**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 14 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, 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), Sun Rich Fresh Foods (PA) Inc. (4661). The Debtors' principal place of business is 3200 Research Forest Drive, Suite A5, The Woodlands, TX, 77381.

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

Packers Sanitation Services, Inc., Ltd, (“PSSI” or “Movant”), presents this *Application for Allowance for Administrative Expense Claim requesting entry of an Order, pursuant to 11 U.S.C. § 503(b)(1)(A)*, granting Movant an administrative expense claim in the amount of \$73,119.46 and directing its payment to Packers Sanitation Services, Inc., Ltd, and shows the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this application pursuant to 28 U.S.C. §§ 157 and 1334(b). This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (B).
2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for relief requested herein are 11 U.S.C. §§ 105(a) and 503(b)(1)(A) and Rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas.

BACKGROUND

4. On February 15, 2021 (the “Petition Date”), Country Fresh Holding Company, Inc. and its affiliated debtors (the “Debtor”) filed Voluntary Petitions for Relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).
5. The United States assets were sold via a Section 363 sale. The order authorizing the sale was entered by the court on March 29, 2021. [Dkt No. 437].
6. A *Notice of Closing* was filed by the Debtor on April 29, 2021. [Dkt No. 548].
7. On June 21, 2021, the court entered an order converting the case to Chapter 7. [Dkt No.719].

8. PSSI is a privately held contract cleaning services company, specializing in the cleaning and sanitation of separately owned, third-party meat and poultry packing plants. PSSI's corporate office is based in Kieler, Wisconsin, and operates throughout the United States, including at the Mason, Ohio Empire Packing Company.

9. PSSI's services are typically performed in the early morning hours between its customers' production shifts (e.g., midnight – 6:00 a.m.). Regardless of when its customers' production ends, PSSI is required to have every area clean by 6:00 a.m. for U.S.D.A. inspection (also known as "Pre-Operation Inspection"). During the Pre-Operation Inspection, government inspectors must give the "all clear" confirming that the production area has been properly sanitized to meet Food Safety Inspection Services ("FSIS") to prevent direct food contact with unclean surfaces. If an inspector determines that the area is not cleaned per specification, then a Noncompliance Report ("NR") will be issued, and production cannot begin until PSSI remedies the issue with additional cleaning. Obviously, if production cannot begin due to a cleaning issue, PSSI will be solely at fault, thus jeopardizing its relationship with the customer.

10. PSSI invoiced the Debtor weekly, with pricing based on the numbers of nights PSSI performed sanitation services and provided chemicals.

11. PSSI also maintains a chemistry division operating under a trade name, "Packers Chemical Innovations" ("PCI"). PCI is a distributor of food production and sanitation chemistry and equipment and has a team of experienced food safety experts offering consulting services to food processors

12. On or about August 14, 2019, the Sanitation Services Agreement ("Agreement") was signed by and between the Debtors and PSSI. Under this Agreement, PSSI provided "cleaning

and sanitation services” for the Debtors in several of its processing facilities. *See* Exhibit A, Recitals.

13. Both pre-petition and post-petition, PSSI cleaned four (4) of the Debtors’ U.S. Facilities (“Facilities”) in the following locations: Houston, TX; Grand Prairie, TX; Hatfield, PA; Gray Court, SC. *See* Exhibit A, Statements of Work.

14. According to its books and records, PSSI is owed \$73,119.46 for post-petition sanitation services and chemicals.

15. As of the date of this Application, Movant has not received payment for the post-petition sanitation service and chemicals from April 19, 2021 through the Closing Date of April 29, 2021 as memorialized by the invoices attached as Exhibit B. Movant remains owed \$73,119.46 for the post-petition services and supplies, which enabled the Debtor to continue operating and sell for the highest possible value.

RELIEF REQUESTED

16. Movant respectfully requests this Court grant Movant its administrative expense claim in the amount of \$73,119.46 pursuant to Section 503(b)(1)(A) for the post-petition royalty payments due to the Movant which were actual and necessary costs of preserving the Debtor’s Estate and its business operations until the closing of the Section 363 sale on April 29, 2021.

BASIS FOR RELIEF

17. Section 503(b)(1)(A) provides that after notice and a hearing, there shall be allowed administrative expenses, including “the actual, necessary costs and expenses of preserving the Estate. . . “. *See* 11 U. S. C. § 503(b)(1)(A). The expense must benefit the estate and all creditors. *Tex. v. Lowe (In re H.L.S. Energy Co., Inc.)*, 151 F.3d 434, 437 (5th Cir. 1998). For a claim to qualify under Section 503(b)(1)(A) it must have arisen post-petition and as a result of the debtor’s

actions to benefit the estate. *Total Minatome Corp. v. Jack/Wade Drilling, Inc. (In re Jack/Wade Drilling, Inc.)*, 258 F.3d 385, 387 (5th Cir. 2001). The implementation of this section is for the allowance of the debtor to operate its business “for the benefit of unsecured creditors”. *Id.* (citing *In re Coastal Carriers Corporation*, 128 B.R. 400, 403 (Bkrcty.D.Md. 1991)).

18. Actual cash or goods received is not required for a benefit to be conferred on the estate. “Although the estate receives a benefit that often can be measured by the actual cost of necessary goods and services supplied, the estate also receives other less calculable benefits, such as the ability to conduct business as usual.” *In re H.L.S. Energy Co., Inc.*, 151 F.3d at 443. The determination of a benefit may not be narrowly defined by cash outlay but rather what it brought to the debtor in furtherance of a successful reorganization.

19. As evidenced by the invoices for the service and supply amounts attached hereto as Exhibit B, the Debtor failed to render the post-petition service and chemical payments in the amount of \$73,119.46 to the Movant. Accordingly, Movant is entitled to an allowed administrative expense claim against Debtor in the amount of \$73,119.46.

WHEREFORE, Packers Sanitation Services, Inc., Ltd respectfully requests the Court enter an Order substantially in the form submitted herewith:

- (i) Granting Packers Sanitation Services, Inc., Ltd’s administrative expense claim in the amount of \$73,119.46,
- (ii) Granting such other and further relief as may be just and proper under the circumstances.

Dated: September 9, 2021.

Respectfully submitted,

COKINOS | YOUNG

By: /s/ Maria M. Bartlett

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**COUNSEL FOR PACKERS SANITATION
SERVICES, INC., LTD**

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document were served on September 9, 2021 by electronic filing to all users registered to receive ECF notices in this case.

/s/ Maria M. Bartlett
MARIA M. BARTLETT