

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
CSH WINDDOWN, INC., et al.,)	Case No. 18-11272 (LSS)
)	
Debtors. ¹)	(Jointly Administered)
)	

ORDER
GRANTING THE WIND-DOWN ADMINISTRATOR’S MOTION TO ADDRESS
UNLIQUIDATED SECURED CLAIMS OF CERTAIN INSURANCE COMPANIES

On consideration of the Wind-Down Administrator’s Motion to Address Unliquidated Secured Claims of Certain Insurance Companies (the “**Motion**”);² and the Court having jurisdiction of this proceeding under 28 U.S.C. §§ 157(b)(1) and 1334(b); and this proceeding being permitted to be commenced in this Court under 28 U.S.C. § 1409(a); and due notice of the Motion having been given under FED. R. BANKR. P. 9006(b)(1) and the Plan; and no other notice being needed; and there being cause for the Court to grant the Motion; and granting the Motion being in the best interests of the Post-Effective Date Debtors and their beneficiaries under the Plan;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth in this Order.
2. Nothing in this Order shall (except as may be expressly provided herein) alter amend, modify, or supersede the terms of the Plan, the Confirmation Order, the Employee Obligations Order, or the Insurer Agreements.

¹ The Debtors and the last four digits of their federal taxpayer identification numbers are: CSH Wind-Down, Inc. (f/k/a Color Spot Holdings, Inc.) (7061); CSN Wind-Down, Inc. (f/k/a Color Spot Nurseries, Inc.) (3266); HG Wind-Down, Inc. (f/k/a Hines Growers, Inc.) (5946); and LSG Wind-Down, Inc. (f/k/a Lone Star Growers, Inc.) (4748). The office of the Wind-Down Administrator, which is winding down the debtors’ affairs, is 22 The Commons, 3518 Silverside Road, Wilmington, Delaware 19810-4907.

² Capitalized terms not defined herein have the meanings given them in the Motion.

3. In addition to the modification of the automatic stay of section 362 of the Bankruptcy Code provided for in paragraph 7 of the Employee Obligations Order and of any injunctions or stays provided for in the Plan or the Confirmation Order, to the extent applicable, claimants with claims against the Debtors for which there is or may be coverage under the Insurer Agreements shall be allowed to proceed with their claims and to recover to the extent of available insurance coverage only, and the Insurance Companies are hereby authorized to continue to handle, administer, defend, settle, and/or pay any such claims and, subject to and in accordance with its respective Insurer Agreements, the Plan and the Confirmation Order, to apply the Collateral to the Debtors' Obligations, all without the need to seek further relief from this Court.

4. All defenses available under the Insurer Agreements and/or applicable law (including without limitation defenses based on timeliness) are preserved.

5. The Insurance Companies shall provide reports to the Wind-Down Administrator or, after these chapter 11 cases are closed, to Wells Fargo to the attention of such person as the Wind-Down Administrator shall direct in writing with respect to the Debtors' Obligations and the amount of Collateral at such times and in such fashion as is provided for in the respective Insurer Agreements, or at such times and/or in such fashion as the respective Insurance Companies and Wells Fargo hereafter may agree to, in writing.

6. On the date these chapter 11 cases are closed, the Wind-Down Administrator shall notify the Parties of the existence and amount of any unresolved administrative, priority or secured claims (other than the secured claim of Wells Fargo) existing as of such date (any such claims being referred to hereafter as "Remaining Claims"). If the Wind-Down Administrator notifies the Parties that there are no Remaining Claims as of the date these chapter 11 cases are

closed, any excess Collateral which an Insurance Company may owe to the Debtors under its Insurer Agreements shall be paid directly to Wells Fargo, as the holder of first priority, unavoidable security interests in substantially all of the Debtors' assets, as and when such payments may be required under the applicable Insurer Agreements and applicable law. If, and only if, the Wind-Down Administrator notifies the Parties that there exists a Remaining Claim on the date these chapter 11 cases are closed, then when payment of any excess Collateral would be required under the applicable Insurer Agreements and applicable law, the applicable Insurer shall so notify the Wind-Down Administrator and Wells Fargo (any such notice being referred to hereafter as an "Insurer Notice"). If the Wind-Down Administrator notifies the applicable Insurer within thirty (30) days of the date of an Insurer Notice (any such notice being referred to hereafter as a "WDA Notice") that there still exists a Remaining Claim, the Insurer shall pay such excess Collateral to the Wind-Down Administrator for administration pursuant to the terms of the Plan, the Confirmation Order, and the other orders entered in these chapter 11 cases. If the Insurer does not receive a timely WDA Notice, the Insurer may pay such excess Collateral directly to Wells Fargo. For the avoidance of doubt, nothing herein shall require or be construed to require an Insurance Company to pay more than the amount of any excess Collateral that it may owe to the Debtors under its Insurer Agreements and applicable law. All notices required or permitted to be given under this ordering paragraph shall be sent by email addressed to counsel for the respective Parties and any other email addresses designated in advance by such counsel.

7. In full and final satisfaction of the Proofs of Claim, which constitute all of the Insurance Companies' claims against the Debtors and the Debtors' estates arising out of or relating to the Insurer Agreements, the Insurance Companies shall be entitled to apply and/or exercise all their respective rights and remedies, including without limitation their rights of setoff

and/or recoupment, with respect to the Collateral, subject to and in accordance with the respective Insurer Agreements, the Plan and the Confirmation Order, and applicable law. If the Collateral held by an Insurance Company is insufficient to satisfy the amount of the Debtors' Obligations to such Insurance Company, the Insurance Company shall receive no distribution from the Debtors' estates.

8. The claims agent herein (Epiq Bankruptcy Solutions, LLC or any successor thereto) is authorized, at the direction of the Wind-Down Administrator, to mark the Proofs of Claim of the Insurance Companies as "satisfied," "satisfied in accordance with the treatment in the Plan and Confirmation Order" or, at the written direction of the Insurance Companies (each, with respect to its Proofs of Claim), as "withdrawn." Notwithstanding the above, if and to the extent that the Insurance Companies' Proofs of Claim are not withdrawn or directed to be marked by the Wind-Down Administrator as indicated above, the Insurance Companies' claims against the Debtors' estates shall be deemed to be satisfied.

9. This Court retains jurisdiction over any matter arising from or related to the implementation or interpretation of this Order. To the extent that any of the Insurer Agreements provide for arbitration, all parties' rights to assert or dispute the enforceability of such arbitration provisions are preserved.

Dated: October 8th, 2021
Wilmington, Delaware


LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE