

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

In re:

EARTH FARE, INC., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 20-10256 (KBO)  
)  
) (Jointly Administered)  
)  
) **Obj. Deadline:**  
) **December 27, 2021 at 4:00 p.m. (ET)**  
) **Hearing Date:**  
) **January 5, 2022 at 10:00 a.m. (ET)**  
)  
) **Ref. Doc. Nos. 222 & 226**

**SUMMARY OF FIRST AND FINAL FEE APPLICATION OF  
A&G REALTY PARTNERS, LLC FOR ALLOWANCE OF ADMINISTRATIVE  
CLAIM FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES  
FOR THE PERIOD FEBRUARY 4, 2020 THROUGH MARCH 31, 2020**

**Name of Applicant:**

**A&G Realty Partners, LLC**

Authorized to Provide Professional Services  
to:

Earth Fare, Inc., *et al.*  
debtors and debtors in possession

Date of Retention:

Order entered on February 26, 2020 (effective  
*nunc pro tunc* to February 4, 2020)

Period for which compensation and  
reimbursement is sought:

February 4, 2020, through March 31, 2020

Amount of Compensation sought as actual,  
reasonable and necessary:

\$239,700.00

Amount of Expense Reimbursement sought as  
actual, reasonable, and necessary:

\$500.00

Type of fee statement or application:

First and Final Fee Application<sup>2</sup>

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Earth Fare, Inc. (3936) and EF Investment Holdings, Inc. (8084). The mailing address for each of the Debtors is P.O. Box 1389, Fletcher, North Carolina 28732.

<sup>2</sup> Notice of this Final Fee Application shall be served in accordance with the Interim Compensation Order (as defined herein) and the Plan (as defined herein), and any objections to payment of the amounts described in this Final Fee Application shall be addressed in accordance with the Interim Compensation Order and the Plan.

Pursuant to sections 328 and 330 of title 11 of the United States Code (the “**Bankruptcy Code**”), rule 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and rule 2016-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the *Order Authorizing the Retention and Employment of A&G Realty Partners, LLC as the Debtors’ Real Estate Consultant and Advisor Effective as of the Petition Date and (ii) Waiving Certain Reporting Requirements Pursuant to Local Rule 2016-2(h)*, entered February 26, 2020 [Docket No. 226], and the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals*, entered February 26, 2020 [Docket No. 222] (the “**Interim Compensation Order**”), A&G Realty Partners, LLC (“**A&G**”), real estate consultant and advisor for Earth Fare, Inc. and its affiliated debtors and debtors in possession (collectively, the “**Debtors**”), hereby files this first and final fee application (this “**Final Fee Application**”) for compensation in the amount of \$239,700.00 for the reasonable and necessary real estate consulting and advisory services that A&G rendered to the Debtors for the period from February 4, 2020, through and including March 31, 2020 (the “**Compensation Period**”). A&G also seeks reimbursement for out-of-pocket expenses incurred during the Compensation Period in the amount of \$500.00, for a total requested fee award of \$240,200.00.

#### **Itemization of Services Rendered and Disbursements Incurred**

1. In support of this Final Fee Application, attached are the following exhibits:
  - **Exhibit A** is the declaration of Emilio Amendola, Co- President of A&G.
  - **Exhibit B** is an itemization of the Services rendered by A&G during the Compensation Period and resulting fees incurred. As set forth therein, A&G incurred \$239,700.00 in fees and

\$500.00 in out-of-pocket expenses during the Compensation Period. Pursuant to this Final Fee Application, A&G seeks approval and reimbursement of those fees.

**No Prior Request**

2. No prior application for the relief requested herein has been made to this or any other court.

WHEREFORE, A&G requests allowance of its fees and reimbursement of expenses incurred during the Compensation Period in the total amount of \$240,200.00 for reasonable and necessary professional services rendered by A&G, and that such fees and expenses be paid as administrative expenses of the Debtors' estates.

Dated: December 6, 2021

Respectfully submitted,

A&G REALTY PARTNERS, LLC

By: /s/ Emilio Amendola

Emilio Amendola, Co-President

A&G Realty Partners, LLC

445 Broadhollow Road, Suite 410

Melville, New York 11747

Email: [emilio@agrep.com](mailto:emilio@agrep.com)

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

In re:

EARTH FARE, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-10256 (KBO)

(Jointly Administered)

**FIRST AND FINAL FEE APPLICATION OF A&G REALTY PARTNERS, LLC FOR  
COMPENSATION FOR SERVICES RENDERED AND EXPENSES INCURRED AS  
REAL ESTATE CONSULTANT AND ADVISOR TO THE DEBTORS FOR THE  
PERIOD FROM FEBRUARY 4, 2020 THROUGH MARCH 31, 2020**

Pursuant to sections 328 and 330 of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), rule 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), rule 2016-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”) and this Court’s February 26, 2020 *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* [Docket No. 222] (the “**Interim Compensation Order**”), A&G Realty Partners, LLC (“**A&G**”) hereby submits this first and final fee application (the “**Final Fee Application**”) for compensation of services rendered incurred as real estate consultant and advisor for the above captioned debtors in possession (collectively, the “**Debtors**”). A&G seeks approval of professional fees in the amount of \$239,700.00 and reimbursement of expenses in the amount of \$500.00 for services rendered to the Debtors for the period from February 4, 2020 through and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Earth Fare, Inc. (3936) and EF Investment Holdings, Inc. (8084). The mailing address for each of the Debtors is P.O. Box 1389, Fletcher, North Carolina 28732

including March 31, 2020 (the “**Compensation Period**”), and payment thereof, for a total requested payment amount of \$240,200.00. In support of this Final Fee Application, A&G represents as follows:

### **Jurisdiction and Venue**

1. The United States Bankruptcy Court for the District of Delaware (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012. Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are sections 328 and 330 of the Bankruptcy Code, Bankruptcy Rule 2016, and Local Rule 2016-1.

### **Background**

2. On February 4, 2020 (the “**Petition Date**”), each of the Debtors filed a voluntary petition with the Court under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). From the Petition Date through the effective date of the *Debtors’ Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation* (the “**Plan**”) (as otherwise amended in accordance with the terms thereof and the Confirmation Order (as defined below)), the Debtors operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On June 29, 2021, the Court entered an order [Docket No. 655] (the “**Confirmation Order**”) confirming the Plan. The Effective Date occurred on June 30, 2021. *See* Docket No. 657.

### **Retention of A&G Realty Partners, LLC**

4. Before the Petition Date, the Debtors decided, in consultation with their advisors and in the exercise of their sound business judgment, that the services provided by A&G would

substantially enhance the Debtors' efforts to maximize the value of their lease portfolio. A&G has significant experience representing and assisting debtors with the disposition of real estate and related assets in bankruptcy proceedings and, accordingly, the Debtors determined they would benefit from A&G's business contacts, marketing strengths and extensive industry experience.

5. Thus, the Debtors and A&G agreed in principle to the terms of that certain Real Estate Services Agreement, in substantially the form attached as Exhibit C to the Retention Application (as defined below) (the "**Services Agreement**"), to provide certain real estate services in connection with the Debtors' commercial real property leases (the "**Leases**").<sup>2</sup> Pursuant to the Services Agreement, A&G Realty agreed to render the following services (collectively, the "**Services**"):

- a. consult with the Debtors' management, including with respect to the Debtors' goals, objectives and financial parameters in relation to the Leases;
- b. market the Leases for sale in a manner and form as determined by A&G and agreed to by the Debtors and assist with sale of the Leases; and
- c. report periodically to the Debtors regarding the status of the services

6. On February 7, 2020, the Debtors filed the *Application for Entry of an Order (i) Authorizing the Retention and Employment of A&G Realty Partners, LLC as the Debtors' Real Estate Consultant and Advisor Effective as of the Petition Date and (ii) Waiving Certain Reporting Requirements Pursuant to Local Rule 2016-2(h)* [Docket No.72] (the "**Retention Application**").

7. In the Retention Application, the Debtors requested that the Court approve the (a) the Debtors' retention of A&G to provide the Services and (b) compensation of A&G in accordance with the terms set forth in the Services Agreement. Pursuant to the Services

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<sup>2</sup> The Services Agreement was executed on February 28, 2020.

Agreement, the Debtors and A&G agreed that A&G would be paid as follows for the Services (the “**Fee Structure**”):<sup>3</sup>

- a. **Lease Sales:** For each sale of a lease obtained by A&G Realty on behalf of the Debtors, A&G Realty shall earn and be paid a fee of four percent (4%) of the Gross Proceeds (as defined in the Services Agreement) of such sale.
- b. **Landlord Consents:** To the extent that A&G obtains a landlord’s consent for additional time to assume or reject a Lease as part of the Chapter 11 Cases, A&G shall earn and be paid a fee of five hundred dollars (\$500.00) per Lease.
- c. The Debtors shall reimburse A&G for its reasonable out-of-pocket expenses that are approved in advance by the Debtors and incurred in connection with A&G’s retention and provision of Services.

8. On February 26, 2020, the Court entered an *Order Authorizing the Retention and Employment of A&G Realty Partners, LLC as the Debtors’ Real Estate Consultant and Advisor Effective as of the Petition Date and (ii) Waiving Certain Reporting Requirements Pursuant to Local Rule 2016-2(h)* [Docket No. 226] (the “**A&G Retention Order**”).

9. Pursuant to the A&G Retention Order and in accordance with sections 327(a) and 328(a) of the Bankruptcy Code, the Debtors were authorized by this Court to retain and employ A&G as their real estate advisor and consultant effective as of the Petition Date, on the terms and conditions set forth in the Application and the Services Agreement and in accordance with the Fee Structure, except as provided by the A&G Retention Order.

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<sup>3</sup> The Debtors agreed to pay A&G a nonrefundable retainer fee in the amount of \$50,000.00 from the Professional Fee Escrow (as defined in the Retention Application). However, the retainer was not funded.

10. The A&G Retention Order approved the terms and provisions of the Services Agreement and authorized the Debtors to compensate A&G in accordance with the Services Agreement. The Retention Order further provided that A&G (a) would be compensated for 100% of the amount due upon submission of an acceptable invoice to the Debtors for all Services and expenses incurred in connection with the Services and (b) would not be required to file monthly or interim fee applications for its Services; *provided, however*, that A&G shall be required to file a final fee application upon completion of its Services. Moreover, the Retention Order stated that A&G's final fee application would be subject to the standard of review provided for in section 328(a) of the Bankruptcy Code except as to the U.S. Trustee, who shall retain the right and be entitled to object to A&G's fees and expenses based on the reasonableness standard provided for in section 330 of the Bankruptcy Code.

11. Accordingly, in compliance with the A&G Retention Order, A&G hereby submits this Final Fee Application.

**Relief Requested**

12. Through this Final Fee Application, and in accordance with the A&G Retention Order, A&G seeks allowance of fees in the amount of \$239,700.00 for services rendered on behalf of the Debtors during the Compensation Period, and reimbursement of expenses in the amount of \$500.00, as well as payment thereof in the total amount of \$240,200.00.

13. A&G has received no payment and no promises for payment from any source other than the Debtors for services rendered during the Compensation Period in connection with the Debtors' Chapter 11 Cases. There exists no agreement or understanding between A&G and any other person for the sharing of any compensation to be received for services rendered by A&G in the Debtors' Chapter 11 Cases.



14. All services for which compensation is requested by A&G pursuant to this Final Fee Application were performed for or on behalf of the Debtors in these Chapter 11 Cases.

15. During the Compensation Period, A&G marketed all the Leases for sale/assignment. As a result of A&G's efforts, the estate received almost \$6 million in gross sale proceeds. Additionally, A&G was successful in securing certain Landlord Consents. Accordingly, and as detailed in **Exhibit B** to this Application, the total fees accrued as a result of the Services are \$239,700.00 (\$237,200.00 for Lease Sales and \$2,500.00 for Landlord Consents). Additionally, A&G incurred \$500.00 in expenses as reflected on **Exhibit B**.

16. In summary, the fees charged by A&G have been billed in accordance with the Services Agreement, the Retention Application and the A&G Retention Order and are reasonable in light of, among other things, (a) industry practice, (b) market rates charged for comparable services both in and out of the chapter 11 context, and (c) A&G's substantial experience with respect to real estate consulting and advisory services. The Fee Structure appropriately reflects the nature and scope of services performed by A&G in these Chapter 11 Cases and the fee structures typically utilized by A&G. A&G also respectfully submits that such fees are reasonable based upon the customary compensation charged by similarly skilled professionals in comparable bankruptcy cases and non-bankruptcy matters in the competitive real estate market.

*[Reminder of Page Intentionally Left Blank.]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: December 6, 2021

/s/ Emilio Amendola  
Emilio Amendola  
Co-President  
A&G Realty Partners, LLC

**Exhibit A**

**Amendola Declaration**

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

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In re:

EARTH FARE, INC., *et al.*,<sup>1</sup>

Debtors.

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)  
) Chapter 11  
)  
) Case No. 20-10256 (KBO)  
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) (Jointly Administered)  
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)

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**DECLARATION OF EMILIO AMENDOLA**

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I, EMILIO AMENDOLA, hereby declare the following under penalty of perjury:

1. I am the Co-President of A&G Realty Partners, LLC (“A&G”). I have personally performed many of the real estate services rendered by A&G as real estate advisor to the Debtors and am familiar with all other work performed on behalf of the Debtors by the personnel of A&G.
2. The facts set forth in this Final Fee Application are true and correct to the best of my knowledge, information and belief.
3. In connection therewith, I hereby certify that to the best of my knowledge, information and belief after reasonable inquiry:
  - a) the fees sought in this Final Fee Application are permissible under the relevant rules, court orders, and Bankruptcy Code provisions, except as specifically set forth herein;
  - b) the fees sought in this Final Fee Application are billed at rates customarily employed by A&G and generally accepted by A&G’s clients;
  - c) in accordance with rule 2016(a) of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. § 504, no agreement or understanding exists between A&G and any other person for the sharing of compensation to be

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received in connection with the above case except as authorized pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules; and

- d) all services for which compensation is sought were professional services rendered on behalf of the Debtors and not on behalf of any other person.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: December 6, 2021

/s/ Emilio Amendola

EMILIO AMENDOLA, Co-President

**Exhibit B**

**Fee Detail**



# INVOICE

445 Broadhollow Rd, Suite 410  
Melville, NY 11747

DATE: April 10, 2020

**BILL TO:**

Earth Fare, Inc.  
c/o Chuck Goad, Senior Managing Partner  
214 N. Tryon Street, Suite 1900  
Charlotte, NC 28202

DESCRIPTION	AMOUNT
Completion of Lease Sales per the Real Estate Services Agreement dated February 3, 2020	\$240,200.00

<b>TOTAL:</b>	<b>\$240,200.00</b>
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**Send Checks to Above address or**

**Make All Wires Payable To:**

JP Morgan Chase Bank  
A&G Realty Partners  
445 Broadhollow Rd, Suite 410  
Melville, NY 11747  
Account #: 404526712  
Routing #: 021000021

If you have any questions, please contact Emilio Amendola (631) 465-9507

Store Number	Name	City & State	Type	Purchaser	Sale Gross Proceeds	A&G Fee - 4% of Gross Proceeds	Lease Waiver Fee (\$500 per waiver)	TOTAL FEE
569	Lakewood Ranch	Bradenton, FL	Leasehold	Southeastern Grocers	\$1,000,000.00	\$40,000.00	\$0.00	\$40,000.00
572	Boynton Beach	Boynton Beach, FL	Leasehold	Southeastern Grocers	\$350,000.00	\$14,000.00	\$0.00	\$14,000.00
557	Mandarin	Jacksonville, FL	Leasehold	Southeastern Grocers	\$300,000.00	\$12,000.00	\$0.00	\$12,000.00
583	Viera	Rockledge, FL	Leasehold	Southeastern Grocers	\$300,000.00	\$12,000.00	\$0.00	\$12,000.00
105	Asheville	Asheville, NC	Leasehold	Whole Foods	\$1,600,000.00	\$64,000.00	\$0.00	\$64,000.00
420	Chattanooga	Chattanooga, TN	Leasehold	Whole Foods	\$900,000.00	\$36,000.00	\$0.00	\$36,000.00
100	Asheville	Asheville, NC	Leasehold	Hulsing/DJ3	\$350,000.00	\$14,000.00	\$0.00	\$14,000.00
770	Roanoke	Roanoke, VA	Leasehold	Hulsing/DJ4	\$300,000.00	\$12,000.00	\$0.00	\$12,000.00
300	Athens	Athens, GA	Leasehold	Hulsing/DJ5	\$250,000.00	\$10,000.00	\$0.00	\$10,000.00
550	Tallahassee	Tallahassee, FL	Leasehold	Aldi	\$350,000.00	\$14,000.00	\$0.00	\$14,000.00
562	Ocala	Ocala, FL	Lease Termination	Landlord	\$25,000.00	\$1,000.00	\$0.00	\$1,000.00
780	Williamsburg	Williamsburg, VA	Lease Termination	Landlord	\$30,000.00	\$1,200.00	\$0.00	\$1,200.00
560	Gainesville	Gainesville, FL	Lease Termination	Landlord	\$75,000.00	\$3,000.00	\$0.00	\$3,000.00
700	Kalamazoo	Portage, MI	Lease Termination	Landlord	\$100,000.00	\$4,000.00	\$0.00	\$4,000.00
110	Greensboro	Greensboro, NC	March Rent Waiver	Landlord	\$0.00	\$0.00	\$500.00	\$500.00
405	Knoxville	Knoxville, TN	March Rent Waiver	Landlord	\$0.00	\$0.00	\$500.00	\$500.00
115	High Point	High Point, NC	March Rent Waiver	Landlord	\$0.00	\$0.00	\$500.00	\$500.00
680	Fort Wayne	Fort Wayne, IN	March Rent Waiver	Landlord	\$0.00	\$0.00	\$500.00	\$500.00
425	Hixson	Hixson, TN	March Rent Waiver	Landlord	\$0.00	\$0.00	\$500.00	\$500.00
Totals					\$5,930,000.00	\$237,200.00	\$2,500.00	\$239,700.00
Marketing Flyer Reimbursement								\$500.00
Less Retainer*								\$0.00
<b>Net Fees Owed A&amp;G</b>								<b>\$240,200.00</b>

\*According to a conversation with Emilio Amendola on 3/21 the \$50,000 retainer per the services agreement has not yet been paid