

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

In re:	§	
	§	Chapter 11
SALT LIFE BEVERAGE, LLC., <i>et al.</i> ¹	§	
	§	Case No. 24-11468 (LSS)
Debtors.	§	
	§	(Jointly Administered)

**JOINT LIMITED OBJECTION OF THE TEXAS TAXING AUTHORITIES TO THE
DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS UNDER
BANKRUPTCY CODE SECTIONS 105, 361, 362, 363, AND 364, BANKRUPTCY RULES
2002 AND 4001, AND LOCAL BANKRUPTCY RULE 4001-2, (I) AUTHORIZING THE
DEBTORS TO (A) OBTAIN POSTPETITION FINANCING ON A SECURED,
SUPERPRIORITY BASIS AND (B) USE CASH COLLATERAL, (II) GRANTING
ADEQUATE PROTECTION, (III) SCHEDULING A FINAL HEARING, AND
(IV) GRANTING RELATED RELIEF
(Related Docket Entry No. 15)**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

NOW COME the Texas Taxing Authorities², secured creditors and parties in interest, and file this Joint Limited Objection to the *Debtors' Motion for Entry of Interim and Final Under Bankruptcy Code Sections 105, 361, 362, 363, AND 364, Bankruptcy Rules 2002 and 4001, and Local Bankruptcy Rule 4001-2, (I) Authorizing the Debtors to (A) Obtain Financing on a Secured, Superpriority Basis and (B) Use Cash Collateral, (II) Granting Adequate Protection,*

¹The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Salt Life Beverage, LLC, a Delaware limited liability company (8436), Delta Apparel, Inc., a Georgia corporation (8794), Salt Life, LLC, a Georgia limited liability company (6136), M. J. Soffe, LLC, a North Carolina limited liability company (2056), Culver City Clothing Company, a Georgia corporation (4619), DTG2Go, LLC, a Georgia limited liability company (6498), and Salt Life Beverage Management, LLC, a Delaware limited liability company (7886). The location of the Debtors' headquarters and mailing address is 2750 Premiere Parkway, Suite 100, Duluth, Georgia 30097.

² The term "Texas Taxing Authorities" shall refer to: The County of Denton, Texas; The City of Lewisville, Texas; Lewisville Independent School District; Galveston County; and Dickinson Independent School District.

(III) *Scheduling a Final Hearing*, and (IV) *Granting Related Relief* (the “Motion”), and respectfully show as follows:

Background

1. The Texas Taxing Authorities are political subdivisions of the State of Texas, authorized and required by the Texas Constitution and laws to levy and collect taxes on taxable property within their boundaries, in order to operate and discharge their public purposes.

2. The Texas Taxing Authorities hold secured pre-petition tax claims for the 2024 and prior tax years on business personal property located in the Debtors’ Texas store and warehouse locations (the “Tax Claims”). These claims are secured by tax liens on the tangible personal property of the Debtors within the Texas Taxing Authorities’ taxing boundaries (the “Tax Liens”). The Tax Liens attach to the taxpayer’s property on January 1 of each year pursuant to Texas Property Tax Code § 32.01.

3. The Tax Liens are superior to any other secured claim in this case as provided by Article VIII, Section 15 of the Texas Constitution, and Sections 32.01 and 32.05(b) of the Texas Property Tax Code. The priority of the tax claim is determined under applicable non-bankruptcy law. 11 U.S.C. § 506; *Butner v. U.S.*, 440 U.S. 48, 55 (1979). The tax lien takes priority over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before the attachment of the tax lien. See Texas Property Tax Code § 32.05(b); *See also Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W. 2d 841 (Tex. App. 1995) (bank’s foreclosure of its purchase money lien on personal property did not defeat or destroy the taxing unit’s statutory tax lien). The tax lien arises on January 1 of each tax year and “floats” to after acquired property. *See City of Dallas v. Cornerstone Bank*, 879 S.W. 2d 264 (Tex. App. - Dallas 1994). The tax lien is a lien in solido and is a lien on all personal

property of the Debtors. *See In re Universal Seismic*, 288 F.3d 205 (5th Cir. 2002). The tax lien is also unavoidable. *See In re: Winns*, 177 B.R. 253 (Bankr. W.D. Tex. 1995). The property taxes are due upon receipt pursuant to Texas Property Tax Code § 31.02.

Limited Objection to Motion

4. The Texas Taxing Authorities object to the Motion to the extent that their Tax Liens are being primed. The Debtors have failed to provide adequate protection for the Texas Taxing Authorities' senior liens as required by 11 U.S.C. § 364(d)(1)(B). The Texas Taxing Authorities request that language be added to the final order on the Motion to protect their liens from subordination by any party.

5. Inclusion of the language below in the final order would resolve this objection:

Notwithstanding any other provisions in the Motion, the Interim Order, this Final Order or any final orders pertaining to financing or the use of cash collateral in these Chapter 11 Cases, any statutory liens on account of ad valorem taxes held by the Texas Taxing Authorities [FN of tax entities] (the "Texas Tax Liens") shall neither be primed by nor made subordinate to any liens granted to any party hereby to the extent the Texas Tax Liens are valid, perfected, and non-avoidable and, under applicable non-bankruptcy law, are granted priority over a prior perfected security interest or lien. All parties' rights to object to the priority, validity, amount, and extent of the claims (the "Texas Tax Claims") and Texas Tax Liens are fully preserved.

Prayer

WHEREFORE, the Texas Taxing Authorities respectfully request that a Final Order approving the Motion include clarifying language that their liens are not primed nor made subordinate to any other party and grant them such other and further relief as is just and proper.

Dated: August 6, 2024

Respectfully submitted,

**McCREARY, VESELKA, BRAGG
& ALLEN, P.C.**

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the District of Delaware on August 6, 2024 to all parties who have registered for and consented to electronic service in these cases.

/s/ Melissa E. Valdez

Melissa E. Valdez