

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

In re:

HDC HOLDINGS II, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12307 (TMH)

(Jointly Administered)

Docket Ref. No. 68

**DECLARATION OF JEFFREY MARTIN IN SUPPORT OF DEBTORS' MOTION FOR
AN ORDER (I) APPROVING KEY EMPLOYEE RETENTION PLAN; AND
(II) GRANTING RELATED RELIEF**

Pursuant to 28 U.S.C. § 1746, I, Jeffrey Martin, do hereby declare, under penalty of perjury, the following to the best of my knowledge and belief:

1. I was appointed as the Chief Restructuring Officer for HDC Holdings II, LLC ("HDC Holdings II") and its affiliated debtors and debtors in possession, each a Delaware limited liability company (collectively, the "Debtors"), on or about September 11, 2024.

2. I have over ten (10) years of experience in the corporate turnaround and restructuring industry. I am a Managing Director at Mosaic Growth Partners ("Mosaic"), which I joined in 2011. Mosaic is a strategy consulting and coaching firm offering its corporate clients business growth strategy consulting and advisory support services. In addition, Mosaic has recently served as an advisor to Channel Control Merchants Corporation, a Canadian non-Debtor

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are: HDC Holdings II, LLC (2013); HDC Holdings III, LLC (3296); CCM Capital Assets, LLC (9451); Channel Control Merchants, LLC (3319); Dirt Cheap I, LLC (9433); CCM Support Services, LLC (2059); CCM Wholesale SE, LLC (7219); Channel Control Merchants of Texas, LLC (8091); Creative Sales Solutions, LLC (1691); Dirt Cheap Arkansas, LLC (0244); Dirt Cheap Building Supplies, LLC (0880); Dirt Cheap of Georgia, LLC (0269); Dirt Cheap of Louisiana, LLC (0067); Dirt Cheap SE, LLC (4928); Dirt Cheap Tennessee, LLC (1273); Treasure Hunt, LLC (9393); CCM Wholesale, LLC (7219); Channel Control Merchants of California, LLC (9011); and CAL Support Services, LLC (2859). The Debtors' headquarters are located at 6892 US Hwy 49 North, Hattiesburg, Mississippi 39402.

affiliate of the Debtors, furthering my familiarity with the Debtors' business operations and financial condition. I have served in C-Suite, Vice President, and Director roles for a wide range of companies. I received a Bachelor of Commerce and a Master of Business Administration from Memorial University, Newfoundland and Labrador.

3. On October 10, 2024 (the "Petition Date"), each Debtor filed a voluntary petition for relief with the United States Bankruptcy Court for the District of Delaware (the "Court") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), thereby commencing these chapter 11 cases (collectively, the "Chapter 11 Cases").

4. This declaration (this "Declaration") is submitted in support of the *Debtors' Motion for an Order (I) Approving Key Employee Retention Plan; and (II) Granting Related Relief* [D.I. 68] (the "KERP Motion").² The Debtors, with the assistance of Mosaic, developed the key employee retention plan (the "KERP"), described in the KERP Motion, to ensure that certain of the Debtors' key non-insider employees, given their respective roles in the Debtors' corporate and operational structure, continued to provide the Debtors with their critical support during these Chapter 11 Cases. The KERP was designed with the Debtors' objectives in mind: maximizing value for all interested parties through implementation of a Court-supervised wind-down and sale process, which was initiated prior to the Petition Date and remains ongoing as of the date hereof.

5. If called as a witness, I could and would competently testify to the matters set forth herein based on my personal knowledge and information provided to me by the Debtors' board of directors, advisors and remaining senior management team. In my capacity with the Debtors, I am familiar with the Debtors' day-to-day operations, business affairs, financial condition and books and records. My testimony herein is based on my current service as an officer

² Capitalized terms used but not defined herein shall have the meanings set forth in the KERP Motion.

of the Debtors, my review of the Debtors' books and records and other relevant documents, and my review of information compiled and communicated to me by other employees of the Debtors and the Debtors' professional advisors. As set forth in the KERP Motion, the KERP is a straightforward retention plan designed to retain certain key, non-insider employees for the duration of the Store Closing Sales, described below.

I. The Debtors' Employees and the Store Closing Sales

6. The Debtors employ approximately 1,160 full time employees, twenty-five (25) of whom are essential non-insider back-office employees who are necessary to implement and, ultimately, complete the Debtors' wind-down strategy (collectively, the "KERP Participants"). The KERP Participants' experience, institutional knowledge, and skills are critical to the ongoing operation of the Debtors' businesses as well as the success of these Chapter 11 Cases.

7. As set forth in the First Day Declaration, the Debtors initiated the Chapter 11 Cases to wind down their brick-and-mortar operations on a chain-wide level through store closing sales subject to the Court's oversight (the "Store Closing Sales"). To that end, on October 10, 2024, the Debtors filed the Store Closing Motion and, on October 11, 2024, the Court entered the Interim Store Closing Order, thereby authorizing the Debtors to, among other things, conduct Store Closing Sales in accordance with certain Court-approved sale guidelines. The Debtors have obtained Court authority to pay nominal retention bonuses to store-level employees which are not subject to the KERP Motion.

8. Presently, the Debtors anticipate that the Store Closing Sales will conclude no later than December 31, 2024 (the "Target Store Closing End Date"). To monetize the Debtors' material assets on or before the Target Store Closing End Date, including with respect to the Debtors' inventory, FF&E, leasehold interests and real property, as applicable, the Debtors require

the continued dedication and services of each KERP Participant. Accordingly, the Debtors designed the KERP to incentivize each KERP Participant to remain with the Debtors through the Target Store Closing End Date, which will, in my estimation, best position the Debtors to maximize estate value for the benefit of all stakeholders.

II. Development of the KERP

9. In connection with designing the KERP, Mosaic reviewed the Debtors' existing employee compensation structure and crafted a bonus program that appropriately balanced the value to be realized by retaining the KERP Participants, on the terms proposed, with the cost of the KERP to the estates.

10. The Debtors and Mosaic based the proposed payments under the KERP upon historical compensation levels for the KERP Participants or similarly-positioned employees, and the amounts reflect the Debtors' reasonable business judgment that such payments would sufficiently incentivize the KERP Participants to remain with the Debtors through the Target Store Closing End Date. The KERP has been approved by the Board and consented to by the Debtors' secured lender. Further, it is my understanding that the KERP was discussed with the Official Committee of Unsecured Creditors, which does not object to the relief sought in the KERP Motion. Indeed, no interested party has objected to the KERP, further demonstrating that the KERP is market appropriate, warranted under the circumstances, and, I believe, critical to the Debtors' wind-down efforts.

III. The KERP

11. As set forth in the KERP Motion, given that the Debtors are winding down, the Debtors determined that it was necessary to formulate and adopt a comprehensive retention program for a small number of non-insider employees, the KERP Participants, to avoid losing these critically-important employees prior to the Target Store Closing End Date. There are

currently twenty-five (25) KERP Participants, and the total potential aggregate payout under the KERP is approximately \$225,000, which such amount is captured in the Court-approved budget.

12. The KERP Participants include employees from various functions across the Debtors' enterprise, including, but not limited to, accounting, purchasing, sales/marketing, HR, and IT. I believe that each KERP Participant has certain unique institutional knowledge and skill that will directly support the Debtors' ability facilitate and implement the most streamlined, efficient wind down of the Debtors' business and operations. Absent the continued and uninterrupted services of the KERP Participants, there is substantial risk that the Target Store Closing End Date would need to be extended or, in the alternative, the Debtors would not be able to maximize value for their assets by such time.

13. As is common in the Debtors' industry, certain KERP Participants have titles that may suggest officer or director status. However, none of the KERP Participants are "insiders" as defined in the Bankruptcy Code or under applicable law. Although the KERP Participants are valuable to the Debtors' business and are particularly vital during the Chapter 11 Cases, their titles do not reflect that such KERP Participants control the Debtors' operations. Each KERP Participant with the title of "director," "manager," or the like, which are common in the Debtors' industry, reports to a more senior employee of the Debtors, and must obtain approval from appropriate senior personnel before taking any significant action with respect to, among other things, the Debtors' corporate policies or the disposition of significant assets.

14. In addition, no KERP Participant is a member of the Board, was appointed by, or reports to, the Board, and no KERP Participant regularly attends, or participates at, Board meetings. Further, the KERP Participants' duties do not extend to the Debtors' business operations as a whole, but rather, are restricted to particular aspects or segments of the Debtors' business, and

no KERP Participant has authority to make company-wide decisions on the Debtors' behalf. The KERP Participants have annual salaries that I believe reflect their non-insider status, given my understanding of typical "C-Suite" salaries for retailers of the Debtors' size.

15. Moreover, no KERP Participant had any role in, or provided any input with respect to, the development or proposed implementation of the KERP.

16. As outlined in the KERP Motion and supported by this Declaration, it is essential that the KERP Participants remain employed by the Debtors through the Target Store Closing End Date, at minimum, to facilitate the Store Closing Sales, as well as to assist in the operation of the Debtors' ongoing business and the administration of the Debtors' estates during the Chapter 11 Cases. Approval of the KERP payments permits the Debtors to avoid the likelihood that the KERP Participants may pursue alternative employment opportunities, especially in light of the increased workload, administrative burdens, and general uncertainty imposed by the bankruptcy process. Therefore, I believe that the KERP—which is supported by the Debtors' major constituents—is appropriate under the circumstances and represents a reasonable exercise of the Debtors' business judgment.

IV. Conclusion

17. In light of the foregoing, for the reasons stated herein and in the KERP Motion, the Debtors respectfully request that the KERP Motion be granted in its entirety, together with such other and further relief as the Court deems just and proper.

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, information, and belief.

Dated: November 12, 2024

/s/ Jeffrey Martin

Jeffrey Martin
Chief Restructuring Officer
HDC Holdings II, LLC