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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:	) Case No.: 2:23-bk-14154-SK
	)
☐ ITTELLA INTERNATIONAL LLC, a	) Jointly administered with Case Nos.
California limited liability company	) 2:23-bk-14161-WB; 2:23-bk-14159-SK;
☐ ITTELLA'S CHEF, LLC, a California	) 2:23-bk-14157-BR; 2:23-bk-14156- NB;
limited liability company	) 2:23-bk-14158-DS; 2:23-bk-14155-NB;
☐ TATTOOED CHEF, INC., a Delaware	) 2:23-bk-14160-BR
corporation	)
☐ MYJOJO, INC., a Delaware corporation	) Chapter 11 Cases
☐ NEW MEXICO FOOD	)
DISTRIBUTORS, INC., a New Mexico	) DEBTORS' EMERGENCY MOTION
corporation	) FOR ENTRY OF AN ORDER (1)
☐ KARSTEN TORTILLA FACTORY,	) AUTHORIZING THE RETENTION OF
LLC, a New Mexico limited liability	) CUTSHEET EXPRESS, LLC; (2)
company	) AUTHORIZING THE DESIGNATION OF
☐ BCI ACQUISITION, INC., a Delaware	) EDWARD BIDANSET AS CHIEF
corporation	) RESTRUCTURING OFFICER
☐ TTCF-NM HOLDINGS INC., a New	) EFFECTIVE AS OF THE PETITION
Mexico corporation	) DATE; AND (3) GRANTING RELATED
☒ All Debtors	) RELIEF
	)
Debtors and	)
Debtors-in-Possession.	) [OMNIBUS DECLARATION IN
	) SUPPORT HEREOF FILED
	) CONCURRENTLY HERewith]
	)
	) Date:
	) Time: [TO BE SET]
	) Place:

1 Ittella International LLC (“Ittella”), Ittella’s Chef, LLC (“ICLLC”), Tattooed Chef, Inc.
2 (“TCI”), Myjojo, Inc. (“Myjojo”), New Mexico Food Distributors, Inc. (“NMFD”), Karsten
3 Tortilla Factory, LLC (“Karsten”), BCI Acquisition, Inc. (“BCI”), and TTCF-NM Holdings Inc.
4 (“TTCF,” and, together with Ittella, ICLLC, TCI, Myjojo, NMFD, Karsten, and BCI, the
5 “Debtors”), the Chapter 11 debtors and debtors in possession in the above-captioned Chapter 11
6 bankruptcy cases, hereby submit *Debtors’ Emergency Motion for Entry of Order (1) Authorizing*
7 *the Retention of Cutsheet Express, LLC; (2) Authorizing the Designation of Edward Bidanset as*
8 *Chief Restructuring Officer Effective as of the Petition Date; and (3) Granting Related Relief* (the
9 “Motion”).

10 **A. Relief Requested**

11 The Debtors request entry of an order (i) authorizing the Debtors to retain and employ
12 Cutsheet Express, LLC (“CE”), (ii) authorizing the Debtors to designate Edward Bidanset as
13 Chief Restructuring Officer (“CRO”) pursuant to the terms of the Agreement for Services by and
14 among the Debtors and CE, a copy of which is attached as **Exhibit 6** to the Omnibus Declaration
15 of Edward Bidanset filed concurrently herewith (the “Bidanset Declaration”) and (iii) granting
16 related relief. The relief requested by way of this Motion is sought on an emergency basis given
17 the exigencies of the cases; the Debtors must be authorized to retain CE and the CRO in order to
18 oversee the administration of their cases and make decisions affecting the manner in which these
19 cases proceed. The Debtors’ restructuring efforts would be undermined if there is an uncertain
20 chain of command among the Debtors’ management.

21 **B. Background**

22 The Debtors each filed a voluntary petition under Chapter 11 of the Bankruptcy Code on
23 July 2, 2023 (the “Petition Date”). The Debtors continue to operate their businesses, manage their
24 financial affairs, and operate their bankruptcy estates as debtors-in-possession pursuant to
25 Sections 1107 and 1108 of the Bankruptcy Code.

26 TCI is a publicly held company (NASDAQ: TTCF) offering a broad portfolio of
27 innovative plant-based frozen foods through the other Debtors, all of which are direct or indirect
28 subsidiaries of TCI. Beginning in 2017, the Debtors have supplied plant-based products to leading

1 retailers in the United States, with signature products such as ready-to-cook bowls, zucchini
2 spirals, riced cauliflower, acai and smoothie bowls, cauliflower crust pizza, wood fire crusted
3 pizza, handheld burritos, bars and quesadillas. The Debtors' products are available in all 50 states
4 both in private label and through their "Tattooed Chef™" brand mainly in the frozen food section
5 of retail food stores.

6 When the Debtors went public in 2020, the brand had household awareness of under 6%,
7 were available in only 4 major retailers nationwide, and were in less than 4,000 stores. Since
8 then, brand awareness has grown to over 26% of households, and the Debtors' products are
9 carried by over 40 retailers in over 23,000 retail stores. The Debtors invested over \$100 million
10 on marketing and in-store promotions to achieve this growth within such a short time period.

11 After the substantial outlay of funds to develop the market for the Debtors' products, the
12 Debtors found themselves short on cash. In August 2022, the Debtors engaged a financial advisor
13 to pursue new financing through a "PIPE"¹ transaction whereby an institutional or accredited
14 investor would acquire shares in TCI at a below market price, or through other financing methods
15 that might be available to the Debtors. In October, the Debtors' auditors advised the Debtors that
16 certain adjustments and restatements to their financial statements were required, which affected
17 the Debtors' financial statements for the preceding six financial quarters.

18 Over the next 8 months, the Debtors diligently explored alternative financing and funding
19 solutions. However, due to the Debtors' restated financial statements, changes in the capital
20 markets, and the general economic conditions affecting the Debtors' market segment, the Debtors
21 were unable to obtain any new financing. Although the Debtors experienced revenue growth
22 from \$147 million in 2020 to \$230 million in 2022, TCI's share price declined dramatically,
23 particularly over the first quarter of 2023. During this time period, the Debtors' liquidity became
24 constrained and the Debtors fell behind on payments to suppliers and other parties necessary to
25 the continued operation and profitability of their business.

26
27
28 ¹ Private investment in public equity.

Although the Debtors have done everything possible to reduce operating expenses over the last 9 months, such reduction in expenses has not resulted in sufficient savings to preserve the Debtors' ability to timely pay its obligations and satisfy customer demand. In addition, the costs of compliance with public company reporting and other requirements have been substantial. As a result of the Debtors' inability to obtain new financing and materially reduce operating and other expenses, the Debtors ultimately decided to commence these bankruptcy cases in order to expeditiously pursue a sale of some or all of their assets.

Additional facts relating to the Debtors' businesses and the commencement of these Chapter 11 Cases, are set forth in the Bidanset Declaration and incorporated herein by reference.

C. CE's Qualifications

CE is an internationally recognized restructuring and turnaround firm with substantial experience in providing interim management and financial advisory services and has an excellent reputation for its work in complex situations including in chapter 11 cases on behalf of debtors and creditors throughout the United States.

Mr. Bidanset is a turnaround executive who has more than 35 years of financial consulting and management experience. A copy of Mr. Bidanset's professional resume is attached to the Bidanset Declaration as **Exhibit 7** and is incorporated herein by reference. Mr. Bidanset has an extensive background in turnarounds, crisis management, and investment banking. He has worked with both Fortune 500 firms and privately held companies, acting as an advisory consultant or taking on the role of CRO, CFO or COO. Mr. Bidanset has particular expertise working with companies in the consumer products, food processing, retail, printing, plastics and metals industries.

Mr. Bidanset has been a member of the Turnaround Management Association (TMA) and the Financial Executives Institute. He holds a Bachelor's degree in Economics from the State University of New York (SUNY) at Cortland and an MBA from Duke University's Fuqua School of Business.

The Debtors submit that CE and Mr. Bidanset are overwhelmingly qualified to perform the services discussed herein.

D. Services to be Rendered

Prior to the Petition Date, the Debtors and CE entered into the Agreement for Services, which governs the relationship between them. The terms and conditions of the Agreement for Services were negotiated between the Debtors and CE and reflect the parties' mutual agreement as to the substantial efforts that will be required under this engagement.

CE will make Edward Bidanset available to the Debtors to act as the Debtors' duly appointed Chief Restructuring Officer ("CRO"). The CRO shall report to the Debtors' Board of Directors and shall serve at the pleasure of the Board of Directors (the "Company Representative"). Generally, the CRO and CE shall perform activities and services to assist the Debtors throughout their Chapter 11 Cases. Working collaboratively with the senior management team, the Board of Directors, and other of the Debtors' professionals, Mr. Bidanset will assist the Debtors in evaluating and implementing strategic and tactical options through the restructuring and sale process.

More specifically, and in addition to the ordinary course duties of a CRO, Mr. Bidanset and CE will provide the following services (the "Services"):

- Serve as CRO, responsible and with sole authority, for all of the duties of the Debtors' chief executive officer, for all aspects of the Debtors' operations as well as any wind-down of the Debtors thru a Chapter 11 filing and a 363 sale;
- Exercise authority over all members of management and staff with the authority to hire, terminate, and change the compensation and benefits of all employees;
- Prepare and present to the Company Representative a preliminary action plan and timeline and a budget for the Debtors' Chapter 11 bankruptcy cases;
- Retain and oversee other outside consultants in connection with the sale or reorganization of the Debtors;
- Maintain communications regularly with the Company Representative and certain other creditors;
- Identify and seek to recover assets of the Debtors;
- Take such other steps as are necessary to manage and wind down the affairs of the Debtors, on a prompt and cost-efficient basis;

- Assist the Debtors in cash management and cash flow forecasting processes, including the monitoring of actual cash flow versus projections and monthly reporting to the bankruptcy court;
- Assist the Debtors in their analysis of their liquidity outlook, debt service capacity and appropriate capital structure;
- Assist the Debtors in (i) identifying various operational, managerial, financial and strategic restructuring alternatives and (ii) understanding the business and financial impact of same and manage the engagement of the investment banking firm during the 363 sale;
- Assist the Debtors in their preparation of contingency plans to reflect the impact of restructuring alternatives;
- Assist the Debtors in the sale or the monetization of the Debtors' assets;
- Assist the Debtors in connection with the Debtors' communications and negotiations with other parties, including its landlords, significant vendors, etc.;
- Commence bankruptcy proceedings under chapter 11 or chapter 7 of the United States Code;
- Assist the Debtors in connection with Debtors' preparation of various financial reports which may be required during discussions with the Debtors' management and other stakeholders; and
- Provide advice and recommendations with respect to other related matters as the Debtors or their professionals may request from time to time, and as agreed to by CE.

The Services provided by CE will complement, and not duplicate, the services to be rendered by any professional retained in these Chapter 11 Cases.

E. Fee and Expense Structure

CE's decision to accept this engagement is conditioned upon its ability to be retained in accordance with its customary terms and conditions of employment, compensated for its services, and reimbursed for the out-of-pocket expenses it incurs in accordance with its customary billing practices, as set forth Section 2 of the Agreement for Services (the "Fee and Expense Structure").

CE will bill its time for work performed at hourly billing rate of \$300.00. In addition to compensation for services rendered by CE, CE will seek reimbursement for reasonable and necessary out-of-pocket expenses for air travel, lodging and car rental plus other expenses incurred directly relating to any work undertaken. Meals will not be charged to the Debtors.

Prior to the Petition Date, the Debtors paid CE, from funds belonging to the Debtors, an advance fee retainer of \$24,000.00 (the “Retainer”). The Retainer has been deposited in CE’s general account, will not be segregated from other funds and will not accrue interest. The Retainer will be held as a security by CE and not applied to CE invoices. Upon the termination of CE’s engagement, CE will refund the remaining retainer to Client (net of any outstanding fees and expenses due and any contingent indemnification obligations as reasonably determined by CE).

CE will submit weekly invoices to the Debtors, and the Debtors request authority to pay, in the ordinary course of business, all reasonable amounts invoiced by CE for fees and expenses.

Upon approval of the relief requested in this Motion, CE will not be employed as a professional under section 327 of the Bankruptcy Code, and it will not submit fee applications pursuant to Bankruptcy Code sections 330 and 331. CE will, however, file with the Court, and provide reports of compensation earned and expenses incurred on a monthly basis (“Compensation Reports”) to the United States Trustee for the Central District of California and counsel to any statutory committee appointed in these Chapter 11 Cases (the “Notice Parties”). Such reports shall summarize the services provided and identify the compensation earned and expenses incurred by CE. The Notice Parties shall have 14 days after the date each Compensation Report is served upon them to object, and the related compensation and expenses will be subject to Court review in the event an objection is filed.

The Debtors do not owe CE any sums for prepetition services. Thus, CE is not a creditor of the Debtors.

The Fee and Expense Structure is consistent with and typical of compensation arrangements entered into by CE and other comparable firms that render similar services. The Debtors believe that the Fee and Expense Structure is reasonable, market-based, and designed to compensate CE fairly for its work and to cover fixed and routine overhead expenses.

F. CE’s Disinterestedness

To the best of the Debtors’ knowledge and except to the extent disclosed herein and in the Bidanset Declaration: (i) CE has no connection with the Debtors, their creditors, or other parties in interest, or the attorneys or accountants of the foregoing, or the Office of the U.S. Trustee or

any person employed in the Office of the U.S. Trustee; and (ii) does not hold any interest adverse to the Debtors' estates.

Although the Debtors respectfully submit that the retention of CE is not governed by section 327 of the Bankruptcy Code, the Bidanset Declaration attests to the lack of certain connections with creditors, equity security holders, and other parties in interest in these Chapter 11 Cases. Thus, the Debtors submit that CE is a "disinterested person" as that term is defined by section 101(14) of the Bankruptcy Code.

G. Indemnification

The Debtors should be permitted to indemnify those persons serving as executive officers on the same terms as provided to the Debtors' other officers and directors under the corporate bylaws and applicable state law, along with insurance coverage under the Debtors' D&O policy. Accordingly, as part of this Application, the Debtors request that this Court approve the indemnification provision set forth in the Agreement for Services.

H. Basis for Relief

The Debtors seek to employ and retain CE and appoint Mr. Bidanset as CRO pursuant to sections 105 and 363 of the Bankruptcy Code, effective as of the Petition Date. Under applicable case law, in this and other jurisdictions, if the Debtors' proposed use of its assets pursuant to section 363(b) of the Bankruptcy Code represents a reasonable exercise of the debtor's business judgment, such use should be approved. *See, e.g., United Retired Pilots Benefit Protection Ass'n v. United Airlines, Inc. (In re UAL Corp.)*, 443 F.3d 565, 571 (7th Cir. 2006); *Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513, 515 (7th Cir. 1991); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 175–76 (D. Del. 1991) (noting that courts have applied the "sound business purpose" test to evaluate motions brought pursuant to section 363(b) of the Bankruptcy Code); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983) ("The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.").

Additionally, section 105(a) of the Bankruptcy Code provides the Court with the power to

grant the relief requested herein. Section 105(a) of the Bankruptcy Code codifies a bankruptcy court's inherent equitable powers to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

The decision to retain CE and employ Mr. Bidanset as CRO should be authorized because it is a sound exercise of the Debtors' business judgment. As set forth above, Mr. Bidanset has extensive experience as a senior officer and advisor for many companies undertaking restructuring efforts and is well-qualified and equipped to assist the Debtors. CE and Mr. Bidanset, in his capacity as CRO, will provide services that will aid the Debtors in making a smooth transition into Chapter 11. Additionally, CE and Mr. Bidanset, in his capacity as CRO, will provide the constant, necessary and experienced support that the Debtors require to successfully navigate their Chapter 11 cases to the overwhelming benefit of all parties in interest.

WHEREFORE, the Debtors respectfully request that the Court enter an order (i) authorizing the Debtors to retain and employ CE and designate Edward Bidanset as CRO pursuant to the terms and conditions set forth in the Agreement for Services by and among the Debtors and CE, a copy of which is attached as **Exhibit 6** to the Bidanset Declaration; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: July 2, 2023

LEVENE, NEALE, BENDER
YOO & GOLUBCHIK

By: /s/ Lindsey L. Smith
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