

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

In re)	
)	Chapter 11
NATURAL PRODUCTS GROUP, LLC, <u>et al.</u> , ¹)	Case No. 10-_____ ()
)	
Debtors.)	Jointly Administered
)	

**DEBTORS' MOTION TO PRESERVE THE ARBONNE INDEPENDENT
CONSULTANTS NETWORK AND, IN CONNECTION THEREWITH, FOR
AUTHORITY TO (A) PAY CERTAIN PREPETITION CLAIMS; (B) HONOR
AND MAINTAIN INCENTIVE DISCOUNTS AND OTHER REWARDS; AND
(C) MAINTAIN RELATED PROGRAMS IN THE ORDINARY COURSE**

Natural Products Group, LLC (“NPG”) and its affiliated debtors and debtors in possession (collectively, the “Debtors”) file this motion pursuant to 11 U.S.C. §§ 105(a) and 363(b) to preserve the Arbonne Independent Consultants network and, in connection therewith, for authority to (a) pay prepetition commissions, overrides and bonuses earned by the independent consultants, (b) honor and maintain incentive discounts and other rewards, and (c) maintain related programs in the ordinary course (the “Motion”). In support of the Motion, the Debtors submit the Affidavit of Mark I. Lehman in Support of First Day Motions and Applications (the “Lehman Affidavit”), filed contemporaneously herewith and incorporated herein by reference, and respectfully represent as follows:

¹ The debtors and debtors in possession in these cases are Natural Products Group, LLC (Fed. EIN 86-1119470); Arbonne Intermediate Holdco, Inc. (Fed. EIN 87-0735363); Levlad Intermediate Holdco, Inc. (Fed. EIN 87-0735367); Arbonne International, LLC (Fed. EIN 33-0762250); Levlad, LLC (Fed. EIN 95-2973496); Arbonne Institute of Research and Development, LLC (Fed. EIN 33-0762250); Arbonne International Holdings, Inc. (Fed. EIN 20-5585671); and Arbonne International Distribution, Inc. (Fed. EIN 20-5585608).

Background

A. The Bankruptcy Cases

1. On January 27, 2010 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”). The Debtors continue to operate their respective businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. No creditors’ committee has been appointed in these cases by the Office of the United States Trustee. No trustee or examiner has been requested or appointed in any of the Debtors’ chapter 11 cases.

B. Overview of Business Operations

3. NPG, together with its Debtor and non-Debtor affiliates (collectively, the “Company”), are leaders in the manufacture and distribution of personal care products. The Company operates primarily through Debtors Arbonne International, LLC (“Arbonne”) and Levlad, LLC (“Levlad”). Arbonne is headquartered in Irvine, California and, either directly or through a subsidiary, has additional leased facilities located in Greenwood, Indiana; Dallas, Texas; Toronto, Ontario, Canada; Calgary, Alberta, Canada; New South Wales, Australia; Northampton, United Kingdom; and Munich, Germany. Levlad is headquartered in Chatsworth, California and has several other leased facilities in that area.²

4. **NPG.** In 2004, the predecessor to Harvest Partners, L.P. (“Harvest”), a leading New York-based private equity investment firm specializing in management buyouts and growth financings of middle-market companies, formed NPG as a special purpose entity to

² An organizational chart illustrating the structure of the Company as of the Petition Date is included in the Lehman Affidavit.

complete the acquisitions of Arbonne and Levlad. Harvest, through its subsidiary Harvest Partners IV, L.P., along with other investors, provided approximately \$93 million for the acquisitions. NPG serves as the ultimate parent of the Company.

5. **Arbonne**. Arbonne was founded in Switzerland in 1975 with the goal of developing skin care products based on natural, botanical principles, and it relocated its headquarters and primary operations to the United States in 1980. Arbonne now sells its own branded line of hundreds of botanically based personal care, cosmetic and wellness products, including skin care, body and hair care, cosmetics, aromatherapy, and nutritional products. Arbonne's products are botanically based, pH correct, dermatologist tested, hypoallergenic, and never tested on animals. Arbonne markets most of its products as part of a comprehensive personal care, cosmetic, health and wellness regimen designed for combined and repeated use.

6. Whereas traditional marketing moves products from the manufacturer to wholesalers, warehouse, shippers, advertisers, and retailers before ever reaching the consumer, Arbonne markets its products in the United States, Canada, the United Kingdom, and Australia through a direct sales network of Arbonne Independent Consultants ("AICs"). AICs are independent contractors and may be individuals or registered business entities. They are not employees of the Company. The AICs purchase Arbonne products from the Company at published discounted prices to then market and sell the products to consumers. Arbonne's marketing relies on developing and keeping trusted relationships with its consumers and the AICs. Consequently, Arbonne is focused on maintaining the quality of its products and services at a level that it believes exceeds that of standard retail brands.

7. AICs are eligible to earn commissions and incentives based on their retail volume and the retail volume of other AICs that they have directly or indirectly sponsored, also

known as their “downline.” AICs are compensated in two basic ways: (a) through retail profit on the sale of the Arbonne products that were purchased at a discount and (b) through commissions, overrides, and bonuses paid based on the AICs’ product sales volume and the sales volume of their downline.

8. AICs operating in Canada contract directly with Arbonne’s subsidiary, Arbonne International Distribution, Inc. (“AIDI”), which is a Debtor in these cases. AICs operating in the United Kingdom and Australia contract directly with Arbonne’s non-Debtor foreign subsidiary, Arbonne Europe Sàrl (“AES”). Certain of Arbonne’s other foreign subsidiaries, Arbonne International Canada, Inc. (“AICI”), Arbonne UK Limited (“AUKL”), and Arbonne Australia Pty Ltd. (“AAPL”), provide logistical support and services to the AICs operating in their respective countries, including leasing property, employing personnel and providing marketing and administrative services. Arbonne also established subsidiary Arbonne Germany GmbH in the event the Company decides to begin operations in Germany.

9. Arbonne Institute of Research and Development, LLC (“AIRD”), also a Debtor in these cases, provides product development services for Arbonne. AIRD is a Delaware limited liability company with a service agreement to use a Swiss laboratory facility at which AIRD coordinates the efforts of master formulators as they research, develop, and finalize Arbonne’s exclusive personal care products. The proprietary formulas being developed by AIRD are owned by Arbonne and represent botanically-based products based on cutting-edge technologies and the latest advances in skin care science. Neither Arbonne nor AIRD engage in any sales or other commercial activity in or from Switzerland.

10. For the last twelve months ending November 30, 2009, Arbonne had revenue of approximately \$378 million and EBITDA of approximately \$38 million.

11. **Levlad.** Levlad was founded in 1972 in Venice Beach, California. It was one of the first manufacturers of natural personal care products, with its founders starting off by collecting rainwater and blending it with natural herbs from their herb shop, then selling the mixture as the very first rainwater shampoo. Currently, Levlad manufactures safe, performance driven and natural personal care products, including a line that is certified organic, by combining proven botanical, herbal, and floral treatments with modern ingredients and techniques. Levlad's products include shampoos, conditioners, soaps, bath gels, lotions, deodorants, and toothpastes. Levlad markets these products under the brand names Nature's Gate®, Nature's Gate Organics®, Nature's Gate Advanced Care®, Nature's Gate Organics Natural Results® Acne Care, and Rainwater Organics. Levlad markets these products internationally, including throughout North America at natural food retailers, including Whole Foods, and specialty retailers, including General Nutrition Centers (GNC), and Bed, Bath & Beyond. Levlad's brands hold leading market positions across key product categories.

12. Levlad also provides value-added, turn-key manufacturing and formulation services for private-label customers, including Arbonne. In such capacity, Levlad provides its customers a full range of services, including product creation, manufacturing, filling, product labeling and packaging design, raw material procurement, and collateral marketing development materials. In this capacity, Levlad has long-standing relationships with recognized name brand personal care product companies and specialty retailers – an average tenure of over twelve years for Levlad's top customers.

13. For the last twelve months ending November 30, 2009, Levlad had revenue of approximately \$73 million and an EBITDA loss of approximately \$6 million.

14. As of the Petition Date, the Company employed approximately 867 employees worldwide. Of that number, approximately 792 are employed by the Debtors and approximately 75 are based with NPG's non-debtor subsidiaries. In addition to the Company's employees, Arbonne utilizes a direct sales network of approximately 750,000 AICs.

C. Capital and Debt Structure

15. As of November 30, 2009, the Company's consolidated balance sheet reflected total assets of approximately \$286 million. Of this amount, approximately \$24 million was comprised of cash and cash equivalents, approximately \$26 million was comprised of property and equipment, net of depreciation, approximately \$42 million was comprised of inventories, and approximately \$194 million was comprised of other assets. The Company's consolidated balance sheet also reflected total liabilities of approximately \$804 million. As of the Petition Date, the Debtors' books and records reflect that they have approximately \$4.3 million in cash on hand.

16. On or about June 19, 2006, Levlad and Arbonne, as borrowers, and Levlad Intermediate Holdco, Inc. ("Levlad HoldCo") and Arbonne Intermediate Holdco, Inc. ("Arbonne HoldCo," and together with Levlad HoldCo, the "HoldCos"), as guarantors, entered into (a) a \$410 million First Lien Credit Agreement (the "First Lien Credit Agreement") and (b) a \$195 million Second Lien Credit Agreement (the "Second Lien Credit Agreement"), each with Canadian Imperial Bank of Commerce ("CIBC"), as administrative agent and collateral agent, and with other lenders from time to time party thereto. In addition to the guarantees of the HoldCos, the obligations of Levlad and Arbonne under the First Lien Credit Agreement and Second Lien Credit Agreement were guaranteed by Debtor AIRD and were secured by liens on substantially all of the borrowers' and guarantors' assets.

17. The proceeds from the First Lien Credit Agreement and the Second Lien Credit Agreement were used by Arbonne and Levlad to repay approximately \$298 million in existing indebtedness that was incurred to finance the 2004 acquisition of Arbonne and Levlad by NPG.

18. On the same date, the HoldCos, as borrowers, also entered into the HoldCo Credit Agreement, which provided for a \$135 million unsecured term loan facility (the “HoldCo Term Loan”) with Credit Suisse, as the then administrative agent, and with other lenders from time to time party thereto (the “HoldCo Lenders”). The HoldCo Term Loan bears interest at a rate of 13.5% per annum, which may, at the option of the HoldCos, be payable in kind, capitalized, compounded, and added to the principal.

19. In March 2007, the Debtors refinanced their existing indebtedness under the First Lien Credit Agreement and Second Lien Credit Agreement. Specifically, on March 8, 2007, Levlad and Arbonne, as borrowers, and the HoldCos, as guarantors, entered into a \$600 million Credit Agreement (as amended, supplemented, modified or otherwise in effect from time to time, the “OpCo Credit Agreement,” and together with the HoldCo Credit Agreement, the “Prepetition Credit Facilities”) with CIBC, as administrative agent and collateral agent, and other lenders from time to time party thereto (the “OpCo Lenders,” and together with the HoldCo Lenders, the “Prepetition Lenders”). The OpCo Credit Agreement provides for term loans in the aggregate principal amount of \$565 million (the “OpCo Term Loan”) and a revolving credit facility of \$35 million (the “OpCo Revolver,” and together with the OpCo Term Loan and the HoldCo Term Loan, the “Prepetition Loans”), a portion of which may be used for letters of credit. In addition to the guarantees of the HoldCos, the obligations of Levlad and Arbonne under the OpCo Credit Agreement are guaranteed by Debtors AIRD, Arbonne International

Holdings, Inc., and AIDI, and are secured by liens on substantially all of the Debtors' assets (the "Prepetition Collateral").³

20. On June 12, 2009, the Debtors and the OpCo Lenders signed an amendment to the OpCo Credit Agreement (the "OpCo Credit Agreement Amendment"). At the time, the Debtors were in default on the OpCo Credit Agreement. Specifically, the Debtors had exceeded the permissible combined leverage ratio ("Leverage Ratio"), as set forth by a negative covenant in the OpCo Credit Agreement, and had failed to deliver audited financial statements and certificates signed by a designated representative, stating that the Debtors were not in default (collectively, the "Specified Defaults"). The OpCo Credit Agreement Amendment waived the Specified Defaults and temporarily eliminated the Leverage Ratio requirement but required the Company to generate minimum levels of EBITDA during the period in which the Leverage Ratio requirement was eliminated.

21. As of the Petition Date, the principal amount outstanding under the OpCo Term Loan is approximately \$501 million. The principal amount outstanding under the OpCo Revolver is approximately \$29 million, and the aggregate amount of outstanding letter of credit obligations is approximately \$1.1 million. The total amount outstanding under the HoldCo Term Loan, as of the Petition Date, is approximately \$217 million.

D. Events Leading to the Commencement of the Chapter 11 Cases

22. Although the Company had experienced a high rate of revenue growth through 2006 and early 2007, this was driven primarily by unusually higher levels of recruitment for new AICs, which was unsustainable. In 2005 and 2006, on a net basis, the Company added approximately 434,000 and 612,000 AICs, respectively. Because recruitment of AICs tends to

³ Nothing contained herein shall constitute an admission by the Debtors of the validity, priority, extent or enforceability of the Prepetition Loans or any lien or security interest asserted by the Prepetition Lenders in connection with the Prepetition Collateral.

be a leading indicator of later attrition, the historically high numbers of new consultants in those years resulted in attrition exceeding the recruiting levels in subsequent years. In 2007, 2008 and 2009, on a net basis, the Company lost approximately 108,000, 270,000 and 145,000 AICs, respectively. This attrition, combined with the downturn in the economy and the financial crisis later in 2008, caused a reduction in the Company's overall net sales.

23. The Company responded by implementing several cost saving and revenue producing initiatives, including (a) relocation of most of the Company's customer service and information technology operations to Dallas, Texas, which lowered expenses related to information technology contract labor and customer service temporary help as the Company was able to recruit full time employees at lower salaries, (b) conversion of certain AIC publications to an on-line only format, (c) a reduction in force at certain subsidiaries and reduction of warehouse operations to a single shift, (d) realigning the AIC compensation plan to incentivize early stage AICs interested in building a business, (e) development of targeted marketing and product strategies, and (f) expanding Arbonne's Regional Sales Manager program into underutilized geographic areas. Although the Company experienced some success with these initiatives, such success was unable to reverse the effects of the decrease in AICs combined with the global financial crisis.

24. Compounding this revenue reduction was the fact that the permitted maximum Leverage Ratio contained in the OpCo Credit Agreement was reduced in the fourth quarter of 2008. The tightening of the covenant requirements coupled with reduced revenue triggered a default under the OpCo Credit Agreement, and resulted in the Debtors' entry into the OpCo Credit Agreement Amendment with the OpCo Lenders. The OpCo Credit Agreement Amendment waived certain defaults and temporarily eliminated the Leverage Ratio requirement

but required the Company to generate minimum levels of EBITDA during the period in which the Leverage Ratio requirement was eliminated. Although the Company was able to satisfy the EBITDA requirement for the third quarter of 2009, it became apparent at that time that it would not be able to do so going forward and that the Company's debt exceeded the amount that the Company could reasonably support.

25. Consequently, the Company, with the assistance of its financial and legal advisors, entered into discussions with the OpCo Lenders, HoldCo Lenders and principal stockholders in an attempt to implement a consensual restructuring of the Company's capital structure. Further, during the period of discussions, the Company entered into a forbearance agreement with the OpCo Lenders whereby the OpCo Lenders agreed to forbear from exercising remedies in connection with certain defaults by the Company under the OpCo Credit Agreement. The forbearance agreement has been extended from time to time and the forbearance period is currently extended through February 1, 2010 (subject to certain conditions contained therein).

26. Following these extensive discussions—which, among other things, involved negotiating and finalizing term sheets reflecting the material terms of a proposed restructuring, and entry into plan support agreements with a majority of the OpCo Lenders and the HoldCo Lenders⁴—on January 13, 2010, the Company solicited acceptances of the final form of restructuring proposal (the “Restructuring”), which was set forth in that certain Proposal to Restructure, Disclosure Statement and Solicitation of Acceptances of a Prepackaged Plan of Reorganization (the “Disclosure Statement”), filed concurrently herewith. As set forth in the Disclosure Statement, the Company sought approval of the Restructuring through a consensual transaction outside of bankruptcy with the unanimous support of the Prepetition Lenders (the

⁴ A more detailed description of the plan support agreements may be found in the Disclosure Statement, which has been filed concurrently herewith.

“Out-of-Court Transaction”), or, if such unanimous consent was not obtained, in accordance with the terms of the prepackaged plan of reorganization (the “Plan”) attached to the Disclosure Statement, subject to bankruptcy court approval.

27. As more fully described in the Disclosure Statement, the Plan generally provides for the satisfaction of (a) the OpCo Debt⁵ through the (i) reinstatement of an aggregate of \$125 million of the existing OpCo Debt under the Reinstated OpCo Term Loan, and (ii) issuance upon the Effective Date of 85% of the New NPG Common Stock (subject to dilution for New NPG Common Stock issuable upon the exercise of the New NPG Warrants or any New NPG Options that may be issued and/or awarded under a new Long Term Management Incentive Plan); and (b) the HoldCo Debt through the issuance of New NPG Warrants, which will entitle the holders thereof to purchase New NPG Common Stock equal to an aggregate of 5% of the New NPG Common Stock (subject to dilution for New NPG Common Stock issuable upon the exercise of any New NPG Options that may be issued and/or awarded under the Long Term Management Incentive Plan). Notably, with the exception of the Prepetition Lenders and the existing holders of equity interests in NPG, all of the Company’s creditors and equity holders are unimpaired under and deemed to have accepted the Plan. The existing holder of equity interests in NPG will have their equity cancelled and, therefore, are deemed to have rejected the Plan.

28. The deadline to vote to accept or reject the proposed Restructuring (whether effectuated through an Out-of-Court Transaction or through the Plan) expired on January 27, 2010 at 12:00 noon (Prevailing Eastern Time). Although the Prepetition Lenders overwhelmingly voted in favor of the Restructuring, the Debtors were unable to consummate the Restructuring through the Out-of-Court Transaction. To prevent the consequences of defaults

⁵ All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Disclosure Statement and Plan, which have been filed concurrently herewith.

under the OpCo Credit Agreement, preserve the Debtors' business as a going-concern, and restructure their debt in accordance with the Plan, the Debtors commenced these cases under chapter 11 of the Bankruptcy Code.

E. Arbonne Independent Consultants

29. As set forth above, Arbonne is a direct selling company that operates in the United States, its territories, Canada and certain other international markets. Arbonne markets its exclusive line of high quality personal care products exclusively through the network of AICs. Specifically, Arbonne operates the AIC network in the U.S. and its territories and AIDI (together with Arbonne, the "Arbonne Debtors") operates the network in Canada. AES operates the network in the U.K. and Australia.⁶

30. AICs operate in a "successline" genealogy, which includes an AIC and all AICs who have been sponsored below (the "downline"), regardless of whether they were personally sponsored or not. Conversely, the "upline" is the line of sponsors that links any particular AIC to Arbonne. "Downline" may refer to a sponsorship line of unlimited depth; however, for purposes of compensation and as used in this Motion, the depth of the downline is subject to certain limitations, as set forth in the AIC Agreements.

31. AICs earn compensation not only based on their personal sales through their retail profits and commissions and overrides based on their personal retail volume ("PRV"), but also on the sales of their downline through overrides and commissions based on their

⁶ AES is not a Debtor in these cases. Concurrently with the filing of this Motion, the Debtors have filed a motion to continue using their existing cash management system and to continue postpetition intercompany transactions (the "Cash Management Motion"). As set forth herein and in the Cash Management Motion, AICs in the U.K. and Australia contract directly with AES, and Arbonne has agreed to provide certain funding to AES through an intercompany loan agreement with AES. Pursuant to the Cash Management Motion, the Debtors request authority to continue to provide funding under the intercompany loan with AES to ensure the integrity of the AIC network in the U.K. and Australia. Unless otherwise indicated in this Motion, for purposes of the description of the AIC network contained herein, AES should be considered part of the "Arbonne Debtors."

downlines' retail volume ("RV").⁷ The downline AICs also benefit by developing their skills and understanding by learning from the experience of their upline AICs, who agree to provide support and training to their downline AICs. This incentive structure encourages experienced AICs to recruit, train, and lead newer AICs, which is vital to maintaining and expanding the Arbonne Debtors' customer base.

32. During 2009, the AIC network included an average of almost 800,000 active AICs worldwide. The AIC network is divided by general levels of activity as follows: Preferred Client, Consultant, Manager,⁸ and Vice President.⁹ Preferred Clients are generally retail clients who want to enjoy a discount on Arbonne's products and qualify simply by paying a registration fee.¹⁰ Consultants are the first level of AICs that are engaged in the business of reselling Arbonne's products and qualify by (a) paying a registration fee, (b) paying an upgrade fee from Preferred Client, or (c) becoming active in the business by meeting certain thresholds of PRV and sponsoring new Preferred Clients or Consultants; they maintain their Consultant status solely through their PRV. Managers qualify based on PRV and maintain their status based on RV. Vice Presidents qualify and maintain their status based on RV. All AICs also must pay an annual renewal fee.¹¹

⁷ PRV is based on sales attributable to an AIC's own consultant identification number, and the sales of their personally sponsored Preferred Clients; RV is based on sales of an AIC's entire downline. For AICs in Canada and the U.K., PRV and RV are referred to as personal qualifying volume (PQV) and qualifying volume (QV), respectively.

⁸ Managers are further divided into the following levels of activity: District Manager, Executive District Manager, Area Manager, and Executive Area Manager.

⁹ Vice Presidents are further divided into the following levels of activity: Regional Vice President., Executive Regional Vice President, National Vice President, and Executive National Vice President.

¹⁰ The registration fee is not a service or franchise fee, but is rather to offset costs incurred by Arbonne for educational development costs, business materials and administrative costs.

¹¹ The renewal fee is to offset costs incurred by Arbonne for educational development costs and materials which are provided to AICs free of charge.

33. As stated in the agreements entered into by and between the appropriate Arbonne Debtor and each AIC (each, an “AIC Agreement”), AICs are independent contractors, and are not employees, agents, partners, legal representatives, or franchisees of the Arbonne Debtors. AICs are solely responsible for paying all expenses they incur, including but not limited to travel, food, lodging, secretarial, office, long distance telephone and other expenses. Upon cancellation, termination or nonrenewal of an AIC Agreement, AICs agree to waive all rights, including but not limited to property rights, to their former downline organization and to any bonuses, commissions or other remuneration derived through the sales and other activities of their former downline organization.

34. The Arbonne Debtors maintain several programs related to the success of the AIC network (collectively, the “AIC Programs”), including different forms of payment to compensate AICs, rewards to incentivize AICs, events to train AICs, and logistics to follow an order from placement to shipment and back through returns if necessary. The Arbonne Debtors intend to maintain the AIC Programs in the ordinary course, and honor certain prepetition obligations related thereto, as further described below.

35. **Commissions, Overrides, Bonuses and Other Compensation.** There are two basic ways in which the AICs can earn compensation: through retail profit on sales of products purchased at discounted prices from the Arbonne Debtors (“Consultant Profits”); and through commissions, overrides and bonuses paid on AICs’ product sales volume and the sales volume of other AICs on their team (the “AIC Payments”).

36. AICs can buy Arbonne products at discounted prices for resale to clients (or for personal use). The suggested retail price (“SRP”) for items sold to clients reflects a retail markup potential for AICs in the United States and its territories. AICs do not receive

Consultant Profits as payments from the Arbonne Debtors. The Arbonne Debtors intend to continue selling products at discounted prices to AICs in the ordinary course so that such AICs can maintain their Consultant Profits.

37. AICs can also earn the AIC Payments, which consist of commissions on RV from sales,¹² overrides on override volume (“OV”),¹³ and certain cash bonuses based on their own sales of products and the sales of their downline of sponsored AICs. Vice Presidents who maintain certain RV sales are eligible for additional cash bonuses through the Mercedes-Benz Cash Bonus Program when they provide proof that they own or lease a white Mercedes-Benz automobile (the “Mercedes-Benz Bonus Program”). During 2009, the Arbonne Debtors estimate that they paid in excess of \$137.6 million in AIC Payments, including through the Mercedes-Benz Bonus Program, to AICs in the United States and its territories.

38. All AIC Payments are calculated at the end of the achievement calendar month and paid the following calendar month. The minimum amount for which the Arbonne Debtors will issue a check for an AIC Payment is \$25. If an AIC’s AIC Payments do not equal or exceed \$25, the Arbonne Debtors will accrue the AIC Payments until they total \$25 (or until the last commission cycle of the year), after which a check will issue. AIC Payment checks are processed and generated after the end of each month and are scheduled to mail within 10 business days after month-end; direct deposit is available only to Area Managers and above in the U.S. and Canada. Because compensation is based on the actual sales of products and services to end consumers, when a product is returned to the Arbonne Debtors for a refund or is repurchased by the Arbonne Debtors (as described further below), attributable AIC Payments will be deducted, beginning in the month in which the refund is given, and continuing every pay

¹² Preferred Clients are not eligible for commissions.

¹³ OV equals 65% of RV.

period thereafter until the corresponding AIC Payments are recovered. Because AICs are not employees of the Arbonne Debtors, including for federal or state tax purposes, the Arbonne Debtors generally do not withhold any sums from AIC Payments for tax purposes.¹⁴

39. The last regular date the Arbonne Debtors issued AIC Payments was January 8, 2010 (the “Last AIC Payout”) for AIC Payments accrued in December. Due to the lag between when AICs earn AIC Payments (and for low volume AICs, when AICs earn AIC Payments of at least \$25) and when payment is made, the Arbonne Debtors estimate that they will owe approximately \$11.5 million in the aggregate in accrued and unpaid AIC Payments for services rendered (i.e. products sold) by the AICs prior to the Petition Date.¹⁵ The Arbonne Debtors intend to pay AIC Payments and payments under the Mercedes-Benz Bonus Program that accrued prepetition.

40. Due to the timing of the Last AIC Payout, checks for AICs who do not receive compensation by direct deposit likely remain in float. In addition, although the Arbonne Debtors believe that most checks relating to AIC Payment periods prior to the Last AIC Payout have been presented to and honored by the applicable drawee banks, certain AICs may fail to cash or deposit their checks in a timely manner. Accordingly, it is possible that some checks will remain in float postpetition that banks will not honor absent explicit authority and direction by the Court to do so. Furthermore, while the Arbonne Debtors do not believe material amounts, if any, remain owing for past AIC Payment periods, to the extent any such amounts remain owing, the Arbonne Debtors believe that the administrative costs resulting from determining such

¹⁴ Arbonne may be legally required to deduct backup withholdings in the event an AIC provided an incorrect Social Security or taxpayer identification number.

¹⁵ As discussed below, section 507(a)(4) of the Bankruptcy Code affords priority distribution for up to \$10,950 in wages, salaries, or commissions earned by an individual. 11 U.S.C. § 507(a)(4).

information with precision substantially exceed any benefit to be gained from such exercise. The Arbonne Debtors intend to honor AIC Payment checks in float.

41. **Life and AD&D Insurance.** The Arbonne Debtors provide all eligible Regional Vice Presidents and above in the U.S. and Canada, while they remain AICs, with fully funded life and accidental death and dismemberment insurance policies (the “Insurance Policies”) administered by Lincoln National Life Insurance Company. The Insurance Policies, each providing up to a \$100,000 benefit, are premium-based and the average monthly cost to the Arbonne Debtors is approximately \$40,000. The Arbonne Debtors believe that they are current on all such payments; however, to the extent that any premiums remain unpaid as of the Petition Date or any portion of the current month’s payment may be characterized as a prepetition obligation, the Arbonne Debtors intend to pay such amounts. The Arbonne Debtors also intend to maintain the Insurance Policies in the ordinary course.

42. Except as described in the immediately preceding paragraph, the Arbonne Debtors do not provide insurance coverage to the AICs. AICs must provide their own workers’ compensation insurance, if required or applicable. AICs must further provide all insurance coverage they require or desire with respect to their business, including, without limitation, medical and hospitalization insurance, automobile insurance and general comprehensive liability insurance.

43. **Product Order Logistics, Programs, and Policies.** In the ordinary course of business, AICs and their registered clients order product from the Arbonne Debtors, which then ship product from their distribution facilities to the AICs and their clients. The Arbonne Debtors have implemented certain logistics, programs, and policies that they intend to maintain in the ordinary course, as described below.

(i) *Orders*

44. Orders may be made by mail, express carrier, fax, phone or internet.

Orders must be received by the end of the last business day of the month to qualify for AIC Payments and other rewards or incentives. The Arbonne Debtors make every effort to ship products within 24 hours of receiving and processing an order, and most orders ship within this time frame. Due to heavy volumes during mid-month and end-of-month peak periods, some orders may take as long as 72 hours (three business days) to ship. Shipments in the continental United States may take from one to seven business days to arrive; delivery times outside the continental United States vary further. Due to the lag in receiving, processing, shipping, and delivery of orders, the Arbonne Debtors estimate that they hold approximately \$7 million in the aggregate paid by clients and AICs for orders placed prior to the Petition Date that have not yet shipped.¹⁶ The Arbonne Debtors intend to complete such outstanding orders, and honor new orders, in the ordinary course.

(ii) *Autoship Program*

45. The Arbonne Debtors' autoship program (the "Autoship Program") allows AICs and clients to place standing orders for products that ship on a pre-specified date each month pursuant to an Autoship Program agreement entered into by each Autoship Program participant. The Autoship Program participants specify the products and the respective quantities of each product that they wish to have automatically shipped each month. The Arbonne Debtors continue to ship automatically the products selected on a monthly basis without

¹⁶ As discussed below, to the extent the AICs ordered products for personal use rather than resale, section 507(a)(7) of the Bankruptcy Code affords priority distribution for up to \$2,425 based on the prepetition deposit of money in connection with the purchase of property or services for personal use that were not delivered or provided. 11 U.S.C. § 507(a)(7).

the participants having to submit refill orders, subject to the participants' right to cancel participation in the Autoship Program at any time.

46. Pursuant to the terms of the Autoship Program, the Arbonne Debtors are authorized to automatically charge the participants' credit card for each Autoship Program order plus shipping, handling, and applicable sales tax, up to seven days prior to the shipping date, which may be selected as any day of the month between the 5th and the 25th. As of the Petition Date, the Arbonne Debtors estimate that approximately \$90,000 in Autoship Program orders have been charged to the participants' credit cards without the corresponding orders having been shipped. The Arbonne Debtors intend to complete such outstanding prepetition orders and continue the Autoship Program in the ordinary course.

(iii) Product Returns

47. Clients, and AICs who certify that they are purchasing product for personal consumption purposes only, may return products purchased from the Arbonne Debtors. In such circumstances and in the ordinary course of business, the Arbonne Debtors will refund the cost of the merchandise and in certain instances will refund shipping costs associated with the returned products (the "Product Return Policy"). Where the item being returned is a free gift or promotional item, the item may only be exchanged for the same item or an item of equal or lesser value. AICs may not return inventory or business aids for a refund, unless they are voluntarily or involuntarily terminating their relationship with the Arbonne Debtors, or electing not to renew. In such a case, the Arbonne Debtors will repurchase the products and business aids at 90 percent of the AIC's original purchase price (less appropriate setoffs and legal claims, if any, and regardless of when the original purchase was made), provided such products and business aids are in re-saleable condition.

48. In 2009, the Arbonne Debtors paid approximately \$2.8 million on account of returns under the Product Return Policy. The Arbonne Debtors estimate that, as of the Petition Date, returns in transit or in process will result in payments by the Arbonne Debtors in the approximate amount of \$437,000. The Arbonne Debtors intend to continue processing the returns commenced prepetition, and maintain their Product Return Policy in the ordinary course.

(iv) Guarantees

49. The Arbonne Debtors offer a 45-day money-back guarantee (the “Guarantee”) on all their products purchased by AICs, their personal clients, and those who order from the Arbonne website or a conforming AIC website. Shipping fees are not refundable. Returns based on dissatisfaction with Arbonne products take four to six weeks to process. Due to the lag between when the Guarantee begins and expires, the Arbonne Debtors estimate that approximately \$31.2 million in prepetition orders qualify for the Guarantee as of the Petition Date.¹⁷ The Arbonne Debtors intend to honor prepetition Guarantees and maintain the Guarantee policy in the ordinary course.

(v) Backorders

50. The Arbonne Debtors permit AICs and clients to place an order for an item even if it is currently out of stock (“Backorders”). When Backorders are placed, the credit card will be charged when the order is taken, and the item will ship to the AIC or client when the item becomes available. If an item is on backorder for 30 days, AICs or clients are contacted with the option to cancel the item or continue to wait until the order can be filled. The Arbonne Debtors estimate that they hold approximately \$665,000 in the aggregate paid by AICs and clients for orders placed prior to the Petition Date that have not yet been made available to ship

¹⁷ Such number is calculated based on annual revenue over a 45-day period.

to the AICs and clients. The Arbonne Debtors intend to complete outstanding prepetition Backorders, and continue their practices regarding Backorders in the ordinary course.

(vi) *Variances and Adjustments*

51. If an order does not match the payment remitted, due to a pricing or addition error, the difference will be deducted or added to the AIC's discount and/or AIC Payments or products/business aids will be added, deleted or substituted until the total value matches the amount remitted (the "Variances and Adjustments"). The Arbonne Debtors intend to continue their practices related to Variances and Adjustments in the ordinary course.

52. **Product Offers and Rewards.** In addition to AIC Payments, AICs accrue incentive offers and rewards based on volume of sales, as detailed below. The Arbonne Debtors intend to permit AICs to continue to use any such accrued but unused offers and rewards in the ordinary course. The Arbonne Debtors do not provide payment in lieu of unused offers or rewards. As with the AIC Payments, offers or rewards that were paid to AICs on account of products subsequently returned will be deducted from the AICs and those upline that received corresponding remuneration.

(i) *Product-Related Benefits and Incentives*

53. The Arbonne Debtors offer several incentives (the "Incentives") for AICs to accumulate PRV and increase the increment thereof from one order to the next. Some offers are extended automatically to AICs based on activity in the Autoship Program or level of downline sales achievement, while others are featured monthly online on Arbonne's website and/or in its monthly on-line magazine *UpClose*. Certain common examples of Incentives include:

- **Virtual Vouchers.** Participants in the Autoship Program earn "Virtual Vouchers" based on the average amount of their monthly standing orders,

which are “paid” every six months and may be redeemed for discounted or free products in future purchases from the Arbonne Debtors. The Arbonne Debtors also issue Virtual Vouchers in limited additional circumstances. The Virtual Vouchers are not redeemable for cash; rather, they merely entitle AICs and clients to purchase additional product from the Arbonne Debtors at a discount. Virtual Vouchers are valid for six months from issue date. The Arbonne Debtors estimate that as of the Petition Date approximately \$55,000 in Virtual Vouchers have been accrued but not redeemed.

- Complimentary Products. As an incentive to maintain or increase activity levels, AICs may be eligible to receive complimentary products when they accumulate certain PRV in their first month, after two orders in their first two months, and after every four orders without time limit. AICs may also receive gifts – including product vouchers, logo items and business aids – for achieving a certain SRP in cumulative personal sales the first two weeks of each month and/or each month. As an additional incentive to increase activity, following promotion to Area Manager and above, AICs receive certain status gifts, such as license plate frames, jewelry, and logo lapel insignias.
- Discount Programs. New AICs receive a special offer during their first two months, which is repeated for all AICs during their anniversary month every year they remain active, to purchase a certain amount of product for half the SRP. The Discount with Purchase (DwP) Program provides a further discount on specific products, as advertised. With the Purchase with Purchase (PwP) Program, at certain incremental amounts of product ordered on Arbonne’s website at the SRP, AICs and clients are given the option to purchase additional products at up to a 60% discount, as advertised. With every order of certain RV, AICs receive a special product offer to help them host events or to offer as gifts to their hosts. As “The Ultimate Reward,” AICs may enjoy a further discount on product with every SRP order increment of a certain amount.

The Arbonne Debtors intend to honor Incentives extended to the AICs prepetition, including but not limited to Virtual Vouchers, and continue providing Incentives in the ordinary course of business.

(ii) *AIC Events*

54. Every year, the Arbonne Debtors host various conferences for the AICs, including the Arbonne Select Awards Program Trip, the National Training Celebration (“NTC”) for all AICs globally, the Canadian NTC for AICs in Canada, the U.K. NTC for AICs in the

U.K., the Australia NTC for AICs in Australia, the NVP Retreat for National Vice Presidents and Executive National Vice Presidents, the NVP Challenge Trip and other various trips for sales challenge achievers such as the “Areas in Paradise” and “New York City Experience” trips (collectively, the “AIC Events”). These events are vital to the success of the AIC program because they motivate AICs through recognition award programs and provide a forum for training for the new year. For example, every AIC is invited and encouraged to attend the NTC, where the Arbonne Debtors host recognition meetings, dinners and luncheons for thousands of dedicated AICs in honor of their sales and sponsoring achievements. In addition, every NTC offers training by top field and industry speakers, grants prizes and awards for achieving high sales volume and launches new products and programs for the continued success of the Arbonne Debtors and the AIC network. The Arbonne Debtors believe the AIC Events are necessary to the success of the Arbonne Debtors and the AIC network. Accordingly, the Arbonne Debtors intend to continue hosting the AIC Events in the ordinary course.

(iii) Arbonne Select Awards Program

55. Consultants and above may participate in the Arbonne Select Awards Program (“ASAP”). From December 1 through November 30 each year, participants can accumulate points (the “ASAP Points”) each month (up to a monthly cap) based on the activity generated in that given month, including accumulation of PRV, accumulation of RV, sponsorship of new consultants with qualified volume, follow-up with new recruits, and promoting out of a level. ASAP Points then may be redeemed for conference fees and travel reimbursements in connection with AIC Events if they qualify by a certain deadline specific to the event, or else buy in. For example, the ASAP trip for 2010 is scheduled for October. Points earned during the qualification period beginning December 1, 2009 will be redeemable for this

trip. AICs may also redeem ASAP Points for other ASAP awards offered at any given time, such as certain merchandise or other events. For example, the 2010 NTC is scheduled for March. AICs may use points accumulated during the ASAP qualification period of December 1, 2008 through November 30, 2009 to be redeemed for hotel accommodations at the NTC. ASAP Points must be claimed by December 31 following the end of the accumulation period, and are nonrefundable. The Arbonne Debtors intend to permit the AIC's to redeem the two months of prepetition ASAP Points they have accumulated, including for the AIC Events as applicable, and maintain ASAP in the ordinary course.

Jurisdiction

56. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

57. By this Motion, the Debtors seek authority pursuant to sections 105(a) and 363(b) of the Bankruptcy Code to honor the Arbonne Debtors' prepetition commitments under the AIC Programs, including to (a) pay accrued but unpaid AIC Payments on account of services rendered (i.e. goods sold) prepetition, (b) honor AIC Payment checks in float but not presented or otherwise honored timely for payment,¹⁸ (c) pay any prepetition premium amounts owing on account of the Insurance Policies, (d) complete outstanding orders that were placed prepetition but have not yet been shipped, including through regular logistics, the Autoship Program, and Backorders, (e) process returns commenced prepetition pursuant to the Product Return Policy, (f)

¹⁸ In the Cash Management Motion concurrently filed herewith, the Debtors are seeking an order that authorizes, among other things, the continued maintenance of their bank accounts. To implement fully the relief sought herein, the Debtors, by the Cash Management Motion, seek to authorize the banks at which the Debtors' AIC-related accounts are maintained to continue to honor checks drawn on such accounts without regard to when such checks were issued.

honor prepetition Guarantees, (g) honor Incentives extended to the AICs prepetition, including but not limited to Virtual Vouchers, (h) permit the AIC's to redeem prepetition ASAP Points they have accumulated, and (i) pay other miscellaneous AIC related expenses and benefits pursuant to the procedures described hereinafter (collectively, the "Prepetition Obligations").

58. The Debtors seek authority to honor the Prepetition Obligations because payment of such obligations is critical and essential to the Arbonne Debtors' ability to maintain the AIC network and generate revenue. Accordingly, the Debtors request authority to pay and honor Prepetition Obligations in an amount not to exceed \$12.5 million consistent with the terms and limitations set forth herein.

59. Because the Debtors may determine that there are additional de minimis prepetition obligations related to preservation of the AIC network, which have not been identified in the Motion, the Debtors request authority to pay any such additional obligations up to an aggregate amount of \$100,000 upon five (5) business days' prior written notice to counsel to any statutory creditors' committee appointed in these cases and counsel to the Office of the United States Trustee, setting forth the nature and amount of the additional obligation sought to be paid. If an objection is interposed within such five-day period, and such objection is not resolved consensually, the Debtors will be required to seek authority from this Court to make such payment. The Debtors also reserve their right to seek authority from the Court to pay any obligations in excess of the aforementioned limit.

60. Further, although maintenance of the AIC Programs postpetition is within the ordinary course of the Debtors' business, the Debtors seek to provide comfort to the nearly 1 million AICs that the Debtors are authorized to continue the AIC Programs during these chapter 11 cases, including to, among other things, (a) pay AIC Payments, (b) maintain the Insurance

Policies, (c) maintain the logistics, programs, and policies relating to order placement, including related to new orders placed, the Autoship Program, the Product Return Policy, the Guarantee policy, Backorders, and Variances and Adjustments, (d) provide Incentives, including but not limited to Virtual Vouchers, (e) host the AIC Events, and (f) maintain ASAP (collectively, the “Ordinary Course Obligations” and, together with the Prepetition Obligations, the “AIC Obligations”).

Basis for Relief

61. The success and viability of the Arbonne Debtors’ businesses are dependent upon their reputation and the loyalty of their customers, which are in turn dependent on the AIC network. Failure to honor the AIC Obligations may irreparably harm the Arbonne Debtors’ customer and AIC relationships at a time when their loyalty is most critical. Furthermore, continuance of the AIC Programs is essential to maintaining good will and strong relationships with existing customers and, ultimately, increasing revenue. Accordingly, to preserve the value of their estates, the Arbonne Debtors must be permitted, in their discretion, to honor existing commitments under the AIC Programs and to continue to offer such programs in the future.

62. The Debtors submit that honoring the Prepetition Obligations is appropriate pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, as well as the “necessity of payment” doctrine. Section 363 of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Under this section, a court may authorize a debtor to pay certain prepetition claims. See, e.g., In re Ionosphere Clubs, Inc., 98

B.R. 174, 175 (Bankr. S.D.N.Y. 1989). In order to do so, “the debtor must articulate some business justification, other than the mere appeasement of major creditors[.]” Id.

63. AICs are not mere creditors, but are the backbone of the Arbonne Debtors’ business. Without AICs, there is no sales force, no marketing, no customers, no revenue. If the Arbonne Debtors fail to honor the Prepetition Obligations as to the AICs, there is a high probability that the Arbonne Debtors will lose the AICs and, with them, their customers. For example, if AICs lose compensation or rewards already accrued, or their ability to earn compensation or rewards at the same rate in the future, they will likely search for a comparable direct selling opportunity elsewhere. Therefore, there is a sound business justification for honoring the Prepetition Obligations in order to protect the Arbonne Debtors’ reputation, the loyalty of their customers and the AICs during this critical time, and their ability to generate revenue.

64. Pursuant to section 105(a) of the Bankruptcy Code, “[t]he court may 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). Under the doctrine of necessity, a bankruptcy court may exercise its equity powers under section 105(a) to authorize a debtor to pay certain critical prepetition claims, even though such payment is not explicitly authorized under the Bankruptcy Code. See, e.g., In re Just for Feet, Inc., 242 B.R. 821, 824 (D. Del. 1999) (bankruptcy courts may exercise equity powers to authorize payment of prepetition debt where such payment is necessary to preserve the going concern value of a debtor’s business); Ionosphere Clubs, 98 B.R. at 175 (section 105 empowers bankruptcy courts to authorize payment of prepetition debt “when such payment is needed to facilitate the rehabilitation of the debtor”).

65. To the extent there has been reluctance to rely solely on section 105(a) or the doctrine of necessity, several courts have authorized payment of critical prepetition claims, or implied that such authority would be granted, by relying on section 105(a) in conjunction with other sections of the Bankruptcy Code. See, e.g., In re Tropical Sportswear Int'l Corp., 320 B.R. 15, 19-20 (Bankr. M.D. Fla. 2005) (acknowledging that in certain circumstances section 363(b)(1) might authorize payment of prepetition claims if it was shown that such payment would “enable a successful reorganization and make even the disfavored creditors better off”); In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (noting that the preplan satisfaction of prepetition claims may be necessary to satisfy a debtor’s fiduciary duties under sections 1106 and 1107 of the Bankruptcy Code). The Debtors submit that they are entitled to the requested relief under section 105, read in conjunction with sections 1107 and 1108, and 507 and 1129 of the Bankruptcy Code.

66. As debtors in possession under sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are fiduciaries with a “duty to maximize the value of the bankruptcy estate.” Official Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery, 330 F.3d 548, 573 (3d Cir. 2003). “The debtor-in-possession’s fiduciary duty to maximize includes the ‘duty to protect and conserve property in its possession for the benefit of creditors.’” In re Mushroom Transp. Co., Inc., 382 F.3d 325, 339 (3d Cir. 2004) (citing In re Marvel Entm’t Grp., Inc., 140 F.3d 463, 474 (3d Cir. 1998)). Some courts have noted that there are instances in which a debtor can fulfill this fiduciary duty “only . . . by the preplan satisfaction of a prepetition claim.” CoServ, 273 B.R. at 497. The CoServ court specifically noted that the preplan satisfaction of prepetition claims would be a valid exercise of

the debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate" Id.

67. The relief requested herein is necessary to preserve the value of the Debtors' estates. Continuing to honor the Prepetition Obligations will, for a relatively de minimis cost, protect the Arbonne Debtors' reputation and the loyalty of their customers and the AICs during this critical time and enhance the Arbonne Debtors' ability to generate revenue. Protecting the Debtors' revenue-generating ability is foremost in maximizing the value of the estates for all the Debtors' stakeholders.

68. In addition, section 507(a)(4) of the Bankruptcy Code provides that payments like the AIC Payments, subject to certain conditions, may be afforded priority distribution up to \$10,950. 11 U.S.C. § 507(a)(4). Similarly, section 507(a)(7) of the Bankruptcy Code provides that certain obligations that arise on account of the prepetition deposit of money in connection with the purchase of property or services for personal use that were not delivered or provided, like many of the Prepetition Obligations incurred between the placing and shipping of orders, also may be afforded priority distribution up to \$2,425. 11 U.S.C. § 507(a)(7). Moreover, section 507(a) priority claims are entitled to payment in full under a chapter 11 plan. See 11 U.S.C. § 1129(a)(9)(B). Accordingly, because the AICs may be entitled to a priority distribution for prepetition amounts owed, the relief requested herein should primarily affect only the timing of payments with respect to Prepetition Obligations rather than their treatment for distribution purposes, and it should not prejudice general unsecured creditors or other parties in interest.

69. The preservation of the AIC network and the continued loyalty of the AICs are perhaps the most essential components to the Debtors' ability to successfully

reorganize. Even under the best of circumstances, the filing of a chapter 11 petition is a stressful and uncertain time for individuals involved in a debtor's business, most of whom are not familiar with the nuances of bankruptcy that many practitioners often take for granted. Honoring the Prepetition Obligations will provide needed comfort to the AICs that they will be compensated for the services rendered, which, along with demonstrating the Arbonne Debtors' intention to honor the Ordinary Course Obligations as well, will encourage the AICs to remain with the AIC network by minimizing the hardship the AICs certainly will endure if the AIC Obligations are not honored. In contrast, failure to honor the Prepetition Obligations may result in high attrition of AICs, who may leave the AIC network in favor of more certain employment opportunities. Thus, honoring the Prepetition Obligations is critical to the Debtors' ability to generate revenue, will substantially enhance value for the benefit of all stakeholders, is an appropriate exercise of the Debtors' judgment, and is necessary and appropriate under the circumstances.

70. This Court has routinely authorized different types of relief that collectively is similar to the relief requested herein. See, e.g., In re WCI Communities, Inc., Case No. 08-11643 (KJC) (Bankr. D. Del. Aug. 6, 2008) (approving payment of prepetition wages and benefits to employees, and continued payment of such obligations postpetition in the ordinary course), and (Bankr. D. Del. Aug. 6, 2008) (approving continuation of prepetition customer programs, including incentive programs, in the ordinary course postpetition, and payment of prepetition obligations related thereto); In re Linens Holding Co., Case No. 08-10832 (CSS) (Bankr. D. Del. May 2, 2008) (authorizing postpetition maintenance of customer programs including refund policy, promotions and discounts); In re Amtrol Holdings, Inc., Case No. 06-11446 (KG) (Bankr. D. Del. Dec. 20, 2006) (authorizing the debtors to pay up to \$1.3 million to honor prepetition customer obligations); In re Dura Automotive Sys., Inc., Case No. 06-11202

(KJC) (Bankr. D. Del. Nov. 20, 2006) (authorizing the debtors to pay up to \$5.0 million to honor prepetition customer obligations); see also In re LandSource Communities Dev. LLC, Case No. 08-11111 (KJC) (Bankr. D. Del. June 10, 2008) (granting relief pursuant to section 105(a) and 363(b) to be immediately effective, notwithstanding the possible applicability of Bankruptcy Rule (defined below) 6003 or 6004(h)).

71. Furthermore, pursuant to the recently revised Bankruptcy Rule 6003, a court may grant a motion authorizing payment of prepetition claims within twenty-one (21) days of the Petition Date if such relief is necessary to avoid immediate and irreparable harm. Here, the relief requested is necessary to avoid immediate and irreparable harm to the Debtors' estates for the reasons as set forth above. Accordingly, Bankruptcy Rule 6003 has been satisfied and the relief requested herein should be granted.

72. The Debtors request a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Federal Rule of Bankruptcy Procedure 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As discussed above, the damage to the Arbonne Debtors' goodwill, reputation and ability to generate revenue caused by a failure to continue to maintain AIC and customer satisfaction through their AIC Programs cannot be undone; therefore, without the relief requested herein, the Debtors will be irreparably harmed. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen-day stay imposed by Federal Rule of Bankruptcy Procedure 6004(h), to the extent it applies.

73. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to

dispute any claim, or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

Notice

74. Notice of this Motion has been provided to the Office of the United States Trustee for the District of Delaware, counsel to the agents for the Prepetition Lenders, the Debtors' 30 largest unsecured creditors on a consolidated basis (including counsel if known), and all parties requesting notices pursuant to Bankruptcy Rule 2002. The Debtors submit that no other or further notice need be provided.

75. No previous motion for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an order (i) granting the relief requested herein and (ii) granting the Debtors such other and further relief as the Court deems just and proper.

Dated: January 27, 2010
Wilmington, Delaware

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Proposed Attorneys for the Debtors
and Debtors in Possession

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

In re)	
)	Chapter 11
NATURAL PRODUCTS GROUP, LLC, <u>et al.</u> , ¹)	Case No. 10-_____ ()
)	
Debtors.)	Jointly Administered
)	Re: Docket No. ___

**ORDER GRANTING DEBTORS' MOTION TO PRESERVE THE ARBONNE
INDEPENDENT CONSULTANTS NETWORK AND, IN CONNECTION THEREWITH,
AUTHORIZING THE DEBTORS TO (A) PAY CERTAIN PREPETITION CLAIMS; (B)
HONOR AND MAINTAIN INCENTIVE DISCOUNTS AND OTHER REWARDS; AND
(C) MAINTAIN RELATED PROGRAMS IN THE ORDINARY COURSE**

Upon the motion, dated January 27, 2010 (the "Motion"), of Natural Products Group, LLC and its affiliated debtors and debtors in possession (collectively, the "Debtors") pursuant to 11 U.S.C. §§ 105(a) and 363(b) to preserve the Arbonne Independent Consultants network and, in connection therewith, for authority to (a) pay prepetition commissions, overrides and bonuses earned by the independent consultants, (b) honor and maintain incentive discounts and other rewards, and (c) maintain related programs in the ordinary course, as more fully set forth in the Motion; and upon consideration of the Affidavit of Mark I. Lehman in Support of First Day Motions and Applications sworn to on the 27th day of January, 2010; and it appearing that the Court has jurisdiction over this matter; and it appearing that due notice of the Motion as set forth therein is sufficient under the circumstances, and that no other or further notice need be provided; and it further appearing that the relief requested in the Motion is in the best interests of

¹ The debtors and debtors in possession in these cases are Natural Products Group, LLC (Fed. EIN 86-1119470); Arbonne Intermediate Holdco, Inc. (Fed. EIN 87-0735363); Levlad Intermediate Holdco, Inc. (Fed. EIN 87-0735367); Arbonne International, LLC (Fed. EIN 33-0762250); Levlad, LLC (Fed. EIN 95-2973496); Arbonne Institute of Research and Development, LLC (Fed. EIN 33-0762250); Arbonne International Holdings, Inc. (Fed. EIN 20-5585671); and Arbonne International Distribution, Inc. (Fed. EIN 20-5585608).

the Debtors and their estates and creditors; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the Debtors are authorized to pay the Prepetition Obligations² in an aggregate amount not to exceed \$12.5 million consistent with the terms and limitations set forth in the Motion; provided, however, the Debtors retain the right to seek further relief from the Court increasing the amounts set forth in this decretal paragraph; and it is further

ORDERED that the Debtors are authorized to pay any additional amounts owed on account of prepetition obligations to AICs up to an aggregate amount of \$100,000, without further order of this Court; provided, however, that the Debtors must give at least five (5) business days' prior written notice to counsel to any statutory creditors' committee appointed in these cases and counsel to the Office of the United States Trustee, setting forth the nature and amount of the additional obligation sought to be paid, and if an objection is interposed within such five-day period, and such objection is not resolved consensually, the Debtors shall seek authority from this Court to make such payment; and it is further

ORDERED that the Debtors are authorized to honor the Ordinary Course Obligations and continue postpetition the AIC Programs in effect immediately prior to the filing of these cases; and it is further

ORDERED that the banks at which the Debtors maintain AIC-related accounts are authorized and directed to receive, process, honor and pay all AIC Payment-related checks, drafts, wires, or automated clearing house transfers, whether drawn or issued before or after the Petition Date by the holders or makers thereof, as the case may be; provided, however, that

² Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Motion.

sufficient funds, whether deposited prior to or subsequent to the Petition Date, are in, or otherwise available to fund such account to cover and permit payment thereof; and it is further

ORDERED that authorizations given to the Debtors in this Order empower but do not direct them to effectuate the payments herein, said Debtors retaining the business judgment to make or not make said payments, and in all instances subject to the condition that funds are available to effect any payment and in no event is any person or persons personally liable or shall become personally liable for any amounts authorized for payment herein; and it is further

ORDERED that no provision contained herein is intended to or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim, or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; and it is further

ORDERED that, notwithstanding the possible applicability of Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or related to the implementation and interpretation of this Order.

Dated: January __, 2010
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE