

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

**Jointly Administered under  
Case No. 08-45257**

Petters Company, Inc., et al.,

Court File No. 08-45257

Debtors.

Court Files No.'s:

(includes:

Petters Group Worldwide, LLC;

08-45258 (GFK)

PC Funding, LLC;

08-45326 (GFK)

Thousand Lakes, LLC;

08-45327 (GFK)

SPF Funding, LLC;

08-45328 (GFK)

PL Ltd., Inc.;

08-45329 (GFK)

Edge One LLC;

08-45330 (GFK)

MGC Finance, Inc.;

08-45331 (GFK)

PAC Funding, LLC;

08-45371 (GFK)

Palm Beach Finance Holdings, Inc.)

08-45392 (GFK)

Chapter 11 Cases  
Judge Gregory F. Kishel

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**NOTICE OF HEARING AND MOTION FOR EXPEDITED RELIEF AND FOR  
AUTHORIZATION TO USE PROPERTY OF THE ESTATE AND FOR AUTHORITY TO  
ENGAGE IN TRANSACTIONS OUTSIDE THE ORDINARY COURSE OF BUSINESS  
PURSUANT TO 11 U.S.C. § 363**

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TO: The entities specified in Local Rule 9013-3

1. Petters Company, Inc. ("PCI"), through its undersigned attorney, moves the Court for the relief requested and gives notice of hearing.

2. The Court will hold a hearing on this Motion before the Honorable Gregory F. Kishel, United States Bankruptcy Judge, at 1:30 P.M. on April 14, 2009, in Courtroom 2A, at the United States Courthouse, 316 N. Robert Street, St. Paul, Minnesota.

3. Any response to this Motion must be filed and served by delivery not later than April 7, 2009, which is five (5) days before the time set for the hearing (excluding Saturdays,

Sundays, and holidays), or filed and served by mail not later than April 3, 2009, which is seven (7) days before the time set for the hearing (excluding Saturdays, Sundays and holidays). However, given the expedited nature of the relief sought, PCI does not object to written responses being served and filed not later than 1:30 P.M on April 13, 2009, which is twenty-four (24) hours before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This is a core proceeding. Petitions commencing the Chapter 11 cases of PCI and PGW were filed on October 11, 2008. Petitions commencing the Chapter 11 cases of PC Funding, Thousand Lakes, SPF Funding, PL Ltd., Edge One and MGC Finance were filed on October 15, 2008. The petition commencing the Chapter 11 case of PAC Funding was filed on October 17, 2008. The petition commencing the Chapter 11 case of Palm Beach Finance was filed on October 19, 2008 (collectively, the “Cases”). Venue of these cases and this motion are proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The Cases are now pending before this Court.

5. This Motion arises under 11 U.S.C. § 363 as well as Federal Rules of Bankruptcy Procedure 2002, 6004 and 9006. This Motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9013-1 through 3. PCI requests an order (i) granting expedited relief and (ii) authorizing the use of property of the estate and the authority to engage in transactions outside the ordinary course of business pursuant to 11 U.S.C. § 363(b)(1).

### **BACKGROUND**

6. The above-named Debtors filed voluntary petitions for relief pursuant to Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). Debtors continue to operate

their business as debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. A committee of unsecured creditors (the “Committee of Unsecured Creditors”) was appointed on November 21, 2008 pursuant to § 1102 of the Bankruptcy Code. On December 24, 2008, the United States Trustee appointed Douglas A. Kelley as Trustee in these Cases (“Trustee”). On February 26, 2009, the Court approved that appointment.

7. Petters Company, Inc., incorporated in 1994, is a Minnesota corporation, the shares of which are owned and controlled 100% by Thomas J. Petters (“Petters”). PCI, in turn, is the sole member and owns 100% of the membership interests of PC Funding, Thousand Lakes, SPF Funding, PL Ltd., Edge One and MGC Finance, and PAC Funding. The operations and management decisions of PCI and its subsidiary entities were all conducted at the company’s headquarters, located at 4400 Baker Road, Minnetonka, Minnesota. PCI served as a venture capital arm of the Petters enterprises, utilizing single purpose entities to obtain billions of dollars of funding, and purportedly to acquire merchandise for sale to wholesalers and retailers nationwide, which purchase and sale business may have not ever existed.

8. Petters Group Worldwide, LLC, formed in 2001, is a privately held Delaware limited liability company. It is also owned 100% by Petters. The management decisions of PGW and its subsidiary entities were conducted at the company’s headquarters, located at 4400 Baker Road, Minnetonka, Minnesota (collectively, the “Petters Headquarters”). PGW has investments in companies worldwide, which include 100% ownership of Polaroid (products include cameras, PoGo<sup>TM</sup> printers, LCD TVs, portable DVD players), among others. PGW obtained funding from investors/lenders and from PCI.

9. On or about September 24, 2008, the Federal Bureau of Investigation (“FBI”), together with the Internal Revenue Service – Criminal Investigation Division (“IRS”) and the

United States Postal Inspection Service (“USPI”) executed a search warrant on the Petters Headquarters at 4400 Baker Road, Minnetonka, Minnesota, and seized records of PCI, PGW, sole owner Petters, and other employees allegedly involved in a fraudulent Ponzi scheme. On October 3, 2008, Petters was arrested on charges of mail and wire fraud, money laundering, and conspiracy. Other executives implicated in this scheme have also been arrested on various charges and have pleaded guilty to certain crimes.

10. On December 1, 2008, Petters, PCI and PGW were indicted by a federal grand jury on charges of: (i) mail fraud, (ii) wire fraud, (iii) conspiracy to commit mail fraud and wire fraud, (iv) money laundering, and (v) conspiracy to commit money laundering, in violation of 18 U.S.C. §§ 371, 1343, 1956, and 1957. *See* Indictment, Doc. No. 75, *U.S.A. v. Petters et al.*, Case No. 08-cr-00364 (RHK-AJB) (D. Minn.). The indictment alleges that Petters used PCI and PGW, as well as their subsidiary entities, to orchestrate a massive Ponzi scheme to defraud investors out of more than \$3 billion.

11. As a result of the investigation and arrests, numerous other employees terminated their employment with the Debtors, including the main law firm providing overall corporate counsel, the two senior in-house counsels, the CEO, the CFO, and others with knowledge of the financial transactions among the several Debtors and with outside lenders and creditors. In addition, several lenders have commenced actions against the Debtors in several courts, both in Minnesota as well as in other states.

12. On October 6, 2008, the Honorable Ann D. Montgomery, United States District Court, District of Minnesota, issued an Order for Entry of Preliminary Injunction, Order Appointing Receiver and Other Equitable Relief. Judge Montgomery appointed Douglas A. Kelley (“Kelley”) as Receiver for the Debtors. Judge Montgomery’s Order, as amended,

specifically granted Kelley authority to file “any bankruptcy petitions for any of the [Debtors] to protect and preserve the assets of any of the [Debtors].” See Second Amended Order of Preliminary Injunction, Appointment of Receiver and Other Equitable Relief, Sect. IV, paragraph (B)(2)(c), Doc. No. 127, *U.S.A. v. Thomas Joseph Petters et al.*, Case No. 08-CV-05348 (ADM/JSM).

13. As a result of the investigation, subsequent arrests and litigation by numerous creditors, Debtors sought relief under Chapter 11 of the Bankruptcy Code in order to reorganize and/or preserve their operations, sell assets and preserve potential avoidance and claims. Debtors continue to operate their businesses as debtors-in-possession. Except for PGW, PCI and the remaining Debtors’ operations will be, for the most part, limited to reconstructing accounting records and analyzing and pursuing potential claims. PGW will conduct these activities as well, but will also be involved in the ongoing management, operations and sales (as the case may be).

#### **RELIEF REQUESTED**

14. Zink Imaging, Inc., a Delaware corporation (“Zink”), is a former division of Polaroid Corporation (“Polaroid”) that was spun-off through a buyout in 2005. Zink, which has its principal office located in Bedford, Massachusetts and its manufacturing facility located in Whitsett, North Carolina, is an integrated design, development and manufacturing center with expertise in digital photo printing. Zink is an important supplier of photo paper products to Polaroid. Zink and Polaroid operate under an agreement for the sale and delivery of Zink’s products to Polaroid. PGW Holdings, LLC, a wholly-owned subsidiary of PGW (“PGW Holdings”), and Mangrove II Investments Sarl and Mangrove III Investments Sarl (“Mangrove”) as of the date of this motion own approximately 8% and 87%, respectively, of the issued and outstanding capital stock of Zink. However, Mangrove effectively controls Zink through (i) its ownership of certain Zink preferred stock and (ii) by virtue of that certain Proxy and Voting

Agreement, dated as of October of 2008, between Zink and PGW Holdings.

15. Mangrove is a venture capital fund with its principal office located in Luxembourg. Mangrove is managed by, among others, Gerard Lopez.

16. On or about August 15, 2007, PCI agreed to loan \$10,000,000 to Zink, which was fully funded at a later time. Zink executed a secured convertible promissory note, dated August 15, 2007, in favor of PCI in the principal amount of \$10,000,000, bearing an interest rate of 12% per annum and maturing on June 30, 2009 (the "PCI Note"). The PCI Note is convertible into shares of Zink Series B Preferred Stock and amounts owing under the PCI Note are secured by a security interest in essentially all of Zink's assets. A true and correct copy of the PCI Note is attached hereto as Exhibit A. A true and correct copy of the Security Agreement, dated August 15, 2007, by and between PCI and Zink, is attached hereto as Exhibit B.

17. On or about March 13, 2008, Zink and PCI amended and restated the PCI Note (the "Amended PCI Note"). The terms of the Amended PCI Note are substantially similar to the terms of the PCI Note, except that the purchase price for shares of Zink Series B Preferred Stock was reduced under the terms of the Amended PCI Note. A true and correct copy of the Amended PCI Note is attached hereto as Exhibit C.

18. Beginning in October 2008, Zink began to experience serious cash flow problems, in part because Polaroid was not paying Zink's invoices. In order to sustain Zink as an ongoing business, Mangrove agreed on five separate occasions to lend money to Zink in order that Zink would be able to meet its current obligations, including payroll. Thus, Mangrove made advances of \$5,000,000 on or about October 30, 2008, \$1,000,000 on or about January 21, 2009, \$500,000 on or about February 17, 2009, \$700,000 on or about March 4, 2009 and \$1,200,000 on or about March 17, 2009 (the "Mangrove Loans"). A total of \$6,000,000 of the Mangrove Loans are

evidenced by secured convertible promissory notes from Zink that provide for the conversion of such amounts into an as yet undesignated Zink preferred stock, or to the extent such new stock had not been issued, into shares of Zink Series B Preferred Stock. The balance of the Mangrove advances are evidenced by secured promissory notes, the first two of which are secured by security interests in specific Zink accounts receivables. Mangrove has indicated its willingness to loan an additional \$4,000,000 to Zink, but has requested that PCI modify the Amended PCI Note to enable Mangrove and Zink to attract additional investors.

19. Mangrove has agreed to loan an additional \$4,000,000 to Zink (the “Current Loan”), provided that: (i) Zink agrees to amend the prior secured convertible promissory notes issued in respect of \$6,000,000 of the outstanding Mangrove Loans so that such notes are convertible into shares of a new series of Zink preferred stock, Zink Series E Preferred Stock; (ii) Zink executes a secured convertible promissory note in the amount of \$4,000,000 in favor of Mangrove, which would allow Mangrove to convert the balance of such note into shares of Zink Series E Preferred Stock; (iii) to secure the Current Loan, Zink grants Mangrove a security interest in essentially all of Zink’s assets (which will be second in priority to PCI’s security interest in the same assets); (iv) Zink uses certain of the proceeds from the Current Loan to satisfy in full \$2,400,000 of the \$8,400,000 outstanding Mangrove Loans; and (v) PCI agrees to restructure the Amended PCI Note in the manner more fully described below.

20. In the exercise of its business judgment, and after consultation with its financial advisors, considerable negotiations with the Committee of Unsecured Creditors and due consideration for preserving the value of the PCI estate and its assets, the Trustee of PCI, subject to Court approval, agreed to further amend the Amended PCI Note (the “Second Amended PCI Note”) as follows: (i) all amounts of accrued interest under the Amended PCI Note will be added

to the principal thereunder, for a total principal amount of \$11,768,734, bearing an interest rate of 8% per annum (and 12% per annum upon default); (ii) the new principal amount will be broken into two tranches, with the first \$5,000,000 tranche maturing on December 31, 2011 and the second \$6,768,734 tranche maturing on October 31, 2012; (iii) the outstanding principal and accumulated interest under the Second Amended PCI Note may be converted into Zink common stock at a per share purchase price equal to \$1.42, or such other price as will result in PCI owning 9% of the fully-diluted capital stock of PCI immediately following the execution and delivery of the Second Amended PCI Note (as equitably adjusted for any stock splits, stock dividends or similar events with respect to such shares of common stock), assuming the conversion of the respective principal and accumulated interest of each tranche of the Second Amended PCI Note at their respective maturity date, the exercise by Mangrove of warrants to purchase an aggregate of 80,631,772 shares of Zink common stock and the conversion of the balance of the Mangrove Loans (assuming all of such loans converted as of April 30, 2009), all of which loans require mandatory conversion upon receipt of gross proceeds from an equity infusion equal to or greater than \$5 million; (iv) amounts owing under the Second Amended PCI Note will be superior in right of payment to the Current Loan; and (v) the Second Amended PCI Note will be secured (in addition to PCI's existing first priority security interest in essentially all of Zink's personal property) by a junior mortgage against certain of Zink's North Carolina real property, which is also subject to a senior mortgage held by Carolina Bank. Subject to Court approval, PCI has executed and accepted the Second Amended PCI Note, a true and correct copy of which is attached hereto as Exhibit D.

21. Subject to and upon occurrence of all of the above-mentioned events it is estimated that PGW Holdings would own approximately a 3.2% equity interest in Zink.



22. The Committee of Unsecured Creditors has participated substantially in the negotiations surrounding the restructuring of the Amended PCI Note and fully supports revising the Amended PCI Note in the manner described in this Motion and as set forth in the Second Amended PCI Note, a true and correct copy of which is attached hereto as Exhibit D.

23. PCI's position as a secured creditor will not be compromised by modifying the Amended PCI Note in the manner described above. The accrued interest on the Amended PCI Note will be capitalized in the Second Amended PCI Note, and PCI will continue to have first priority with respect to its right of payment and its security interest in Zink's assets. Restructuring the Amended PCI Note, which will remove the only barrier to the provision of Mangrove financing, will also have the added benefit of preserving PGW Holdings equity interest in Zink, as PGW Holdings owns approximately 8% of Zink's issued and outstanding capital stock. Furthermore, PCI will maintain its ability to gain a substantial equity interest in Zink by converting amounts owing under the Second Amended PCI Note into shares of Zink common stock. Because adjusting the Amended PCI Note will still allow PCI to gain an equity position in Zink without compromising its position as a secured creditor, PCI believes that restructuring the Amended PCI Note so that all accrued interest thereunder is capitalized under the terms of a new note that is convertible into shares of Zink common stock is in the best interest of and will yield the maximum value for its estate. Therefore, in its best business judgment, PCI seeks authorization to capitalize accrued interest under the Amended PCI Note under the terms of a new note that is convertible into shares of Zink common stock and to execute all agreements and documents reasonably necessary to carry out the foregoing actions.

#### **EXPEDITED RELIEF**

24. PCI requests that relief be granted on an expedited basis. Zink is urgently in need of additional capital and is waiting for a capital infusion from Mangrove to improve its liquidity

position. Mangrove will not agree to provide additional capital to Zink until Zink and PCI amend and restructure the Amended PCI Note. Zink does not currently have capital sufficient to cover its ordinary course obligations and is unable to obtain necessary financing from an alternative source. If Zink does not receive financing very soon, it will likely be forced to file bankruptcy and/or cease operations. For the benefit of the estate, its creditors and all other stakeholders, PCI believes sufficient cause exists to hear this motion on an expedited basis.

25. If testimony is needed at the hearing on this motion, PCI hereby gives notice that the following individuals may testify as to the facts stated herein: (i) Michael Milani of PWC-CAR; (ii) Bill Keating, SVP Finance and Operations of Zink; (iii) Wendy Caswell, CEO of Zink; and (iv) Douglas A. Kelley, Trustee for PCI. Other employees of PCI, or its affiliates, may also testify.

WHEREFORE, PCI, through its undersigned attorney, moves the Court for an order (1) granting expedited relief, (2) authorizing PCI to use property of the estate and to engage in transactions outside the ordinary course of business, and (3) granting such other relief as the Court may deem just and equitable.

DATED: April 7, 2009

**LINDQUIST & VENNUM P.L.L.P.**

By: \_\_\_\_\_ /e/ James A. Lodoen  
James A. Lodoen (#173605)  
George H. Singer (#262043)  
Daryle L. Uphoff (#111831)

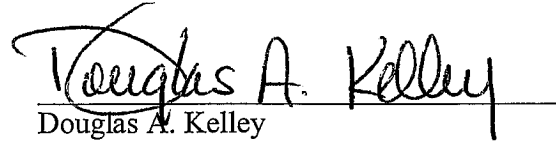
4200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402-2274  
(612) 371-3211  
(612) 371-3207 (facsimile)

**ATTORNEYS FOR DOUGLAS A.  
KELLEY, TRUSTEE**

**VERIFICATION**

I, Douglas A. Kelley, Trustee for Petters Company, Inc., declare under penalty of perjury that the facts set forth in the preceding motion are true and correct according to the best of my knowledge, information and belief.

Executed on: Apr 6, 2009

  
Douglas A. Kelley

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

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Chapter 11 Cases  
Judge Gregory F. Kishel

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**MEMORANDUM IN SUPPORT OF MOTION FOR EXPEDITED RELIEF AND FOR  
AUTHORIZATION TO USE PROPERTY OF THE ESTATE AND FOR AUTHORITY TO  
ENGAGE IN TRANSACTIONS OUTSIDE OF THE ORDINARY COURSE OF BUSINESS  
PURSUANT TO 11 U.S.C. § 363**

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TO: The entities specified in Local Rule 9013-3

Petters Company, Inc. ("PCI") respectfully submits this Memorandum in Support of its Motion for Expedited Hearing and for Authorization to use Property of the Estate and for Authority to Engage in Transactions Outside of the Ordinary Course of Business.

**FACTS**

The factual basis for this Memorandum is set forth in the attached Motion and is hereby incorporated as if fully set forth herein.

## **LEGAL ARGUMENT**

### **Hearing**

Fed. R. Bankr. P. 2002(a)(2) provides that written notice of a motion regarding the “proposed use, sale, or lease of property of the estate other than in the ordinary course of business” is to be served not less than twenty days before the hearing on such motion, “unless the court for cause shown shortens the time...” Fed. R. Bankr. P. 9006(c), however, provides that the Court, on request of a party and for cause shown, may order a notice period reduced. Local Rule 9006-1(d) provides that if expedited relief is necessary, the party seeking such relief must request an expedited hearing and take all reasonable steps to provide the most expeditious service and notice possible and file an affidavit specifying the efforts made.

PCI asserts cause exists for shortening the notice period in this case. Zink will not be able to cover its ordinary course obligations unless it receives a capital infusion within the next couple of weeks. Mangrove will only provide additional capital to Zink if PCI restructures the terms of the Amended PCI Note. The United States Trustee, as well as all parties that have requested electronic notice, will be served by the filing of this Motion via CM/ECF. All such other parties will be served via fax or email, and all parties will have been served with five (5) days notice, which allows all parties sufficient opportunity to review and respond to this Motion.

### **DISCUSSION**

#### **Use of Property Outside the Ordinary Course**

In pertinent part, § 363(b) 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). In determining whether to authorize the use, sale or lease of property of the estate under this section, courts require the debtor to show that a sound business purpose justifies such actions. *See, e.g., In re Schipper*, 933 F.2d 513, 515 (7<sup>th</sup> Cir. 1991); *In re Channel One*

*Communications*, 117 B.R. 493 (Bankr. E.D. Mo. 1990) (applying the sound business purpose test of *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983).

In evaluating whether a sound business purpose justifies the use, sale or lease of property under § 363(b), courts consider a variety of factors, which essentially represent a “business judgment test.” See Collier on Bankruptcy ¶ 363.02 (15th rev. ed. 2008). In *In re Lionel Corp.*, the Court of Appeals for the Second Circuit listed several factors which a bankruptcy court may consider in its § 363(b) analysis. Specifically confronted with the sale of assets under § 363(b), the Second Circuit stated:

In fashioning its findings, a bankruptcy judge must not blindly follow the hue and cry of the most vocal special interest groups; rather, he should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike. He might, for example, look to such relevant factors as the proportionate value of the asset to the estate as a whole, the amount of elapsed time since the filing, the likelihood that a plan of reorganization will be proposed and confirmed in the near future, the effect of the proposed disposition on future plans of reorganization, the proceeds to be obtained from the disposition vis-a-vis any appraisals of the property, which of the alternatives of use, sale or lease the proposal envisions, and most importantly perhaps, whether the asset is increasing or decreasing in value.

722 F.2d at 1071. In delineating these factors, the Second Circuit cautioned that “this list is not intended to be exclusive, but merely to provide guidance to the bankruptcy judge.” *Id.*

Here, after consultation with its financial advisors, PCI has determined that capitalizing the accrued interest on the Amended PCI Note under the terms of a new note that is convertible into shares of Zink common stock will provide PCI with the greatest possible return. Capitalizing accrued interest on the Amended PCI Note will increase the principal amount under the Second Amended PCI Note, which will increase PCI’s overall return from interest accruing on the Second Amended PCI Note. Moreover, because amounts owing under the Second Amended PCI Note will be secured by a first priority security interest in all of Zink’s assets, will

be additionally secured by a junior mortgage on certain Zink property located in North Carolina and will be superior in right of payment to the Current Loan, PCI's position as a secured creditor will not be compromised, and may be enhanced, by accepting the Second Amended PCI Note. PCI will also retain its ability to gain an equity position in Zink. As with the Amended PCI Note, the principal and interest under the Second Amended PCI Note will be convertible into Zink equity. Thus, capitalizing the accrued interest under the terms of the Second Amended PCI Note will not hinder PCI's ability to gain equity in Zink.

Finally, it should also be noted that modifying the Amended PCI Note, which represents the only barrier to the provision of Mangrove financing, will have the added benefit of preserving PGW Holdings equity interest in Zink. PGW Holdings is an owner of approximately 8% of Zink's issued and outstanding capital stock. If Zink's liquidity position is not improved through Mangrove financing and Zink is forced to seek bankruptcy relief or otherwise cease operations, PGW Holdings, as with the other Zink equity holders, will not likely receive any amounts in respect of its equity interest upon a Zink liquidation.

Capitalizing the accrued interest on the Amended PCI Note under the terms of a new note that is convertible into shares of Zink common stock is supported by ample business justification and is reasonable and appropriate under the circumstances of this case. This restructuring of the Amended PCI Note will give PCI a slightly better return on its existing loan without compromising, and perhaps enhancing, its position as a secured creditor and without compromising its ability to gain an equity position in Zink. Therefore, PCI believes that capitalizing the accrued interest on the Amended PCI Note under the terms of a new note that is convertible into shares of Zink common stock is reasonable and will yield the maximum value for its estate.



**CONCLUSION**

PCI respectfully requests that the Court enter an order (1) granting expedited relief, (2) authorizing PCI to use property of the estate and to engage in transactions outside the ordinary course of business, and (3) granting such other relief as may be just and equitable.

DATED: April 7, 2009

**LINDQUIST & VENNUM P.L.L.P.**

By:           /e/ James A. Lodoen          

James A. Lodoen (#173605)

George H. Singer (#262043)

Daryle L. Uphoff (#111831)

4200 IDS Center

80 South Eighth Street

Minneapolis, MN 55402-2274

(612) 371-3211

(612) 371-3207 (facsimile)

**ATTORNEYS FOR DOUGLAS A.  
KELLEY, TRUSTEE**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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08-45392 (GFK)

Chapter 11 Cases  
Judge Gregory F. Kishel

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**ORDER GRANTING EXPEDITED RELIEF AND AUTHORIZING THE USE OF PROPERTY  
OF THE ESTATE AND THE AUTHORITY TO ENGAGE IN TRANSACTIONS OUTSIDE  
THE ORDINARY COURSE OF BUSINESS UNDER 11 U.S.C. § 363**

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This matter came before the Court on April 14, 2009 on the Motion of Petters Company, Inc. ("PCI") for an order (1) granting expedited relief and (2) authorizing the use property of the estate and the authority to engage in transactions outside of the ordinary course of business pursuant to 11 U.S.C. § 363.

Appearances were as noted on the record. Based on the arguments of counsel, moving documents and the record made at the hearing, and the Court's findings of fact and conclusions of law, if any, having been recorded in open court following the close of evidence,

IT IS HEREBY ORDERED:

1. The Motion for expedited relief is granted.
2. PCI is authorized to restructure the Amended PCI Note by executing and accepting the Second Amended PCI Note, a true and correct copy of which is attached hereto as Exhibit D.
3. PCI is authorized to execute any agreements or documents reasonably necessary to carry out the foregoing action.
4. Notwithstanding Fed. R. Bankr. P. 6004(h), this Order shall take effect immediately upon entry.

Dated: \_\_\_\_\_

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Gregory F. Kishel  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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Chapter 11 Cases  
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**CERTIFICATE OF SERVICE**

Gretchen Luessenheide of the City of New Hope, County of Hennepin, State of Minnesota, being first duly sworn on oath, states that on April 7, 2009 she served the following document:

1. Notice of Hearing and Motion for Expedited Relief and for Authorization to Use Property of the Estate and for Authority to Engage in Transactions Outside the Ordinary Course of Business Pursuant to 11 U.S.C. § 363;
2. Memorandum in Support of Motion for Expedited Relief and for Authorization to Use Property of the Estate and for Authority to Engage in Transactions Outside of the Ordinary Course of Business Pursuant to 11 U.S.C. § 363;
3. Proposed Order Granting Expedited Relief and Authorizing the Use of Property of the Estate and the Authority to Engage in Transactions Outside the Ordinary Course of Business under 11 U.S.C. § 363.

upon

Arrowhead Capital Management LLC c/o James N. Fry 601 Carlson Parkway, Suite 1250 Minnetonka, MN 55305 Facsimile: 952-224-5296	Thomas K. Cauley Sidley Austin LLP One South Dearborn Chicago, IL 60603 Facsimile: 312-853-7036
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Elite Landings, LLC 2005 Cargo Road Minneapolis, MN 55450 Facsimile: 612-877-5999 (Attn: Lorie Klein, Moss & Barnett)	David M. Gische Troutman Sanders LLP 401 9 <sup>th</sup> St NW Washington, DC 20004-1234 Facsimile: 202.654.5815
Marcus B. Holladay Troutman Sanders LLP 401 9 <sup>th</sup> St NW Washington, DC 20004-1234 Facsimile: 202.654.5820	Huron Consulting Group, Inc. 550 W. Van Buren Street Chicago, IL 60607 Facsimile: 312-583-8701
Mark R. Jacobs Pryor Cashman LLP 410 Park Avenue New York, NY 10022 Facsimile: 212-798-6931	Bryan Krakauer Sidley Austin LLP One South Dearborn Chicago, IL 606063 Facsimile: 312-853-7036
Douglas A. Kelley Kelley & Wolter PA Centre Village Offices 431 South 7 <sup>th</sup> Street, Suite 2530 Minneapolis, MN 55415 Facsimile: 612-371-0574	Brian McAleenan Sidley Austin LLP One South Dearborn Chicago, IL 60603 Facsimile: 312-853-7036
Petters Aviation LLC 2005 Cargo Road Minneapolis, MN 55450 Facsimile: 612-877-5999 (Attn: Lorie Klein, Moss & Barnett)	Ronald R. Peterson Jenner & Block, LLP 330 North Wabash Avenue Chicago, IL 60611-7603 Facsimile: 312-840-7381
Taunton Ventures LP c/o Paul Taunton 9980 Deerbrook Drive Chanhassen, MN 55317 Facsimile: 952-995-9577 (Attn: David Runck and Connie Lahn, Fafinski, Mark & Johnson))	

via facsimile to the facsimile numbers listed above, and electronically by Notice of Electronic Filing upon all parties who have requested service in these cases by filing the same via ECF with the Bankruptcy Court in the District of Minnesota.

/e/ Gretchen Luessenheide  
Gretchen Luessenheide