

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

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In re : Chapter 11
:
ADVANTA CORP., *et al.*, : Case No. 09-13931 (KJC)
:
Debtors.¹ : (Jointly Administered)
:
: (Requested) Hearing: April 7, 2010 at 3:00 p.m.
: (Requested) Obj. Deadline: April 2, 2010 at 4:00 p.m.
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**MOTION FOR AUTHORITY TO IMPLEMENT
POSTPETITION SEVERANCE PLAN AND OTHER RELATED RELIEF**

Advanta Corp. (“*Advanta*”) and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (together with Advanta, the “*Debtors*”), respectfully represent:

¹ The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074) (“*Shared Services*”), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801. Additional information regarding the Debtors’ businesses and the background relating to events leading up to these chapter 11 cases can be found in (i) the Declaration of William A. Rosoff in Support of the Debtors’ Chapter 11 Petitions and First-Day Motions, filed on November 8, 2009 (the “*Rosoff Declaration*”), the date the majority of Debtors filed their petitions under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”), and (ii) that certain supplement thereto, filed on November 20, 2009, the date Advanta Ventures Inc., BizEquity Corp., Ideablob Corp. and Advanta Credit Card Receivables Corp. filed their chapter 11 cases. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Further, in accordance with an order of this Court, the Debtors’ cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”).

Relief Requested

1. By this motion (the “*Motion*”), the Debtors seek the entry of an order, pursuant to sections 105(a), 363(b), and 503(c) of the Bankruptcy Code and Bankruptcy Rule 6004, substantially in the form attached hereto as *Exhibit A*, (i) authorizing the Debtors to (a) implement and make payments under a new postpetition severance program (the “*Postpetition Severance Plan*”) applicable to all full-time hourly and salaried employees,² other than Dennis Alter (the Chief Executive Officer of Advanta and the Chairman of Advanta’s Board of Directors) or William Rosoff (the President of Advanta and the Vice Chairman of Advanta’s Board of Directors), terminated after the Postpetition Severance Plan takes effect for any reason other than “for cause” or of their own volition, and not transferred to any affiliate (the “*Eligible Employees*”), and (b) pay to one Eligible Employee considered an “insider” under section 101(31) of the Bankruptcy Code a performance-based incentive bonus, as discussed below (the “*Incentive Bonus*”), (ii) ratifying Interim Severance Payments (as defined below) made or owing to former hourly or salaried employees that were or will be terminated postpetition, but before the Postpetition Severance Plan takes effect (the “*Former Employees*”), including Interim Severance Payments owing or expected to be owed but not yet paid to four Former Employees who qualify as “insiders” under section 101(31) of the Bankruptcy Code (the “*Insider Employees*”), and (iii) terminating all of the Debtors’ existing severance and change of control plans for all current employees as of the date the Postpetition Severance Plan takes effect (the Debtors can elect to make effective the Postpetition Severance Plan at any time after entry of the

² As indicated in the Motion of Debtors for Authority (a) to (i) Pay Certain Employee Compensation and Benefits and (ii) Maintain and Continue Such Benefits and Other Employee-related Programs and (b) for the Debtors’ Financial Institutions to Honor and Process Checks and Transfers Related to Such Obligations Pursuant to Sections 105(a), 363 (b), and 507(a) of the Bankruptcy Code (the “*Wage Motion*”) [Docket No. 5], only debtors Advanta and Shared Services have Employees, as defined in the Wage Motion.

order sought herein, and the Debtors will give notice of such election to all current employees at such time), other than with respect to Dennis Alter and William Rosoff. The Debtors estimate that the total aggregate potential payout to Eligible Employees under the Postpetition Severance Plan will be approximately \$2.1 million, and the total Interim Severance Payments to be ratified are approximately \$675,000.³

The Prepetition Severance and Change of Control Plans

2. On November 10, 2009, the Court entered the Interim Order Pursuant to Sections 105(a), 363(b), and 507(a) of the Bankruptcy Code (a) Authorizing the Debtors to (i) Pay Certain Employee Compensation and Benefits and (ii) Maintain and Continue Such Benefits and other Employee-related Programs and (B) Authorizing the Debtors' Financial Institutions to Honor and Process Checks and Transfers Related to Such Obligations (the "**Wage Order**") [Docket No. 23].⁴ The Wage Order authorized the Debtors to pay prepetition Employee Obligations, as defined in the Wage Motion, which include prepetition payments under the employee severance plan in effect as of the commencement of these chapter 11 cases (the "**Prepetition Severance Plan**"), up to \$10,950 per individual current or former Employee and in an aggregate amount up to \$900,000, and to continue to honor all postpetition Employee Obligations, including under the Prepetition Severance Plan; *provided, however*, that no Severance Payments, as defined in the Wage Motion, have been made to insiders, pending entry of a final order of the Court. (Wage Order at 3.)

³ Details of the severance amounts, the identities of the employees who have or will receive Interim Severance Payments, compensation under the Postpetition Severance Plan, and the Incentive Bonus, and the proposed performance targets applicable to the Incentive Bonus, were presented to the financial advisers to the Creditors' Committee for review and comment prior to the filing of the Motion.

⁴ The Debtors anticipate seeking entry of the Wage Order on a final basis at the same hearing seeking the relief requested herein.

3. The Prepetition Severance Program covers salaried and hourly employees, excluding (a) any individuals hired for a specific limited period of time or on a sporadic or intermittent basis for periods of varying duration, (b) any individual treated for federal income or wage tax purposes as an independent contractor or consultant, and (c) any leased employee or individual not otherwise treated as an employee of Advanta or its subsidiaries. Under the Prepetition Severance Plan, the Debtors' obligations to make severance payments to employees who are terminated without cause due to permanent layoff, reduction in force, facility closing, reorganization, consolidation, or other similar business decision are dependent upon each terminated employee's respective base salary, years of service, and position. Obligations under the Prepetition Severance Plan vary from two (2) weeks' to thirty-two (32) weeks' compensation.⁵

4. The Debtors also had three prepetition change of control severance plans: one applicable to all full-time and certain part-time employees (the "***Employee Change of Control Severance Plan***") that provides for severance payments equal to between four (4) and sixty (60) weeks' base salary; one applicable to employees selected by Advanta's Compensation Committee or shown on Advanta's books and records as participating in the annual bonus program (the "***Senior Management Change of Control Severance Plan***," and together with the Employee Change of Control Severance Plan, the "***Change of Control Plans***") that provides for severance payments equal to between four (4) and one hundred and four (104) weeks' base salary; and one applicable to Dennis Alter and William Rosoff (the "***Supplemental Compensation Program***") that provides an amount per participant that is determined by Advanta's Compensation Committee, in addition to any benefits provided under any other plan

⁵ One exception is an employee who was contractually entitled to 52 weeks' severance pay.

or arrangement. Severance benefits under the Change of Control Plans would be triggered if an employee eligible under either plan is terminated without cause within twelve (12) months following the Closing Date (as defined in the Change of Control Plans) of a change in control, other than due to death or leave of absence, willful misconduct, or voluntary termination without Good Reason, as defined the Change of Control Plans. Any severance benefits to be paid under the Prepetition Severance Plan or Change of Control Plans would be reduced on a dollar for dollar basis by severance benefits payable under another plan or policy, except for payments received by a participant under the Supplemental Compensation Program.

5. Terminated employees typically execute a separation agreement and general release form pursuant to which the former employees agree to release all claims they each may have against the Debtors, all current, future, and former officers, directors, employees, shareholders and agents, attorneys, insurers, and all of their respective successors and assigns, and agree not to use confidential information of the Debtors during the severance period.

The Postpetition Severance Plan

6. The Debtors propose to supersede the Prepetition Severance Plan and Change of Control Plans, except with respect to Dennis Alter and William Rosoff, with the Postpetition Severance Plan. The Postpetition Severance Plan is intended to cover approximately 29 Eligible Employees,⁶ including four Eligible Employees considered “insiders” under section 101(31) of the Bankruptcy Code, who will be terminated pursuant to reductions in workforce the Debtors intend to carry out over the course of these chapter 11 cases. The Postpetition Severance Plan is consistent with the Prepetition Severance Plan in many respects,

⁶ Dennis Alter and William Rosoff are not Eligible Employees. The relief requested herein will not affect any of their or the Debtors’ rights and obligations with respect to prepetition severance or change of control obligations to Dennis Alter and William Rosoff, including, without limitation, under the Prepetition Severance Plan, Change of Control Plans, or Supplemental Compensation Program.

and consists of three key components. First, under the Postpetition Severance Plan, Eligible Employees will receive up to 26 weeks' compensation, with one non-insider employee receiving 39 weeks' compensation.⁷ The average number of proposed weeks of severance under the plan is 20, and the average amount of severance that may be paid to each Eligible Employee is approximately \$71,000. In connection with the termination of employment of Eligible Employees, and as a condition to receiving payment, Eligible Employees will execute a separation agreement containing a general release of all claims, including any prepetition claims, they each may have against the Debtors, all current, future, and former officers, directors, employees, shareholders and agents, attorneys, insurers, and each of the foregoing entities' respective successors and assigns. Second, three non-insider Eligible Employees will receive salary increases retroactive to January 1, 2010 to compensate them for their additional duties attendant to the Debtors' chapter 11 bankruptcy cases, which efforts are and will continue to maximize value for the chapter 11 estates. The salary increases are estimated to provide an additional compensation of approximately \$72,000 in the aggregate to these employees through the anticipated date of their termination of employment.⁸ Third, one non-insider Eligible Employee's severance compensation will include a lump-sum bonus payment of \$7,500, which is equivalent to 25% of that employee's base salary for the period from the end of the prior fiscal year to March 14, 2010. The additional severance pay will compensate this Eligible Employee for the additional tasks attendant to the Debtors' chapter 11 bankruptcy cases during that period of employment.

⁷ This Eligible Employee was contractually entitled to receive 52 weeks' severance. The 39 weeks' severance under the Postpetition Severance Plan is equal to 75% of this Eligible Employee's contractual entitlement.

⁸ The Debtors believe these salary increases are within the ordinary course of the Debtors' business, but are requesting approval of them as part of the Postpetition Severance Plan out of an abundance of caution.

7. The Debtors developed the Postpetition Severance Plan in consultation with their professionals and the statutory committee of unsecured creditors (the “*Creditors’ Committee*”) and its professionals. The Postpetition Severance Plan amounts were calculated using historical compensation data and by attempting to monetize the value that individual employees are expected to contribute to the resolution of these chapter 11 cases. Although an individual Eligible Employee’s role, base salary, and years of service were a starting point for formulating his or her proposed compensation under the Postpetition Severance Plan, the number of weeks of severance pay proposed for each individual Eligible Employee is based on the Debtors’ determination of that Eligible Employee’s going-forward utility to the chapter 11 process.⁹

8. In addition, one insider Eligible Employee who is critical to the Debtors’ efforts to achieve a successful resolution of these chapter 11 cases will be entitled to receive an Incentive Bonus based on asset recovery amounts, in addition to payments under the Postpetition Severance Plan. The Incentive Bonus is performance-based, and is designed to encourage and motivate this key member of the Debtors’ workforce to maximize the value of the estate for all stakeholders. The Incentive Bonus will be paid on the effective date of Advanta’s chapter 11 plan in an amount ranging from \$50,000 to \$200,000 depending on the estimated proceeds that

⁹ The Debtors may also provide to the Eligible Employees certain extended benefit coverage after termination, which the Debtors have elected to provide in the ordinary course on a postpetition basis. First, each Eligible Employee may receive statutory health-related coverage for former employees (“*COBRA*”), based on the Eligible Employee’s benefit elections for 2010 and at a subsidized cost based on the rate paid by such Eligible Employee during active employment (or the cash equivalent of the subsidy if there is no longer a group health plan under which such Eligible Employee may elect COBRA coverage), and estimated for the number of weeks of allowed severance payments, provided that an Eligible Employee timely elects continued participation in the Debtors’ group medical, dental, or vision plans pursuant to COBRA (if it is available at such time). Second, the Eligible Employee may receive outplacement services, so long as services are commenced within one month of the Eligible Employee’s termination date, and in an amount up to \$2,300. These benefits are not provided pursuant to prepetition obligations, but in an exercise of the Debtors’ postpetition business judgment, consistent with their prepetition practices. The Debtors have authority to provide these benefits under the Wage Order.

will become available for distribution to the Debtors' creditors using a calculation agreed upon with the Creditors' Committee.

9. Because the Postpetition Severance Plan replaces existing severance and change of control plans for Eligible Employees, entry of the order granting the relief requested herein would automatically terminate the Debtors' Prepetition Severance Plan and Change of Control Plans with respect to all current employees as of the date the Postpetition Severance Plan takes effect, other than Dennis Alter and William Rosoff, and no current employee as of the date of termination, other than Dennis Alter or William Rosoff, shall have any claim with respect to either the termination of, or payment under, the Prepetition Severance Plan or Change of Control Plans.

10. As indicated above, the total aggregate potential payout under the Postpetition Severance Plan to Eligible Employees will be approximately \$2.1 million.

The Interim Severance Payments

11. Subsequent to the commencement of the Debtors' chapter 11 cases, but prior to implementation of the Postpetition Severance Plan, the Debtors have entered – or expect to enter – into separation agreements with approximately 22 Former Employees, including the four Insider Employees. The separation agreements provide for the payment under the Prepetition Severance Plan of certain amounts of severance as postpetition severance and the payment of any prepetition severance claim amounts under the Prepetition Severance Plan to the extent that such prepetition severance claim amounts, combined with other prepetition employment benefit claim payments made to such Former Employee, do not exceed \$10,950 (all such severance payments or severance payment obligations under a separation agreement, an “*Interim Severance Payment*”).

12. To date, Interim Severance Payments have been made to non-insider Former Employees,¹⁰ but, consistent with the Wage Order, no Interim Severance Payments have been made to any insiders of the Debtors. The Interim Severance Payments to non-insider Former Employees include the following approximate amounts: approximately \$186,000 paid as either administrative expenses under section 503(b) of the Bankruptcy Code or as priority claims under section 507(a) of the Bankruptcy Code, and approximately \$165,000 of payments owing, but not yet paid. The Interim Severance Payments owed to the Insider Employees aggregate approximately \$324,000. As mentioned above, the total Interim Severance Payments to be ratified equal approximately \$675,000.

13. The aggregate amount of Interim Severance Payments to be made to any Former Employee, including insiders, will be less than payments that Eligible Employees of the same employment grade will receive under the Postpetition Severance Plan.¹¹ Additionally, consistent with section 503(c)(2) of the Bankruptcy Code, the aggregate amount of Interim Severance Payments to be made to any Insider Employee will be significantly less than ten times the estimated mean amount of severance to be paid during 2010 to nonmanagement employees of the Debtors (the calculation of which is explained in detail below).

¹⁰ Due to an oversight in calculating which portions of severance payments under the Prepetition Severance Plan would be entitled to administrative priority (absent granting the relief requested in this Motion), the Debtors made Interim Severance Payments corresponding to prepetition severance claims in excess of \$10,950 to certain of the non-insider Former Employees under their respective separation agreements. As a result, six (6) non-insider Former Employees received total combined amounts of approximately \$110,000 of prepetition severance claims as Interim Severance Payments in excess of the \$10,950 threshold (without taking into account any reimbursements for prepetition expenses, which the Debtors will be seeking in the final Wage Order to exclude from amounts included in calculating the \$10,950 threshold). Upon realizing such oversight, the Debtors ceased making such payments.

¹¹ As mentioned above, the severance amounts proposed under the Postpetition Severance Plan take into account remaining employees' increased duties attendant to the resolution of these chapter 11 cases and the going-forward utility of each Eligible Employee to that process.

**Approval of the Postpetition Severance Plan Is Authorized
Under Sections 363(b) and 105(a) of the Bankruptcy Code**

14. The Postpetition Severance Plan should be approved by the Court pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code. Pursuant to section 105(a) of the Bankruptcy Code, the “[C]ourt 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). In addition, section 363(b)(1) provides, in relevant part, 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.” The use, sale, or lease of property of the estate, other than in the ordinary course of business, is authorized when there is a “good business reason” that justifies such action. *See, e.g., Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (citing *Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513, 515 (7th Cir. 1991)); *In re Abbotts Dairies of Penn., Inc.*, 788 F.2d 143 (3d Cir. 1986) (implicitly adopting the “sound business judgment” test of *Lionel Corp.*); *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 178 (D. Del. 1991) (concluding that the Third Circuit adopted the “sound business judgment” test in the *Abbotts Dairies* decision and affirming decision permitting debtor to sell assets where sound business reasons supported the sale). Where valid business justifications exist, there is a strong presumption “that in making a business decision[,] the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *Official Comm. of Sub. Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1990) (holding that the Delaware business

judgment rule has “vitality by analogy” in chapter 11, especially where the debtor is a Delaware corporation) (citation omitted).

15. Ample business justification exists for the implementation of the Postpetition Severance Plan. The Debtors submit that the severance payments contemplated under the Postpetition Severance Plan are reasonable and appropriate under the circumstances. In addition, the Postpetition Severance Plan will relieve the Debtors from any claims of current employees as of the date of entry of the order approving this Motion, other than Dennis Alter and William Rosoff, under the Prepetition Severance Plan and Change of Control Plans.

16. The Debtors’ business depends, in large part, on the expertise, effort, attitude, and efficiency of their employees. The employees’ knowledge and dedication are vital to the wind-down of the Debtors’ operations and recovery of assets to repay their creditors. Creditor recoveries will suffer significantly if the Debtors are not able to maintain in good morale their existing workforce.

17. Because the Debtors are liquidating, their employees know that they will inevitably lose their jobs. In this environment, the Postpetition Severance Plan will alleviate employee concerns regarding their job security and severance benefits and affirm the Debtors’ commitment to the welfare of their employees. Without the reassurance that all terminated employees will receive severance payments, morale and loyalty among employees may decline, and employees may perform their duties at less-than optimal levels, or seek other employment.¹² Accordingly, the Postpetition Severance Plan is needed to incentivize remaining employees to work towards a speedy and efficient resolution of these chapter 11 cases.

¹² To date, the Debtors have lost several key employees. They can ill-afford to lose more.

18. The establishment of an employee severance program pursuant to section 363(b)(1) of the Bankruptcy Code has been authorized by numerous courts in this district and has become an essential part of a bankruptcy case. *See, e.g., In re Sharper Image Corp.*, No. 08-10322 (KG) (Bankr. D. Del. May 14, 2008) (approving debtor's amended severance program); *In re Buffets Holdings, Inc.*, No. 08-10141 (MFW) (Bankr. D. Del. Mar. 27, 2008) (authorizing severance payments to non-insider employees); *In re Linens Holding Co.*, No. 08-10832 (CSS) (Bankr. D. Del. July 1, 2008) (same); *In re Werner Holding Co. (DE), Inc., et al.*, Case No. 06-10578 (KJC) (Bankr. D. Del. Dec. 20, 2006) (authorizing debtor to implement severance plan); *In re American Bus. Fin. Services, Inc., et al.*, Case No. 05-10203 (MFW) (Bankr. D. Del. Mar. 9, 2005) (authorizing, among other things, debtor to implement amended severance plan as to future reductions in force).

19. The Debtors submit that the Postpetition Severance Program is the most cost-effective manner to preserve the value of their estates by protecting against attrition and improving employee morale. Therefore, a sound business purpose exists to approve the Postpetition Severance Plan.

The Postpetition Severance Plan, as It Relates to Insiders, Complies with the Requirements of Section 503(c)(2) of the Bankruptcy Code and Should Be Approved

20. The proposed Postpetition Severance Plan includes certain "insiders" of the Debtors, as defined in section 101(31) of the Bankruptcy Code. Thus, to the extent the Postpetition Severance Plan relates to insiders, it must meet the requirements of section 503(c)(2) of the Bankruptcy Code. Section 503(c)(2) permits severance payments to insiders only if they are part of a program applicable to all employees, and are less than ten times the mean of severance payments made to nonmanagement employees during that calendar year. 11 U.S.C. § 503(c)(2). For the reasons set forth below, the Debtors submit that the Postpetition Severance

Plan, as it relates to insiders, fully complies with the requirements set forth in section 503(c)(2) of the Bankruptcy Code and, as a result, the Debtors seek authority to make severance payments to insiders under the plan.

21. First, as previously mentioned, the Postpetition Severance Plan covers all existing employees of the Debtors, with the exception of those two employees who have each agreed not to participate. Second, the severance payments to any insider will be less than ten times the amount of the mean severance payments to be made to “nonmanagement employees” during the calendar year in which the payment is made. The Debtors have calculated the mean severance amount referenced in section 503(c)(2) by estimating the severance payments the Debtors have made, or anticipate making, for the 2010 calendar year to all Former Employees or Eligible Employees who are not insiders of the Debtors. The Debtors have determined that the mean anticipated severance pay to non-insider employees during 2010 is estimated to equal approximately \$37,500. Therefore, the payment limitation to insiders under section 503(c)(2)(B) would be approximately \$375,000. This amount is significantly greater than the amount any Eligible Employee could be paid under the Postpetition Severance Plan in 2010 because no Eligible Employee may receive more than approximately \$304,000 in severance pay under the Postpetition Severance Plan. Accordingly, the Postpetition Severance Plan meets the requirements of section 503(c)(2) of the Bankruptcy Code.

22. Moreover, prior to filing the Motion, the proposed amounts under the Postpetition Severance Plan were presented to and negotiated with the Creditors’ Committee. Based on such negotiations with the Creditors’ Committee, it is the Debtors’ understanding that the Creditors’ Committee does not object to the relief requested in the Motion, including the severance payments to the insider Eligible Employees.

23. This Court has approved severance plan payments to insiders where the payments comply with section 503(c)(2) of the Bankruptcy Code. *See, e.g., In re Capmark Fin. Group Inc.*, No. 09-13684 (CSS) (Bankr. D. Del. Jan. 19, 2010) [Docket No. 713]; *In re Aegis Mortgage Corp.*, No. 07-11119 (BLS) (Bankr. D. Del. Apr. 14, 2008) [Docket No. 1663]. For the foregoing reasons, the Debtors respectfully request that similar relief be granted in this case.

Payment of the Incentive Bonus Is Justified by the Facts and Circumstances as Required by Section 503(c)(3) of the Bankruptcy Code

24. Section 503(c)(3) denies administrative expense status to “other transfers and obligations that are outside the ordinary course of business,” “including transfers to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition,” absent justification by “the facts and circumstances of the case.” Where a debtor proposes a performance-based bonus that seeks to motivate an insider to provide services at the highest and best levels, section 503(c)(3) allows a court to scrutinize the debtor’s proposal through the business judgment lens of section 363(b)(1). *In re Global Home Prods., LLC*, 369 B.R. 778, 783 (Bankr. D. Del. 2007) (explaining that a “‘pay for value’ compensation plan . . . intended to incentivize management” requires an analysis that “utilizes the more liberal business judgment review under § 363” (internal quotations omitted)); *In re Dana Corp.*, 351 B.R. 98, 100 (Bankr. S.D.N.Y. 2006) (same); *In re Nobex Corp.*, No. 05-20050 (MFW), Jan. 12, 2006 Hrg. Tr. 86:21-87:4 (Bankr. D. Del. 2006) (stating that section 503(c)(3) of the Bankruptcy Code is “nothing more than a reiteration of the standard under [section] 363,” which standard is “based on the business judgment of the debtor”).

25. As it is primarily crafted to preserve and enhance value, and not retentive or severance in nature, the Debtors submit that the Incentive Bonus should be approved as a valid exercise of the Debtors’ reasonable business judgment pursuant to section 503(c)(3). The

Incentive Bonus is tied to meaningful performance objectives, and is designed to motivate a key member of the Debtors' management to maximize value for the Debtors' estates as the Debtors wind down their affairs. The knowledge and expertise of the employee eligible for the Incentive Bonus is critical to the Debtors' ability to maximize creditor recoveries. The employee also likely has a variety of alternative employment options. In addition, the performance metrics applicable to the Incentive Bonus were developed in consultation with the Debtors' financial advisers and the Creditors' Committee and its financial advisers. *See In re Nobex Corp.*, No. 05-20050 (MFW), Hr'g Tr. 87:21-25 (Bankr. D. Del. Jan. 12, 2006) (approving plan designed to provide incentives to senior management to maximize value realized through the debtor's sale process and placing great weight on the fact that the plan had been negotiated with the creditors' committee appointed in the case).

26. In the context of operating under chapter 11, performance-based incentive payments to management employees pursuant to section 363(b)(1) of the Bankruptcy Code have been authorized by numerous courts in this district. *See, e.g., In re Am. Home Mortgage Holdings, Inc., et al.*, No. 07-11-47 (CSS) (Bankr. D. Del. Nov. 28, 2007) (approving incentive plan to senior management for, among other things, performance related to wind-down process); *In re New Century TRS Holdings, Inc., et al.*, No. 07-10416 (KJC) (Bankr. D. Del. May 25, 2007) (approving sale-related incentive plan to senior management and retention and incentive pay to certain nonmanagement employees); *In re Global Home Prods., LLC, et al.*, No. 06-10340 (KG) (Bankr. D. Del. May 30, 2006) (approving sale-related incentive plan); *In re Nobex Corp.*, No. 05-20050 (MFW) (Bankr. D. Del. Jan. 19, 2006) (same).

27. For the reasons set forth above, the Incentive Bonus is reasonable, necessary, and in the best interests of the Debtors and their estates. As it is primarily crafted to

preserve and enhance value, the Incentive Bonus should be approved as a sound exercise of the Debtors' reasonable business judgment.

**Cause Exists to Ratify the Interim Severance Payments
and Authorize Interim Severance Payments to Insiders**

28. Pursuant to the Wage Order, the Debtors were authorized to continue to honor all practices, programs, and policies with respect to certain employees that were in effect as of the commencement date of these chapter 11 cases, including severance programs. The Debtors have provided or intend to provide to non-insider Former Employees the Interim Severance Payments, according to the terms of the Prepetition Severance Plan.¹³ However, the Wage Order did not authorize any payment of severance to "insiders," as defined in section 101(31) of the Bankruptcy Code. As a result, the Debtors also seek authority to make Interim Severance Payments currently owing to the Insider Employees, according to the terms of the Prepetition Severance Plan. Additionally, the Debtors seek authorization and ratification of all Interim Severance Payments paid or owed to all Former Employees.

29. The Debtors submit that cause exists for the Court to approve and authorize, as applicable, the severance amounts paid or owing to the Former Employees, including the Insider Employees. First, the Former Employees provided valuable postpetition services to enable the Debtors' estates to recover value for their creditors. If not for the time it took to formulate and negotiate the Postpetition Severance Plan, many of these employees likely would have been entitled to severance payments under the new plan. Second, no Former Employee who has received, or who is owed, Interim Severance Payments, including any Insider Employee, will receive Interim Severance Payments in an aggregate amount greater than

¹³ The Debtors have also provided Former Employees with COBRA subsidy payments and outplacement services in the ordinary course pursuant to separation agreements entered into with Former Employees.

payments that a comparable Eligible Employee may receive under the Postpetition Severance Plan. Third, the amount owing to each Insider Employee is substantially less than ten times the mean of severance payments to be made to non-insider employees during 2010, and therefore, the Interim Severance Payments to the Insider Employees comply with section 503(c)(2) of the Bankruptcy Code. Fourth, cessation or denial of Interim Severance Payments to Former Employees may impact morale and loyalty among remaining employees – many of whom have developed strong and lasting relationships with those who have been terminated. Decreased employee morale and the loss of a significant number of valuable employees would hamper the Debtors’ ability to efficiently operate their business and maximize the value of their estates for the benefit of all creditors. Finally, cessation or denial of the Interim Severance Payments will cause hardship to the Former Employees, who are relying on these payments while they obtain new employment. Therefore, the Debtors submit that the Interim Severance Payments should be ratified in all respects, and the Debtors should be authorized to pay the Interim Severance Payments to the Insider Employees.

Relief Under Bankruptcy Rule 6004(h)

30. Bankruptcy Rule 6004(h) provides that an ‘order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.’” As set forth above, the measures proposed herein are essential to prevent potentially irreparable damage to the Debtors’ operations, value, and ability to reorganize. Accordingly, the Debtors respectfully request that any order approving the Motion should be effective immediately by providing that the 14-day stay under Bankruptcy Rule 6004(h) is waived.

Jurisdiction

31. 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.

Notice

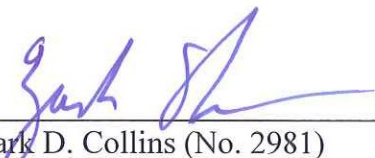
32. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion will be provided by overnight or express mail to (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Creditors' Committee; (iii) Bank of New York Mellon, as trustee under the Investment Note Indenture and Law Debenture Trust Company of New York, as trustee under the 8.99% Indenture (both as defined in the Rosoff Declaration); (iv) all Eligible Employees and Former Employees; and (v) those parties who have requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "*Notice Parties*"). The Debtors respectfully submit that no further notice of this Motion is required.

No Prior Request

33. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: March 19, 2010
Wilmington, Delaware



Mark D. Collins (No. 2981)
Paul N. Heath (No. 3704)
Chun I. Jang (No. 4790)
Zachary I. Shapiro (No. 5103)
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ATTORNEYS FOR
DEBTORS AND DEBTORS IN
POSSESSION

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

-----X	:	Chapter 11
<i>In re</i>	:	
	:	Case No. 09-13931 (KJC)
ADVANTA CORP., <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors. ¹	:	
-----X	:	(Requested) Hearing: 4/7/2010 at 3:00 p.m.
	:	(Requested) Obj. Deadline: 4/2/2010 at 4:00 p.m.

NOTICE OF MOTION AND HEARING THEREON

PLEASE TAKE NOTICE that, on March 19, 2010, Advanta Corp. ("Advanta") and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (together with Advanta, the "Debtors") filed the **Motion for Authority to Implement Postpetition Severance Plan and Other Related Relief** (the "Motion") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE that, contemporaneously with the filing of the Motion, the Debtors filed a **Motion to Shorten Notice and Objection Periods for the "Motion for Authority to Implement Postpetition Severance Plan and Other Related Relief"** (the "Motion to Shorten"). The hearing date and objection deadline set forth herein are consistent with the dates proposed in the Motion to Shorten. In the event that the Bankruptcy Court does not approve the dates proposed in the Motion to Shorten, the Debtors will file and

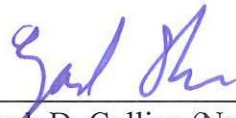
¹ The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477-0844. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801.

serve a separate notice notifying all parties-in-interest of the revised hearing date and objection deadline.

PLEASE TAKE FURTHER NOTICE that pursuant to the Motion to Shorten, the Debtors propose that any responses or objections to the Motion be made by **April 2, 2010 at 4:00 p.m. (Eastern Daylight Time)**.

PLEASE TAKE FURTHER NOTICE that pursuant to the Motion to Shorten, the Debtors propose that a hearing with respect to the Motion be held at the omnibus hearing already scheduled for **April 7, 2010 at 3:00 p.m. (Eastern Daylight Time)** before The Honorable Kevin J. Carey at the Bankruptcy Court, 824 Market Street, 5th Floor, Courtroom 5, Wilmington, Delaware 19801.

Dated: March 19, 2010
Wilmington, Delaware



Mark D. Collins (No. 2981)
Paul N. Heath (No. 3704)
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ATTORNEYS FOR
DEBTORS AND DEBTORS IN
POSSESSION

Exhibit A

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

-----X
:
In re : Chapter 11
:
ADVANTA CORP., *et al.*, : Case No. 09-13931 (KJC)
:
Debtors.¹ : (Jointly Administered)
:
: **Re: Docket No. __**
-----X

**ORDER AUTHORIZING THE DEBTORS TO IMPLEMENT
POSTPETITION SEVERANCE PLAN AND GRANTING RELATED RELIEF**

Upon the motion, dated March 19, 2010 (the “*Motion*”), of Advanta Corp. (“*Advanta*”) and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (collectively, the “*Debtors*”), pursuant to sections 105(a), 363(b), and 503(c) of title 11 of the United States Code (the “*Bankruptcy Code*”), for authorization to implement the new severance plan agreed to by the Debtors’ statutory committee of unsecured creditors and described in the Motion (the “*Postpetition Severance Plan*”), and for other related relief, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and

¹ The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328).

1409; and due and proper notice of the Motion having been provided to the Notice Parties;² and the relief requested in the Motion being in the best interests of the Debtors, their estates and their creditors; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted; and it is further

ORDERED that, pursuant to sections 105(a), 363(b), and 503(c) of the Bankruptcy Code, the Postpetition Severance Plan is hereby approved and ratified in all respects; and it is further

ORDERED that, the Debtors, in their sole discretion and consistent with this Order, are hereby authorized to implement the Postpetition Severance Plan at any time after entry of this Order, and execute, deliver, implement, and fully perform any and all instruments and documents, and to take any and all actions necessary or appropriate to implement and effectuate the Postpetition Severance Plan, including, without limitation, making payments thereunder; and it is further

ORDERED that, upon the Debtors' election to implement the Postpetition Severance Plan, the Debtors shall provide notice of such implementation to all of their current employees at such time; and it is further

ORDERED that the Debtors are authorized, pursuant to sections 363(b)(1) and 503(c)(3) of the Bankruptcy Code, to pay the Incentive Bonus; and it is further

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

ORDERED that Interim Severance Payments, other than those characterized in separation agreements as pre-bankruptcy severance amounts, are ratified and approved as administrative expenses under section 503(b) of the Bankruptcy Code, and those portions of Interim Severance Payments that are characterized in separation agreements as pre-bankruptcy severance amounts that were paid or are to be paid as priority claims are ratified and approved as payments of priority claims under section 507(a) of the Bankruptcy Code; and it is further

ORDERED that the Debtors are hereby authorized to honor the Interim Severance Payments to the Insider Employees; and it is further

ORDERED that all other severance plans, including the Prepetition Severance Plan and the Change of Control Plans, except to the extent applicable to Dennis Alter and William Rosoff and excluding the Supplemental Compensation Program, (the “*Superseded Plans*”), shall, upon the implementation of the Postpetition Severance Plan, be deemed automatically (and with no further action required by the Debtors) terminated pursuant to the terms of the Superseded Plans, and no current employee as of the date of such implementation other than Dennis Alter or William Rosoff shall have any claim with respect to the termination of, or payment under, the Superseded Plans; and it is further

ORDERED that no rights of Dennis Alter, William Rosoff, and the Debtors (with respect to Dennis Alter and William Rosoff) are modified by this Order; and it is further

ORDERED that the 14-day stay under Bankruptcy Rule 6004(h) is waived; and it is further

ORDERED that nothing in this Motion shall be deemed a request by the Debtors for authority to assume, and nothing in this Order shall be deemed authorization or approval to assume, any executory contract pursuant to section 365 of the Bankruptcy Code; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: April _____, 2010
Wilmington, Delaware

THE HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY JUDGE