

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

In re:)
)
SIMPLY WHEELZ LLC D/B/A ADVANTAGE)
RENT-A-CAR)
)
)
Debtor)
_____)

**CASE NO. 13-03332
Chapter 11**

**DECLARATION OF THOMAS P. MCDONNELL, III, IN SUPPORT OF
DEBTOR'S CHAPTER 11 PETITION AND FIRST DAY MOTIONS**

I, Thomas P. McDonnell, III, do hereby declare, under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. My name is Thomas P. McDonnell, III. I am over the age of twenty-one, and I am competent to make this declaration. I am the Chief Executive Officer of Simply Wheelz LLC d/b/a Advantage Rent-A-Car (the "Debtor" or the "Company"), which is a Delaware limited liability company having its principal place of business at 1052 Highland Colony Parkway, Suite 204, Ridgeland, Mississippi 39157. I was named Chief Executive Officer of the Company in May of 2012.

2. I am also chairman of the board of directors and Chief Executive Officer of Franchise Services of North America, Inc. ("FSNA"), which is incorporated under the laws of Delaware and has its principal place of business at 1052 Highland Colony Parkway, Suite 204, Ridgeland, Mississippi 39157. FSNA is the sole member and the managing member of the Debtor, and it is a publicly traded company listed on the TSX venture exchange under the symbol "FSN." FSNA and its subsidiaries own the following brands: Advantage Rent-A-Car, U-Save Car & Truck Rental, U-Save Car Sales, Rent-A-Wreck of Canada, Practicar, Auto Rental Resource Center, Xpress Rent-A-Car, Peakstone Financial Services, and Sonoran National Insurance Group. Neither FSNA nor any of the affiliates of the Company have filed a bankruptcy petition.

3. I submit this declaration (the "Declaration") to assist the Court and other parties in interest in understanding the circumstances that compelled the commencement of this chapter 11 case (the "Case") on November 5, 2013 (the "Petition Date") and in support of: (a) the Debtor's petitions for relief under chapter 11 of the Bankruptcy Code and (b) the relief requested in the emergency motions and applications filed by the Debtor on the Petition Date (collectively, the "First Day Pleadings").

4. After the Petition Date, the Debtor intends to continue to operate and manage its business pursuant to Bankruptcy Code §§ 1107(a) and 1108. The First Day Pleadings seek relief aimed at preserving the going concern value of the Debtor's estate and minimizing the adverse

effects of the chapter 11 filing on the Debtor's business by facilitating an orderly transition into, and uninterrupted operations throughout, the chapter 11 process.

5. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my personal interaction with fellow members of the Debtor's senior management, and other of the Debtor's advisors, my review of relevant documents or business records, or my experience and knowledge of the Debtor's operations and financial condition. I am authorized to submit this Declaration on behalf of the Debtor.

BACKGROUND

6. The Debtor operates the fourth largest car rental company in the United States, commonly known as Advantage Rent-A-Car ("Advantage"). Advantage employs approximately 1,800 people and leases a fleet of approximately 23,000 vehicles. The Debtor operates the Advantage car rental brand at 72 corporate locations in 33 states, including airport locations servicing 60 of the 70 largest airports across the United States.

7. The Debtor's rental business is placed through a variety of portals, including travel agents, online travel agent ("OTA") websites such as Expedia™ and Orbitz™, and walk up business. The OTAs are a significant portion of Advantages's business--more than \$81 million in the nine and one-half month period December 12, 2012 through September 2013. Advantage's gross revenues from vehicle rentals have averaged \$13.5 million per month during the period for which information is currently available (January 1, 2013 through September 30, 2013).

8. In addition, the Debtor derives approximately 30-35% of its revenues from the sale of fuel and a variety of insurance products and other travel-related products (collectively "Counter Products"). Gross revenues from the sale of Counter Products have averaged approximately \$7 million per month during the period for which information is currently available (January 1, 2013 through September 30, 2013).

9. FSNA purchased all of the membership interests in the Debtor from Hertz Global Holdings, Inc. (together with its affiliates, "Hertz") in 2012 in a complex series of transactions. Macquarie Capital, a global private equity and investment banking firm headquartered in Australia (together with its affiliates, "Macquarie"), purchased slightly less than half of the stock of FSNA to provide equity for FSNA's purchase of the Debtor. After the purchase, Macquarie owned approximately 49.76% of the stock of FSNA, and the remaining stock was owned by a variety of other investors including executives, former executives, and institutional and retail investors.

10. FSNA completed the acquisition of the Advantage business from Hertz earlier this year. As a condition to its acquisition of Dollar Thrifty Automotive Group, Inc. ("Dollar Thrifty"), Hertz was required by a decision and order of Federal Trade Commission (Docket No. C-4376) made on July 10, 2013 (the "FTC Order") to divest the Advantage business and certain assets of Dollar Thrifty "***absolutely and in good faith***" in accordance with the applicable divestiture agreements. See, FTC Order, p. 12 at ¶A (1), (2) and (4) (emphasis added). Most of the specified assets were required to be divested shortly after the date of a preliminary order

issued by the Commission on November 15, 2012, with the remaining divestitures to occur over a specified time period thereafter. In December of 2012, the Debtor acquired approximately 24,000 vehicles from Hertz (the "Hertz Leased Fleet") as part of the Advantage transaction pursuant to two fleet leases (the "Master Lease Agreements"). Under the Master Lease Agreements, the Debtor was required to pay to Hertz monthly rental payments based upon the number of cars used and their book value. The Master Lease Agreements also impose a timeline for the Debtor to divest the entire Hertz Leased Fleet--on or before December 31, 2014--and through only a single approved disposition channel -- Manheim auctions.

11. The Master Lease Agreements require the Company to bear the residual value risk of the Hertz Leased Fleet. This aspect of the Master Lease Agreements significantly impacts the filing of this Case. In the Master Lease Agreements, Hertz stated its "book value" for each vehicle in the Hertz Leased Fleet, and was contractually obligated to set the book value for each vehicle at its cost calculated in accordance with GAAP. In the event the Company disposed of a vehicle through Manheim, and the amount achieved at auction was less than the "book value" Hertz supplied on the Master Lease Agreements (subject to downward adjustment for the use of the vehicles in the interim), then the Company was responsible for paying the residual deficiency to Hertz.

EVENTS LEADING TO THE CHAPTER 11 FILING

12. In June 2013, the Company began to sell, through Manheim auctions, vehicles forming a part of the Hertz Leased Fleet. Much to its surprise, the Company immediately began to experience significant losses on these sales of vehicles. As of October 25, 2013, the Company had sold 5,295 vehicles through the Manheim auctions for an average loss of approximately \$1,633 per vehicle, and a total loss of approximately \$8,600,000.

13. Given the significant difference between the book value of the Hertz vehicles and the value realized at auction, beginning in July 2013, representatives of the Company met with representatives of Hertz to request information from Hertz to determine the basis on which Hertz had calculated the net book value of the Hertz Leased Fleet. The Company believed that Hertz had materially overstated the capitalized cost of the vehicles included in the Hertz Leased Fleet, based on an analysis of certain specimen cars representative of the vehicles included in the Hertz Leased Fleet.

14. Despite repeated requests, Hertz did not provide, and has not yet provided, the Company with such information notwithstanding Hertz's contractual obligation to do so under Section 5.3(b) of the Master Lease Agreements.

15. Without access to this information it had requested from Hertz, the Company was unable to accurately quantify the potential loss it would experience as a result of its disposition of the Hertz Leased Fleet. In light of this uncertainty, Macquarie advised FSNA that it was uncertain that it could participate in the non-brokered private placement of special warrants announced on September 4, 2013 (the "PIPE"), despite an earlier commitment to do so. The purpose of the PIPE was to obtain needed operating liquidity for the Company. Macquarie continued to evaluate its participation in the PIPE and participated in meetings with Hertz. At the same time, FSNA began to explore other financing options. On October 10, 2013,

Macquarie advised FSNA that it would not be participating in the PIPE. On that same date, FSNA determined that without the participation of Macquarie, it would not be proceeding with the PIPE.

16. On October 1, 2013, the Company engaged Capstone Advisory Group, LLC (“Capstone”) to provide financial and strategic advice in connection with a potential restructuring, sale, and/or refinancing of the Company. Capstone was engaged to provide such advice, which included (a) cash management and liquidity forecasting, (b) exploring liquidity-enhancement opportunities, and (c) analyzing strategic alternatives. The Company also believed at that time, and continues to believe, that Capstone is well-suited to provide financial advisory services to the Company in the event it was forced to file a Chapter 11 case. Capstone has played a role in numerous bankruptcy cases, including MF Global Holdings, Ltd., et al., Chrysler (a.k.a. Old Carco LLC), Dynegy Holdings, LLC, et al., Tropicana Entertainment, LLC, and Adelphia Communications.

17. On or about October 9, 2013, the Company was required to make a payment to Hertz under the Master Lease Agreements. The Company did not do so, nor did it make any payment arising under the Master Lease Agreements in November. The Company entered into talks with Hertz with a view to restructuring the Company’s fleet arrangements with Hertz while it looked for new sources of capital. Those discussions failed to result in an agreement to restructure the Master Lease Agreements. On October 23, 2013, however, Hertz agreed to forbear from enforcing its rights under the Master Lease Agreements through November 1, 2013.

18. In the last few weeks, Hertz made offers to provide interim financing only to enable the Company to complete a sale process in the context of a bankruptcy proceeding of the Company. Following extensive discussions with Hertz, the Company elected not to accept Hertz’s proposed terms as the board of FSNA and management of the Company believed those terms would not facilitate a fair and open auction of the Advantage business in which the value of Advantage’s assets would be maximized. Management believed that the terms proposed by Hertz were designed to ensure that Hertz would be the likely purchaser of the Company and/or the Advantage brand or that the Company would be forced to surrender valuable assets to Hertz in contravention of the FTC Order.

19. Recognizing the circumstances, beginning on October 25, 2013, FSNA and the Company asked Capstone to run a bid process to identify and attract the interest of new providers of capital. As a result of this Capstone-led process, FSNA and the Company have been engaged in advanced negotiations with three other parties with respect to: (i) the provision of additional financing to the Company, and/or (ii) a sale of the Advantage business. These discussions resulted in two parties, one of which is Catalyst Capital Group, Inc. (“Catalyst”), making written offers to the Company to provide financing and/or purchase the Advantage business.

20. Prior to the actions taken by Hertz, which are noted below, the Company was of the view that a recapitalization of the Company could be undertaken on a going concern basis outside of Bankruptcy Court. Throughout this period, the Company has been in regular communication with the Federal Trade Commission to ensure that any proposed sale of the Advantage business would be in compliance with the FTC Order.

21. By letter dated Saturday, November 2, 2013, Hertz gave notice to the Company that it was terminating the Master Lease Agreements and seeking the return of the Hertz Leased Fleet. Following discussions throughout the day and night on November 3, 2013 among FSNA, the Company, Hertz, certain of the financing parties and their respective advisors, Hertz agreed to an additional one-day period of forbearance on November 4, 2013. Hertz and the Company were not able to agree to terms that would have resulted in a consensual extension of the forbearance period. The primary term the Company was unable to meet related to Hertz's demand that Hertz receive broad, absolute and unconditional releases from FSNA, its affiliates, and Macquarie as a condition to Hertz's even agreeing to engage in further discussions with either Catalyst or other parties. As a result of the failure to broker a consensual resolution of these issues, the Company made the decision to file this Case in order to adequately protect its rights.

22. The Company wrote Hertz on November 4, 2013, advising that it contested the efficacy of the purported "termination notice" of the Master Lease Agreements. The Company believes that Hertz did not effectively, completely and irrevocably terminate the Master Lease Agreements, as Hertz undertook such purported terminations (a) without good faith, (b) without clean hands, and (c) without the consent and approval of the Federal Trade Commission. Accordingly, the Company does not believe that the purported "termination notice" is of any force or effect. The Company believes that this action on the part of Hertz was an attempt to secure control of key and valuable assets of the Company.

23. The Company recognizes that, in these circumstances, the stakes are high for almost 2,000 employees, for thousands of customers that have made (and in some cases pre-paid for) reservations, for creditors of the Company, and for the competitive environment in the country's rental car market. Accordingly, the Debtor has filed this Case in order to continue to operate in the ordinary course of business during which time it will conduct a sales process of the business as a going concern for the benefit of the stakeholders listed above.

24. The Debtor is prepared to administer this Case for the benefit of all constituencies, and believes that chapter 11 provides a context in which the Debtor can pursue a necessary competitive, robust and transparent sales process overseen by Capstone. At this time, Catalyst remains engaged in the process, and the Debtor's intended process could result in more participation.

CONCLUSION

25. In conclusion, for the reasons stated herein and in each of the First Day Motions filed concurrently or in connection with the commencement of this Case, I respectfully request that each of the First Day Motions be granted in its entirety, together with such other and further relief as this Court deems just and proper.

I certify under penalty of perjury that based upon my knowledge, information and belief as set forth in this Declaration, the foregoing is true and correct.

THIS the 6 day of November, 2013.

Thomas P. McDonnell, III
THOMAS P. MCDONNELL, III

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