

SRF 33599

FILED 6/18/2019  
DOCUMENT NO. 04975-2019  
FPSC - COMMISSION CLERK

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
	:
<b>In re</b>	:
	:
<b>FUSION CONNECT, INC., et al.,</b>	:
	:
<b>Debtors.<sup>1</sup></b>	:
	:
-----X	

**Chapter 11  
Case No. 19-11811 (SMB)  
(Jointly Administered)**

RECEIVED-FPSC  
2019 JUN 18 AM 9:46  
COMMISSION CLERK

**INTERIM ORDER FOR AUTHORIZATION  
TO PAY (I) CERTAIN PREPETITION TAXES AND FEES  
AND (II) FEES OF THIRD PARTY SERVICE PROVIDERS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363(b), 507(a), and 541 of title 11 of the United States Code (the “**Bankruptcy Code**”) for an order authorizing, but not directing, the Debtors to pay (i) taxes, assessments, fees, and charges incurred by the Debtors in the ordinary course of business (without regard to whether such obligations accrued or arose before or after the Commencement Date), including any such taxes, assessments, fees, and charges subsequently determined, upon audit or otherwise, to be owed by the Debtors (collectively, the “**Taxes and Fees**”); and (ii) any unpaid amounts owed to Anybill, Inc., Avalara, Inc., Inteserra Consulting

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Group, Inc., and Ryan LLC (collectively, the “**Third Party Service Providers**”) in the ordinary course of business and consistent with past practice, all as more fully set forth 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 the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 10, 2019 (the “**Hearing**”); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; 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 it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on an interim basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, in the ordinary course of business and not on an accelerated basis, to pay (i) the Taxes and Fees, including all of those Taxes and Fees subsequently determined, upon audit or otherwise, to be owed, regardless of whether

such Taxes and Fees accrued or relate to the period before or after the Commencement Date; and  
(ii) any unpaid amounts owed to the Third Party Service Providers.

3. The Debtors and the Third Party Service Providers are further authorized, but not directed, to continue to allocate and distribute the Taxes and Fees and the Regulatory Fees and Contributions to the appropriate third-party recipients or Authorities in accordance with the Debtors' stated policies and prepetition practices.

4. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the final hearing to consider entry of an order granting the relief requested in the Motion (the "**Final Hearing**").

5. Notwithstanding the relief granted in this Interim Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "**DIP Order**"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

6. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (f) an approval, assumption,

adoption, or rejection of any agreement, contract, program, policy or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

7. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

8. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

9. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

10. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

11. The Final Hearing shall be held on **July 1, 2019, at 2:00 p.m. (Prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the Case Management Order.

12. This Interim Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis; provided that the Court's ultimate disposition of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this Interim Order.

13. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Interim Order.

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

Dated: **June 11, 2019**  
New York, New York

/s/ STUART M. BERNSTEIN  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE