

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re : Chapter 11
: :
Telogy, LLC, et al., : Case No. 10-10206 (____)
: :
Debtors. : Joint Administration Pending
-----X

**DEBTORS' MOTION FOR ORDER AUTHORIZING
PAYMENT OF CERTAIN PREPETITION TAXES PURSUANT
TO SECTIONS 105(a), 363, 507(a) AND 541 OF THE BANKRUPTCY CODE**

The debtors and debtors in possession in the above-captioned cases (collectively, the "**Debtors**")¹ hereby move for entry of an order, pursuant to sections 105(a), 363(b), 507(a) and 541 of title 11 of the United States Code (the "**Bankruptcy Code**"), as supplemented by Rule 6003 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), authorizing the Debtors to pay prepetition amounts owing in respect of certain taxes (the "**Motion**"). In support of the Application, the Debtors rely upon and incorporate by reference the Affidavit of Gary B. Phillips, Chief Executive Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings (the "**Phillips Affidavit**"), which was filed with the Court concurrently herewith. In further support of the Motion, the Debtors, by and through their undersigned proposed co-counsel, respectfully represent:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) e-Cycle, LLC (1582) and (ii) Telogy, LLC (1530). The Debtors' executive headquarters are located at 3200 Whipple Road, Union City, California 94587.

cases and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a), 363(b), 507(a) and 541 of the Bankruptcy Code.

BACKGROUND

2. On January 24, 2010 (the "**Petition Date**"), Telogy, LLC and e-Cycle, LLC filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors are continuing in the possession of their respective properties and the management of their respective businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtors have requested that these chapter 11 cases be consolidated for procedural purposes. As of the date hereof, no official committee of unsecured creditors has been appointed.

3. The events leading up to the Petition Date and the facts and circumstances supporting the relief requested herein are set forth in the Phillips Affidavit.

RELIEF REQUESTED

4. By this Motion, the Debtors seek an order authorizing, but not directing, the Debtors to pay sales and use taxes (the "**Sales and Use Taxes**") and franchise taxes and similar fees (the "**Franchise Taxes**" and, together with the Sales and Use Taxes, the "**Taxes**") to various federal, state and local taxing authorities (collectively, the "**Taxing Authorities**")² that were incurred in the ordinary course of business prior to the Petition Date; and (ii) authorizing all banks and other financial institutions on which such checks or other fund transfers to the Taxing

² A list of the Taxing Authorities to which the Debtors pay sales and use taxes is annexed hereto as Exhibit A. While the Debtors have exercised their best efforts to list all of the Taxing Authorities on Exhibit A, it is possible that certain Taxing Authorities may have been inadvertently omitted from this list. The Debtors' failure to include a particular Taxing Authority shall not operate to exclude related Taxes from the coverage of this Motion or an order of the Court in connection with this Motion.

Authorities are drawn to receive, process, honor and pay any and all such checks or other transfers, whether issued or presented prior to or after the Petition Date.

5. In the ordinary course of their business, the Debtors pay Taxes to the various Taxing Authorities throughout the United States on a periodic basis.³ Depending on the nature and incurrence of each Tax, they are remitted monthly, quarterly or annually, and for the most part, they are paid in arrears. While the Debtors believe that they are substantially current with respect to their payment of Taxes, the Debtors seek to make such payments where (i) Taxes accrued or incurred prepetition were not paid prepetition or were paid in an amount less than actually owed, (ii) payments made prepetition by the Debtors were lost or otherwise not received in full by any of the Taxing Authorities, or (iii) Taxes incurred for prepetition periods may become due after the commencement of these chapter 11 cases.

6. As of the Petition Date, the Debtors' outstanding obligations in respect of Sales and Use Taxes totaled approximately \$44,000. In addition to Sales and Use Taxes, the Debtors also pay annual or biennial Franchise Taxes to various Taxing Authorities in exchange for such Taxing Authorities' permission to conduct business in their jurisdictions. The Debtors pay Franchise Taxes at various times throughout the year, depending on the requirements of the applicable Taxing Authorities. Typically, the Debtors pay approximately \$35,000 in Franchise Taxes on an annual basis. The Debtors have paid all Franchise Taxes relating to prior calendar years, and estimate that their prepetition obligations in respect of 2010 Franchise Taxes do not exceed \$2,000. The Debtors seek authority by this motion to pay all Franchise Taxes when due,

³ The Debtors do not, and should not be deemed by this Motion to: (i) admit to the validity or amount of any Taxes; (ii) waive their right to dispute any Taxes on any ground, or to seek a determination as to the amount or legality of any Taxes pursuant to section 505 of the Bankruptcy Code; (iii) promise to pay any Taxes; or (iv) request authorization to assume any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

notwithstanding that a portion of such Franchise Taxes relate to the period prior to the Petition Date.

7. Payment of the Taxes is necessary for the Debtors to remain in good standing and operate in the various jurisdictions in which they do business. Certain Taxing Authorities either have not been paid due to the time during the month at which such Taxes are normally remitted, or may have been sent checks for Taxes that may or may not have been presented or cleared as of the Petition Date. Similarly, in other cases, obligations may have accrued or are accruing, or are subject to audit or review, but may have not yet become due and payable. Accordingly, the Debtors seek authorization for their banks to honor prepetition wire transfer requests and checks issued by the Debtors to the Taxing Authorities in payment of prepetition Taxes as described herein that, as of the Petition Date, have not cleared or been transferred. To the extent that the Debtors have not yet remitted payment to the Taxing Authorities with respect to certain prepetition Taxes, the Debtors seek authorization to issue checks or provide for other means of payment to the Taxing Authorities to the extent necessary to pay the such Taxes.

BASIS FOR RELIEF

A. Certain of the Taxes Are Not Property of the Estate

8. The Debtors submit that at least some of the Taxes may be considered “trust fund taxes” that are collected or withheld by the Debtors and then held in trust for the benefit of those third parties to whom payment is owed or on behalf of whom such payment is being made. Case law supports the proposition that trust fund taxes are not property of the Debtors’ estates within the meaning of section 541 of the Bankruptcy Code. See Begier v. IRS, 496 U.S. 53, 55-67 (1990) (taxes such as excise taxes, FICA taxes and withholding taxes are

property held by debtor in trust for another and, as such, do not constitute property of estate); In re Al Copeland Enters., Inc., 133 B.R. 837 (Bankr. W.D. Tex. 1991) (debtor obligated to pay sales taxes plus interest, because such taxes were “trust fund” taxes), aff’d, 991 F.2d 233 (5th Cir. 1993); In re Am. Int’l Airways, Inc., 70 B.R. 102, 103 (Bankr. E.D. Pa. 1987) (funds held in trust for federal excise and withholding taxes are not property of debtor’s estate and, therefore, not available for distribution to creditors); Shipley Co., Inc. v. Darr (In re Tap, Inc.), 52 B.R. 271, 276-78 (Bankr. D. Mass. 1985) (funds paid by employer to debtor for payment of employer’s federal taxes were returnable to employer and not part of debtor’s estate).

Accordingly, to the extent the Taxes are considered trust fund taxes, payment of those Taxes would not prejudice other unsecured creditors because such amounts would not be available for distribution.

B. The Debtors Are Authorized Under the Bankruptcy Code to Pay the Taxes

9. Under section 363(b) of the Bankruptcy Code, a debtor-in-possession may, in the exercise of its business judgment, use property of the estate outside of the ordinary course of business. See 11 U.S.C. § 363(b). Further, section 105(a) of the Bankruptcy Code, which codifies the equitable powers of bankruptcy courts, authorizes the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). This Court may authorize the Debtors’ proposed payment of Taxes under sections 105(a) and 363(b)(1) of the Bankruptcy Code.

10. Specifically, section 363(b)(1) of the Bankruptcy Code authorizes this Court, after notice and a hearing, to authorize a debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” See 11 U.S.C. § 363(b)(1). Although stated various ways, courts generally hold that a debtor’s decision to enter into a transaction outside of

the ordinary course of business is governed by the business judgment standard. See 3 Collier On Bankruptcy 363.02[1][f] (Lawrence P. King et al., 15th ed. 2007); In re U.S. Airways Group, Inc., 287 B.R. 643, 645 (Bankr. E.D. Va. 2002).

11. When applying the “business judgment” rule, courts show great deference to the debtor’s decision making. See, e.g., Myers v. Martin (In re Martin), 91 F.3d 389, 395 (3d Cir. 1996); In re Castre, Inc., 312 B.R. 426, 430-31 (Bankr. D. Colo. 2004); Murphy v. Howison (In re Murphy), 288 B.R. 1, 5 (D. Me. 2002); In re Bakalis, 220 B.R. 525, 532 (Bankr. E.D.N.Y. 1998). The Debtors submit that, because payment of the Taxes is not only critical to minimizing disruptions to the Debtors’ operations, but also necessary to prevent the immediate and irreparable harm that would result from nonpayment (in the event the Debtors had to cease doing business in certain jurisdictions), it is clearly in the best interest of the Debtors’ estates for the Debtors to have discretion to pay such claims.

12. Further, it is well-established that bankruptcy courts have the equitable power to authorize the payment of prepetition claims where such payments are necessary to preserve the going concern value of a debtor’s business. See, e.g., In re Lehigh & New England Ry. Co., 657 F.2d 570, 581 (3d Cir. 1981). To do so, “the debtor must articulate some business justification, other than the mere appeasement of major creditors.” Ionosphere, 98 B.R. at 175. As discussed, the Debtors’ failure to pay Taxes could have a material adverse impact on their postpetition operations, and, in turn, the going concern value of the Debtors’ business.

13. The relief requested is also supported by the “necessity of payment” doctrine. Numerous courts have used their section 105(a) powers under the “doctrine of necessity” to authorize payment of a debtor-in-possession’s prepetition obligations where, as

here, such payment is an essential element to the continuation of the debtors' business.⁴ See, e.g., Lehigh & New England Ry. Co., 657 F.2d at 581 (noting that the "necessity of payment doctrine" provides that "if payment of a claim which arose prior to reorganization is essential to the continued operation of the [debtor] . . . payment may be authorized"); see also In re Penn Central Transp. Co., 467 F.2d 100, 102 n. 1 (3d Cir. 1972) (holding that the necessity of payment doctrine permits "immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims have been paid"); In re Columbia Gas Sys., Inc., 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (noting that in the Third Circuit, debtors may pay prepetition claims that are essential to continued operations).

14. Moreover, Taxing Authorities may seek to impose personal liability on the officers and directors of the Debtors for Taxes collected but not paid to such Taxing Authorities. Thus, to the extent that any Taxes remain unpaid, the Debtors' officers and directors may be subject to audits, lawsuits or even criminal prosecution on account of such nonpayment during the pendency of these chapter 11 cases. Such proceedings obviously would constitute a significant distraction for such officers and directors at a time when they should be focused on stabilizing postpetition business operations.

15. Authorizing, but not directing, the Debtors to pay the Taxes would eliminate any potential administrative claims for indemnification that officers would also assert

⁴ The "doctrine of necessity" is an outgrowth of the "necessity of payment rule," first articulated in Miltenberger v. Logansport Ry. Co., 106 U.S. 286, 311-12 (1882) (payment of pre-receivership claim prior to completion of reorganization permitted to prevent "stoppage of . . . [crucial] business relations . . ."). While the "necessity of payment rule" was first applied to railroad reorganizations, the "doctrine of necessity" serves a similar function in chapter 11 cases. Each recognizes the existence of judicial power to authorize a debtor-in-possession to pay prepetition claims if vital to its continued operations.

against the Debtors if held personally liable for such taxes (including penalties, interest and other related charges), as well as the time and expense of litigating such claims.

16. As described in the Phillips Affidavit, on the Petition Date, Telogy filed a motion seeking this Court's approval of a stalking horse purchase agreement for the sale of substantially all of the its assets (the "APA"), and the establishment of procedures for the submission of competing bids for such assets. Under the APA, Telogy is obligated to continue operating its business in the ordinary course and consistent with past practice during the period prior to closing of the sale. Prior to the commencement of these cases, the Debtors diligently made every effort to pay the Taxes timely, and any remaining undisputed, unpaid Taxes not paid were a result of the chapter 11 filings.

17. Relief similar to the relief requested in this Motion has been granted by courts in this district. See In re RathGibson, Inc., No. 09-12452 (CSS) (Bankr. D. Del. Jul. 14, 2009); In re GWLS Holdings, Inc., Case No. 08-12430 (PJW) (Bankr. D. Del. Oct. 22, 2008); In re JHT Holdings, Inc., Case No. 08-11267 (BLS) (Bankr. D. Del. June 24, 2008). See, e.g., In re Diamond Glass, Inc., Case No. 08-10601 (CSS) (Bankr. D. Del. April 2, 2008); In re Wickes Holdings, LLC, Case No. 08-10212 (KJC) (Bankr. D. Del. January 23, 2008); In re Meridian Auto. Sys.-Composites Operations, Inc., et al., Case No. 05-11168 (MFW) (Bankr. D. Del. April 26, 2005); In re Cable & Wireless USA, Inc., Case No. 03-13711 (CGC) (Bankr. D. Del. December 8, 2003). The Debtors submit that the present circumstances warrant similar relief in these chapter 11 cases.

18. The Debtors submit that because the relief requested in the Motion is necessary to avoid irreparable harm to the Debtors, timely entry of this Order is not prohibited by Bankruptcy Rule 6003(b).

19. To successfully implement the foregoing, the Debtors respectfully seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day stay under Bankruptcy Rule 6004(h).

NOTICE

20. Notice of this Motion will be given to: (a) the United States Trustee for the District of Delaware; (b) counsel to the agent for the Debtors' prepetition secured lenders; and (c) the Debtors' twenty (20) largest unsecured creditors on a consolidated basis. The Debtors will serve copies of the Motion pursuant to Local Rule 9013-1(m). The Debtors submit that, under the circumstances, no other or further notice is required.

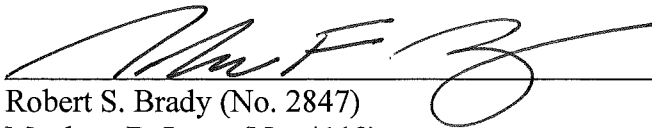
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CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form annexed hereto as Exhibit B, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: Wilmington, Delaware
January 24, 2010

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*Proposed Co-Counsel for Debtors and
Debtors in Possession*

EXHIBIT A

Taxing Authorities

Jurisdiction	Address (w city/state)
ALABAMA	P.O. BOX 327444 MONTGOMERY, AL 36132-7444
	P.O. BOX 327431 MONTGOMERY, AL 36132-7431
ALAMEDA COUNTY, CALIFORNIA	TAX COLLECTOR 1221 OAK STREET OAKLAND, CA 94612-4286
ALIEF, TEXAS	P.O. BOX 368 ALIEF, TX 77411
ALLEN COUNTY, INDIANA	P.O. BOX 2540 FORT WAYNE, IN 46801-2540
ANNE ARUNDEL COUNTY, MARYLAND	P.O. BOX 17492 BALTIMORE, MD 21297
ARIZONA	P.O. BOX 29010 PHOENIX, AZ 85038
	P.O. BOX 29010 PHOENIX, AZ 85038
ARKANSAS	P.O. BOX 8014 LITTLE ROCK, AR 72203-8014
AUSTIN, TEXAS	TAX COLLECTOR P.O. BOX 149328 AUSTIN, TX 78714
BALTIMORE, MARYLAND	BALTIMORE COUNTY 400 WASHINGTON AVE, ROOM 152 TOWSON, MD 21204-4665

Jurisdiction	Address (w city/state)
	BALTIMORE DEPT OF ASSESSMENTS AND TAXATION P.O. BOX 17052 BALTIMORE, MD 21297
BOULDER COUNTY, COLORADO	DEPT. 5547 DENVER, CO 80263
CADDIS-SHREVEPORT, LOUISIANA	P.O. BOX 104 SHREVEPORT, LA 71161
CALIFORNIA	675 TEXAS ST, SUITE 1900 FAIRFIELD, CA 94533
	COMPUTER XTRAS XPRESS 401 ALDO AVE., SANTA CLARA, CA 95054
	STATE BOARD OF EQUALIZATION P.O. BOX 942879 SACRAMENTO, CA 94279
CLARK COUNTY, WASHINGTON	P.O. BOX 9808 VANCOUVER, WA 98666
CITY OF HUNTSVILLE, ALABAMA	P.O. BOX 040003 HUNTSVILLE, AL 35804
CITY OF ALBANY, KENTUCKY	P.O. BOX 129 ALBANY, KY 42602
CITY OF BOULDER, COLORADO	DEPT 1128 DENVER, CO 80263
CITY OF CHANDLER, ARIZONA	P.O. BOX 15001 CHANDLER, AZ 85244
CITY OF COLORADO SPRINGS, COLORADO	DEPT 2408 DENVER, CO 80256

Jurisdiction	Address (w city/state)
CITY OF FREMONT, CALIFORNIA	P.O. BOX 5006 FREMONT, CA 94537-5006
CITY OF HUNTSVILLE, ALABAMA	P.O. BOX 308 HUNTSVILLE, AL 35804
CITY OF MADISON, ALABAMA	P.O. BOX 99 MADISON, AL 35758
CITY OF MADISON, WISCONSIN	P.O. BOX 2999 MADISON, WI 53701
CITY OF PHILADELPHIA, PENNSYLVANIA	P.O. BOX 1660 PHILADELPHIA, PA 19105-1660
	DEPARTMENT OF REVENUE, P.O. BOX 200 PHILADELPHIA, PA 19105-0200
CITY OF SCOTTSDALE, ARIZONA	P.O. BOX 1570 SCOTTSDALE, AZ 85252
CITY OF SEATTLE, WASHINGTON	P.O. BOX 34904 SEATTLE, WA 98124
CITY OF SPOKANE, WASHINGTON	808 W. SPOKANE FALLS BLVD., 1ST FLOOR SPOKANE, WA 99201
CITY OF TEMPE, ARIZONA	P.O. BOX 29618 PHOENIX, AZ 85038
CITY OF UNION CITY, CALIFORNIA	34009 ALVARADO-NILES RD. UNION CITY, CA 94587
CLINTON COUNTY, KENTUCKY	SHERIFF OF CLINTON COUNTY COURTHOUSE ALBANY, KY 42602

Jurisdiction	Address (w city/state)
COLLIN COUNTY, TEXAS	TAX COLLECTOR P.O. BOX 8046 MCKINNEY, TX 75070-8046
COLORADO	DEPARTMENT OF REVENUE SALES TAX SECTION DENVER, CO 80261
CONNECTICUT	P.O. BOX 2980 HARTFORD, CT 06104-2980
	PO BOX 2936 HARTFORD, CT 06104-2936
	P.O. BOX 2967 HARTFORD, CT 06104
	SECRETARY OF STATE P.O. BOX 150470 HARTFORD, CT 06115
CONTRA COSTA COUNTY, CALIFORNIA	TAX COLLECTOR P.O. BOX 631 MARTINEZ, CA 94553
COUNTY OF FAIRFAX, VIRGINIA	P.O. BOX 10201 FAIRFAX, VA 22035
DALLAS, TEXAS	MANAGER OF FINANCE P.O. BOX 660860 DALLAS, TX 75266
D.C.	D.C. TREASURER P.O. BOX 7792 WASHINGTON, DC 20044
	D.C. TREASURER P.O. BOX 96384 WASHINGTON, DC 20090

Jurisdiction	Address (w city/state)
DELAWARE	DIVISION OF REVENUE P.O. BOX 508 WILMINGTON, DE 19899-0508
	SECRETARY OF STATE 401 FEDERAL ST., SUITE 4 DOVER, DE 19901
	DIV. OF CORPORATIONS 401 FEDERAL ST. SUITE 4 DOVER, DE 19901
GEORGIA	DEPARTMENT OF REVENUE P.O. BOX 105408 ATLANTA, GA 30348
	DEPARTMENT OF REVENUE P.O. BOX 740317 ATLANTA, GA 30374
	SECRETARY OF STATE P.O. BOX 23038 COLUMBUS, GA 31902
DURHAM COUNTY, NORTH CAROLINA	TAX COLLECTOR P.O. BOX 3397 DURHAM, NC 27702
EL PASO COUNTY, COLORADO	TREASURER P.O. BOX 2018 COLORADO SPRINGS, CO 80901
ELKHART COUNTY, INDIANA	TREASURER P.O. BOX 116 GOSHEN, IN 46527

Jurisdiction	Address (w city/state)
FLORIDA	DEPARTMENT OF REVENUE 5050 W. TENNESSEE STREET TALLAHASSEE, FL 32399
CALIFORNIA	FRANCHISE TAX BOARD P.O. BOX 942857 SACRAMENTO, CA 94257
	FRANCHISE TAX BOARD P.O. BOX 942867 SACRAMENTO, CA 94267-0011
GUILFORD COUNTY, NORTH CAROLINA	TAX DEPARTMENT P.O. BOX 71072 CHARLOTTE, NC 28272-1072
GWINNETT COUNTY, GEORGIA	TAX COMMISSIONER P.O. BOX 372 LAWRENCEVILLE, GA 30046-0372
HAMILTON COUNTY , INDIANA	TREASURER 33 N. 9TH STREET, SUITE 112 NOBLESVILLE, IN 46060
HARRIS COUNTY, TEXAS	M.U.D. #239 P.O. BOX 1368 FRIENDSWOOD, TX 77549
	M.U.D. #286 P.O. BOX 925928 HOUSTON, TX 77292
HAWAII	DEPARTMENT OF TAXATION P.O. BOX 1530 HONOLULU, HI 96806-1530

Jurisdiction	Address (w city/state)
	STATE TAX COLLECTOR P.O. BOX 1425 HONOLULU, HI 968806-1425
HOUSTON, TX	LEO VASQUEZ - TAX COLLECTOR P.O. BOX 4622 HOUSTON, TX 77210
HOWARD COUNTY, MARYLAND	DIRECTOR OF FINANCE P.O. BOX 37237 BALTIMORE, MD 21297
IDAHO	STATE TAX COMMISSION PO BOX 56 BOISE, ID 83756-0056
	STATE TAX COMMISSION P.O. BOX 76 BOISE, ID 83707
ILLINOIS	DEPARTMENT OF REVENUE RETAILERS OCCUPATION TAX SPRINGFIELD, IL 62796
	DEPARTMENT OF REVENUE P.O. BOX 19009 SPRINGFIELD, IL 62794-9009
	DEPARTMENT OF REVENUE P.O. BOX 19006 SPRINGFIELD, IL 62794
	SECRETARY OF STATE DEPT OF BUSINESS SERVICES-ROOM 351, HOWLETT BLDG. SPRINGFIELD, IL 62756

Jurisdiction	Address (w city/state)
INDIANA	DEPARTMENT OF REVENUE P.O. BOX 7218 INDIANAPOLIS, IN 46207-7218
	DEPARTMENT OF REVENUE P.O. BOX 6108 INDIANAPOLIS, IN 46206-6108
IOWA	SECRETARY OF STATE BUSINESS SERVICES DIVISION - LUCAS BLDG, 1ST FLOOR DES MOINES, IA 50319
JEFFERSON COUNTY, KENTUCKY	SHERIFF'S OFFICE P.O. BOX 70300 LOUISVILLE, KY 40270-0300
KANSAS	INCOME TAX 915 SW HARRISON STREET TOPEKA, KS 66699-1000
	SECRETARY OF STATE 120 SW 10TH AVE, 1ST FLOOR TOPEKA, KS 66612
KENTUCKY STATE	TREASURER KENTUCKY DEPT. OF REVENUE FRANKFORT, KY 40620
	TREASURER DEPARTMENT OF REVENUE FRANKFORT, KY 40619-0008
KING COUNTY, WASHINGTON	TREASURY 500 4TH AVENUE #600 SEATTLE, WA 98104-2340

Jurisdiction	Address (w city/state)
LITTLE ROCK, ARKANSAS	DEPARTMENT OF FINANCE P.O. BOX 3861 LITTLE ROCK, AR 72203
LOS ANGELES COUNTY, CALIFORNIA	TAX COLLECTOR P.O. BOX 54027 LOS ANGELES, CA 90054-0027
LOUISIANA	DEPARTMENT OF REVENUE P.O. BOX 104 SHREVEPORT, LA 71161
	DEPARTMENT OF REVENUE PO BOX 201 BATON ROUGE, LA 70821-0201
	DEPARTMENT OF REVENUE P.O. BOX 3550 BATON ROUGE, LA 70821
	SECRETARY OF STATE P.O. BOX 94125 BATON ROUGE, LA 70804-9125
MADISON COUNTY, ALABAMA	TAX COLLECTOR 100 NORTHSIDE SQUARE HUNTSVILLE, AL 35801-4820
	SALES TAX DEPARTMENT 100 NORTH SIDE SQUARE HUNTSVILLE, AL 35801-4820
MADISON COUNTY, MISSISSIPPI	TAX COLLECTOR P.O. BOX 113 CANTON, MS 39046

Jurisdiction	Address (w city/state)
MADISON, WISCONSIN	DEPARTMENT OF FINANCIAL INSTITUTIONS P.O. BOX 7846 MADISON, WI 53707
MAINE	REVENUE SERVICES P.O. BOX 1067 AUGUSTA, ME 04332-1067
MARICOPA COUNTY, ARIZONA	SHERIFF 301 W. JEFFERSON, ROOM 100 PHOENIX, AZ 85003
	TREASURER P.O. BOX 52133 PHOENIX, AZ 85072
MARIN COUNTY, CALIFORNIA	TAX COLLECTOR P.O. BOX 4220 SAN RAFAEL, CA 94913
MARION COUNTY, INDIANA	TREASURER P.O. BOX 6145 INDIANAPOLIS, IN 46206
MARYLAND	COMPTROLLER OF MARYLAND REVENUE ADMINISTRATION DIVISION ANNAPOLIS, MD 21411-0001
MIAMI-DADE COUNTY, FLORIDA	TAX COLLECTOR P.O. BOX 25218 MIAMI, FL 33102-5218
MICHIGAN	DEPT. 77003 DETROIT, MI 48277-0003
	P.O. BOX 30057 LANSING, MI 48909

Jurisdiction	Address (w city/state)
	P.O. BOX 30113 LANSING, MI 48909
MINNESOTA	DEPARTMENT OF REVENUE MAIL STATION 1760 ST. PAUL, MN 55145-1760
	DEPARTMENT OF REVENUE MAIL STATION 1765 ST. PAUL, MN 55145
	DEPARTMENT OF REVENUE MAIL STATION 1765 ST. PAUL, MN 55145
	SECRETARY OF STATE 60 EMPIRE DR, SUITE 100 ST. PAUL, MN 55103
MISSISSIPPI	STATE TAX COMMISSION P.O. BOX 23050 JACKSON, MS 39225
	STATE TAX COMMISSION P.O. BOX 960 JACKSON, MS 39205
	STATE TAX COMMISSION P.O. BOX 1033 JACKSON, MS 39215
MISSOURI	DEPARTMENT OF REVENUE P.O. BOX 840 JEFFERSON CITY, MO 65105
	DEPARTMENT OF REVENUE P.O. BOX 3400 JEFFERSON CITY, MO 65105

Jurisdiction	Address (w city/state)
MONTGOMERY COUNTY, MARYLAND	101 MONROE ST., 3RD FLOOR ROCKVILLE, MD 20850
MONTGOMERY, VIRGINIA	W RICHARD SHELTON - TREASURER 755 ROANOKE ST, SUITE 1B CHRISTIANSBURG, VA 24073
NORTH DAKOTA	STATE TAX COMMISSIONER 600 E. BOULEVARD AVE., DEPT 127 BISMARCK, ND 58505-0599
NEBRASKA	DEPARTMENT OF REVENUE P.O. BOX 98923 LINCOLN, NE 68509
	SECRETARY OF STATE P.O. BOX 94608 LINCOLN, NE 68509
NEVADA	DEPARTMENT OF TAXATION 1550 COLLEGE PARKWAY, SUITE 115 CARSON CITY, NV 89706
	DEPARTMENT OF TAXATION P.O. BOX 52609 PHOENIX, AZ 85072-2609
	SECRETARY OF STATE 202 N. CARSON ST. CARSON CITY, NV 89701-4201
NEW HAMPSHIRE	SECRETARY OF STATE P.O. BOX 9529 MANCHESTER, NH 03108
	P.O. BOX 637 CONCORD, NH 03302

Jurisdiction	Address (w city/state)
NEW JERSEY	DIVISION OF TAXATION P.O. BOX 282 TRENTON, NJ 08646-0282
NEW MEXICO	TAXATION & REVENUE DEPARTMENT P.O. BOX 25128 SANTA FE, NM 87504-5128
NEW YORK	STATE SALES TAX P.O. BOX 15168 ALBANY, NY 12212
	COMMISSIONER OF TAXATION AND FINANCE NYS ASSESSMENT RECEIVABLES P.O. BOX 4127 BINGHAMTON, NY 13902-4127
NORTH CAROLINA	DEPARTMENT OF REVENUE P.O. BOX 25000 RALEIGH, NC 27640-0645
OHIO	TREASURER OF STATE P.O. BOX 16560 COLUMBUS, OH 43216-6560
	P.O. BOX 181140 COLUMBUS, OH 43218
OKLAHOMA	SECRETARY OF STATE 2300 N LINCOLN BLVD, ROOM 101 OKLAHOMA CITY, OK 73105-4897
	TAX COMMISSION P.O. BOX 26850 OKLAHOMA CITY, OK 73126

Jurisdiction	Address (w city/state)
	TAX COMMISSION P.O. BOX 26920 OKLAHOMA CITY, OK 73126-0920
ORANGE COUNTY, CALIFORNIA	TAX COLLECTOR P.O. BOX 1438 SANTA ANA, CA 92702
OREGON	DEPARTMENT OF REVENUE P.O. BOX 14950 SALEM, OR 97309
	SECRETARY OF STATE P.O. BOX 4353 PORTLAND, OR 97208
PENNSYLVANIA	DEPARTMENT OF REVENUE P.O. BOX 280423 HARRISBURG, PA 17128
	DEPARTMENT OF REVENUE P.O. BOX 280431 HARRISBURG, PA 17128
	DEPARTMENT OF REVENUE P.O. BOX 280418 HARRISBURG, PA 17128-0418
	DEPARTMENT OF REVENUE DEPARTMENT 280427 HARRISBURG, PA 17128-0427
PIMA COUNTY, PHOENIX, ARIZONA	P.O. BOX 29011 PHOENIX, AZ 85038
PINELLAS COUNTY, FLORIDA	TAX COLLECTOR P.O. BOX 10832 CLEARWATER, FL 33757

Jurisdiction	Address (w city/state)
PHOENIX CITY, ARIZONA	TREASURER P.O. BOX 29690 PHOENIX, AZ 85038
PORTLAND, OREGON	REVENUE BUREAU 111 SW COLUMBIA, SUITE 600 PORTLAND, OR 97201-5840
PRINCE GEORGE'S COUNTY, MARYLAND	P.O. BOX 17578 BALTIMORE, MD 21297
REDWOOD CITY, CALIFORNIA	LEE BUFFINGTON - TAX COLLECTOR 555 COUNTY CENTER, 1ST FLOOR REDWOOD CITY, CA 94063
RHODE ISLAND	DIVISION OF TAXATION ONE CAPITOL HILL SUITE 9 PROVIDENCE, RI 02908-5811
	DIVISION OF TAXATION ONE CAPITOL HILL STE. 4 PROVIDENCE, RI 02908
ROUND ROCK, TEXAS	TAX OFFICE 1311 ROUND ROCK AVE ROUND ROCK, TX 78681
SACRAMENTO COUNTY, CALIFORNIA	P.O. BOX 508 SACRAMENTO, CA 95812-0508
SALT LAKE COUNTY, UTAH	ASSESSOR 2001 SOUTH STATE STREET, ROOM N2300A SALT LAKE CITY, UT 84190-1300

Jurisdiction	Address (w city/state)
SAN DIEGO COUNTY, CALIFORNIA	TREASURER-TAX COLLECTOR P.O. BOX 129009 SAN DIEGO, CA 92112
SAN FRANCISCO, CALIFORNIA	TAX COLLECTOR P.O. BOX 7427 SAN FRANCISCO, CA 94120-7427
SANTA CLARA COUNTY, CALIFORNIA	CLERK- RECORDER 70 W. HEDDING ST., EAST WING SAN JOSE, CA 95110
SOUTH CAROLINA	DEPARTMENT OF REVENUE SALES TAX RETURN COLUMBIA, SC 29214
	DEPARTMENT OF REVENUE PARTNERSHIP RETURN COLUMBIA, SC 29214-0008
SOUTH DAKOTA	SECRETARY OF STATE 500 EAST CAPITOL AVE, SUITE 204 PIERRE, SD 57501
SONOMA COUNTY, CALIFORNIA	TAX COLLECTOR 585 FISCAL DR, ROOM 100F SANTA ROSA, CA 95403
SOUTH DAKOTA	STATE TREASURER P.O. BOX 5055 SIOUX FALLS, SD 57117-5055
VIRGINIA	STATE CORPORATION COMMISSION P.O. BOX 1197 RICHMOND, VA 23218

Jurisdiction	Address (w city/state)
RHODE ISLAND	ONE CAPITOL HILL, SUITE 4 PROVIDENCE, RI 02908
SANTA CLARA COUNTY, CALIFORNIA	TAX COLLECTOR 70 W. HEDDING ST. SAN JOSE, CA 95110-1767
	70 WEST HEDDING STREET, EAST WING SAN JOSE, CA 95110-1767
TEXAS	COMPTROLLER OF PUBLIC ACCOUNTS P.O. BOX 149348 AUSTIN, TX 78714
TENNESSEE	DEPARTMENT OF REVENUE 500 DEADERICK STREET NASHVILLE, TN 37242
	SECRETARY OF STATE 312 EIGHTH AVE N. 6TH FLOOR NASHVILLE, TN 37243
TOPEKA, KANSAS	RETAILERS' COMPENSATING USE TAX 915 SW HARRISON ST TOPEKA, KS 66625-5000
VIRGINIA	TREASURER P.O. BOX 7621 MERRIFIELD, VA 22116-7621
UNITED STATES	INTERNAL REVENUE SERVICE FRESNO, CA 93888
UTAH	DEPARTMENT OF COMMERCE P.O. BOX 146705 SALT LAKE CITY, UT 84114

Jurisdiction	Address (w city/state)
	STATE TAX COMMISSION 210 N 1950 W SALT LAKE CITY, UT 84134
	STATE TAX COMMISSION 210 N. 1950 WEST SALT LAKE CITY, UT 84134
VENTURA, CALIFORNIA	LAWRENCE MATHENEY - TAX COLLECTOR 800 SOUTH VICTORIA AVENUE VENTURA, CA 93009-1290
VERMONT	P.O. BOX 547 MONTPELIER, VT 05601-0547
	133 STATE ST MONTPELIER, VT 05609
VIRGINIA	P.O. BOX 26627 RICHMOND, VA 23261
	P.O. BOX 1777 RICHMOND, VA 23218-1777
	P.O. BOX 1500 RICHMOND, VA 23218-1500
WAKE COUNTY, NORTH CAROLINA	REVENUE DEPARTMENT P.O. BOX 96084 CHARLOTTE, NC 28296-0084
WASHINGTON COUNTY, OREGON	P.O. BOX 3587 PORTLAND, OR 97208
WASHINGTON	STATE DEPARTMENT OF REVENUE P.O. BOX 34051 SEATTLE, WA 98124-1051

Jurisdiction	Address (w city/state)
	SECRETARY OF STATE P.O BOX 40234 OLYMPIA, WA 98504
WEST VIRGINIA	STATE TAX DEPARTMENT P.O. BOX 2666 CHARLESTON, WV 25330
	SECRETARY OF STATE P.O. BOX 40300 CHARLESTON, WV 25364
	STATE TAX DEPARTMENT P.O. BOX 3694 CHARLESTON, WV 25336-3694
	STATE TAX DEPARTMENT P.O. BOX 11751 CHARLESTON, WV 25339-1751
WILLIAMSON COUNTY, TEXAS	904 S. MAIN ST. GEORGETOWN, TX 78626
WISCONSIN DEPARTMENT OF REVENUE	P.O. BOX 930389 MILWAUKEE, WI 53293-0389
WYOMING	DEPARTMENT OF REVENUE 122 W. 25TH ST. CHEYENNE, WY 82002
	SECRETARY OF STATE 200 W. 24TH ST, ROOM 110 CHEYENNE, WY 82002
YOLO COUNTY, CALIFORNIA	TAX COLLECTOR PO BOX 1995 WOODLAND, CA 95776

EXHIBIT B

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X	:	
In re	:	Chapter 11
	:	
Telogy, LLC, <u>et al.</u> ,	:	Case No. 10- <u>10206</u> ()
	:	
Debtors.	:	Jointly Administered
	:	Ref. Docket No. _____
-----X		

**ORDER AUTHORIZING
PAYMENT OF CERTAIN PREPETITION TAXES PURSUANT
TO SECTIONS 105(a), 363, 507(a) AND 541 OF THE BANKRUPTCY CODE**

Upon the motion (the “**Motion**”) of the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”)¹ for an order, pursuant to sections 105(a), 363(b), 507(a) and 541 of title 11 of the United States Code (the “**Bankruptcy Code**”) as complemented by Rule 6003 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing the Debtors to pay prepetition amounts owing in respect of sales, use and other similar taxes and fees; and upon the Affidavit of Gary B. Phillips, Chief Executive Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings; and notice of the Motion having been given as set forth in the Motion; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) e-Cycle, LLC (1582) and (ii) Telogy, LLC (1530). The Debtors’ executive headquarters are located at 3200 Whipple Road, Union City, California 94587.

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is granted.
2. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.
3. The Debtors are authorized, but not directed, to pay and remit to the Taxing Authorities, the Taxes, including Sales and Use Taxes and Franchise Taxes, incurred prior to the Petition Date by the Debtors in the ordinary course of business, as well as any and all Taxes subsequently determined upon audit to be owed by the Debtors for the period prior to the Petition Date.
4. All applicable banks and other financial institutions are hereby authorized and required to receive, process, honor, and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under this Order whether presented prior to or after the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Order.
5. To the extent the Debtors have not yet sought to remit payment to the Taxing Authorities, the Debtors are authorized to issue checks or provide for other means of payment to the Taxing Authorities, to the extent necessary to pay the Taxes.
6. Nothing in this Order or the Motion shall be construed as prejudicing any rights the Debtors may have to: (a) contest the amount of or basis for any Taxes allegedly due to any Taxing Authority; or (b) seek a determination of the amount or legality of the Taxes pursuant to section 505 of the Bankruptcy Code.

7. The authorization granted hereby to pay prepetition Taxes shall not create any obligation on the part of the Debtors or their officers, directors, attorneys or agents to pay such Taxes and none of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay such Taxes. Further, nothing contained in this Order shall be deemed to increase, reclassify, elevate to administrative expense status, or otherwise affect the prepetition Taxes to the extent they are not paid.

8. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion.

9. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

10. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: Wilmington, Delaware
January____, 2010

UNITED STATES BANKRUPTCY JUDGE