

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
HARTFORD DIVISION**

In re	:	Chapter 11
	:	
CHIP’S SOUTHTON, LLC	:	Case No. 20-21458 (JJT)
	:	
	:	Re: ECF Nos. 183, 214, 228
	:	
Debtor	:	

**ORDER GRANTING
MOTION FOR ENTRY OF ORDER (I) VACATING ORDER OF DISMISSAL
OF THE DEBTOR’S CHAPTER 11 CASE AND (II) GRANTING RELATED RELIEF**

Upon the Motion for Order (I) Vacating Order of Dismissal of the Debtor's Chapter 11 Case and (II) Granting Related Relief (the “Motion”) filed pursuant to Fed. R. Civ. P. 60(b)(6), made applicable in bankruptcy by Fed. R. Bankr. P. 9024, by the Debtor, Chip’s Southington LLC (the “Debtor” or “Chip’s Southington”), d/b/a Chip’s Family Restaurant,¹ for entry of an order vacating this Court’s *Order Granting the Debtor’s Motion for Entry of Order (I) Authorizing Dismissal of the Debtor’s Chapter 11 Case Without Prejudice and (II) Granting Related Relief* (ECF No. 183, the “Dismissal Order”), dismissing the Debtor’s voluntary petition for relief under Subchapter V of Chapter 11 of the United States Bankruptcy Code, and granting related relief; and upon due and proper notice, hearing, opportunity to object, and for good cause shown:

It is found that jurisdiction is proper pursuant to 28 U.S.C. § 1334(b) and 28 U.S.C. §§ 157(a) and (b)(1), that this is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A) and (G). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and

IT IS FURTHER ORDERED:

¹ Chip’s Southington is owned by Kaiaffa, LLC, which is also the owner of Chip’s Southbury, LLC and Chip’s Wethersfield, LLC. The Chip’s Family Restaurant locations in Orange and Fairfield are owned by a different entity as described below.

1. Pursuant to Fed. R. Civ. P. 60(b)(6), made applicable in bankruptcy by Fed. R. Bank. P. 9024, after considering the relevant facts and circumstances herein, the Court finds that vacating the Dismissal Order will accomplish the ends of justice and that the Debtor has met its burden and established that there are exceptional circumstances beyond its control which justify vacating the dismissal of the Debtor's Chapter 11 case.

2. Therefore, the Court hereby VACATES its Dismissal Order and orders that the Debtor's Chapter 11 case be restored to the docket and that those orders entered therein be fully REINSTATED.

3. To the extent that the automatic stay under 11 U.S.C. § 362 terminated upon the entry of the Dismissal Order, it is hereby reimposed and effective as of the date of this Order. During the period following dismissal (April 23, 2021) until the date hereof (the "Gap Period"), in the interests of fundamental fairness, the stay is hereby deemed modified for cause so as to be of no force and effect during the Gap Period.

4. Any financial obligations accrued or incurred by the Debtor during the Gap Period shall be treated as post-petition administrative claims, unless ordered otherwise after motion, notice and a hearing. Further, any ordinary course transactions of the Debtor during the Gap Period shall be deemed ratified by this Court, unless ordered otherwise.

5. The deadline ("Bar Date") by which any claimants who have not previously received notice of the Chapter 11 Bar Date, and who might assert prepetition general unsecured claims against the bankruptcy estate of the Debtor, is extended for a period that is thirty (30) days from the date of this Order.

6. To the extent that any Bar Date had not fully run by the date of the Dismissal Order, or is set to expire within 10 days of this Order, for cause shown and in the interest of

justice, the Bar Date is hereby deemed tolled for such claimants during the Gap Period and further extended for an additional thirty (30) days from the date of this Order.

7. The Debtor shall file an amended Chapter 11 plan of reorganization and disclosure statement within thirty (30) days of the date of this Order and proceed, with diligence and dispatch, to a scheduled confirmation hearing.

8. The dismissal of the adversary proceeding *Chip's Southington LLC v. American Express, et al.*, Adv. Proc. No. 21-02005 (which was dismissed without prejudice) is likewise VACATED for cause, and the adversary proceeding is REINSTATED and is hereby scheduled for a pretrial conference on July 29, 2021 at 12:00 PM.

9. A hearing on the Debtor's continued use of cash collateral shall be held in this Court on July 29, 2021 at 12:00 PM, with the Debtor's proposed order to be filed on or before July 21, 2021. Any objection thereto shall be filed by the hearing date.

10. The Office of the United States Trustee shall promptly reappoint a Subchapter V Trustee to the case.

11. The Debtor shall promptly prepare and file debtor-in-possession monthly operating reports for this Chapter 11 case as if it were never dismissed.

12. The Debtor's counsel shall file any proposed amendments or disclosures to its retention application (ECF No. 61) within seven (7) days hereof.

13. The Objections raised by the United States Trustee (ECF No. 228) are hereby OVERRULED or have been resolved by the terms of this Order.

14. A Memorandum of Decision, consistent with the Court's July 14, 2021 bench ruling on the Motion, will issue in support of this Order. This Order shall, notwithstanding, will be immediately effective upon its docketing.

15. The Debtor shall serve a copy of this Order on the U.S. Small Business Administration and the United States Attorney's Office, in addition to all other creditors and parties in interest of record so as to apprise them of the terms hereof and of the pendency of this Chapter 11 case.

IT IS SO ORDERED at Hartford, Connecticut this 16th day of July 2021.

James J. Tancredi
United States Bankruptcy Judge
District of Connecticut