

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

In re:	)	Chapter 11
)	
MONTESQUIEU, INC., <u>et al.</u> ¹	)	Case No. 19-10599 (BLS)
)	
Debtors.	)	Joint Administration Requested
)	

**MOTION OF DEBTORS PURSUANT TO SECTIONS 105(a), 507(a)(8), and 541(d) OF
THE BANKRUPTCY CODE FOR INTERIM AND FINAL ORDERS AUTHORIZING
PAYMENT OF PREPETITION SALES, USE AND FRANCHISE TAXES AND SIMILAR
TAXES AND FEES**

Montesquieu, Inc., (“Holdings”), WG Best Weinkellerei, Inc. dba Montesquieu Winery (“WG Best”) and Montesquieu Corp. (“Montesquieu Corp.” and together with the Holdings and WG Best, the “Debtors”), the debtors-in-possession in the above captioned chapter 11 cases, by and through their proposed undersigned counsel, submit this *Motion Pursuant to Section 105(a), 507(a)(8), and 541(d) of the Bankruptcy Code for Interim and Final Orders Authorizing Payment of Prepetition Sales, Use, and Franchise Taxes and Similar Taxes and Fees* (the “Motion”). In support of this Motion, the Debtors respectfully state as follows:

JURISDICTION

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (M). The Debtors consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final

¹ The Debtors and the last four digits of their respective taxpayer identification numbers include: Montesquieu, Inc. (8069), WG Best Weinkellerei, Inc. dba Montesquieu Winery (California) (0458) and Montesquieu Corp. (California) (4025). The headquarters and service address for the above-captioned Debtors is 8929 Aero Dr, San Diego, California 92123.

order by the Court in connection with this Motion if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested in herein are sections 105(a), 363, and 541(d) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), Bankruptcy Rules 6003 and 6004, and Local Rules 9013-1(m).

BACKGROUND

4. On March 20, 2019 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and property as debtors-in-possession in accordance with sections 1107 and 1108 of the Bankruptcy Code.

5. No party has requested the appointment of a trustee or examiner in these chapter 11 cases, and no committees have been appointed.

6. The factual background relating to the commencement of these chapter 11 cases is set forth in detail in the Declaration of Fonda Hopkins in Support of First Day Motions (the “Fonda Declaration”), are incorporated herein by reference.

RELIEF REQUESTED

7. In the ordinary course of their business, Debtors (a) collect and incur taxes, including Sales and Use Taxes, Franchise Taxes, Personal Property Taxes, Excise Taxes, and related taxes in connection with the operation of their business (collectively, the “Taxes”); (b) collects or incurs fees and similar charges and assessments necessary to operate the business

(collectively, the “Fees”); and (c) remits such Taxes and Fees to various taxing, licensing, regulatory, and other authorities (collectively, the “Authorities”). Debtors are responsible for certain Taxes and Fees. Debtors collect certain other Taxes and Fees from customers or other parties for the benefit of the Authorities. A schedule identifying the Authorities is attached hereto as Exhibit C. Taxes and Fees are remitted and paid by the Debtors through checks and electronic transfers that are processed through their bank accounts. Any failure by Debtor to pay the Taxes and Fees could have a material adverse impact on their ability to operate.

8. By this Motion, Debtors seek entry of interim² and final³ orders (i) authorizing, but not directing, Debtors to negotiate, remit, and pay certain Taxes and Fees (including, but not limited to those described below) as and when they become due in the ordinary course of Debtors’ businesses, including, without limitation, Taxes and Fees subsequently determined on audit or otherwise, to be owed for periods prior to the Petition Date, and (ii) authorizing banks and financial institutions to honor and process checks and related transfers thereto.

9. The Debtors further seek authority to remit Prepetition Tax Obligations (defined below) in an aggregate amount (excluding amounts paid prepetition by checks that have not yet cleared⁴ and amounts that may be subsequently determined on sales tax audit or adjustment to be owed to a particular Authority or party who ordinarily collects the Prepetition Tax Obligations) not to exceed \$59,000, without prejudice to the Debtors’ rights to contest the amount of any prepetition tax obligation on any grounds they deem appropriate.

² A copy of the proposed interim order is attached hereto as Exhibit A.

³ A copy of the proposed final order is attached hereto as Exhibit B.

⁴ Debtors request authority to reissue any amounts paid by check prepetition that have not cleared as of the Petition Date and are dishonored.

10. The Debtors estimate that, as of the Petition Date, they owe the approximate amount in Prepetition Tax Obligations:

Type of Tax	Prepetition Amount
Sales & Use Tax	\$227,000.00
Franchise Tax	\$0.00
Personal Property Tax	\$0.00
Business Licenses, Permits & Other Fees	\$0.00
Total	\$227,000.00

(collectively, the “Prepetition Tax Obligations”).

11. **Miscellaneous Taxes and Fees.** Various state and local laws may require Debtors to obtain and pay fees for a wide range of licenses and permits from a number of local, state, and federal regulatory agencies. To the extent there are prepetition amounts outstanding with respect to these taxes and fees, Debtor requests the authority to pay such amounts.

LEGAL ARGUMENT

12. Payment of Debtors prepetition Taxes and Fees is appropriate under the circumstances because (i) certain of the Taxes and Fees collected are not property of the estate pursuant to section 541(d) of the Bankruptcy Code; (ii) portions of the Taxes and Fees are entitled to priority status under section 507(a)(8) of the Bankruptcy Code; (iii) section 363 of the Bankruptcy Code gives Debtors authority to remit payment on account of Taxes and Fees in the ordinary course of business and in their business judgment, as failure to timely pay the Taxes and Fees will expose Debtors, and its officers and directors, to various penalties, risks, and potential litigation, providing a distraction from Debtors restructuring efforts; and (iv) section 105 of the Bankruptcy Code and the Court's general equitable powers allow the Court to grant the relief sought. Accordingly, payment of prepetition Taxes and Fees by Debtors, and honoring and payment of related checks and fund transfer requests by the Banks, is in the best interest of Debtors' estate and all parties in interest and should be authorized on an emergency basis.

A. Certain Taxes and Fees are not property of the Debtors' Estates pursuant to section 541(d) to the Bankruptcy Code.

13. Section 541(d) of the Bankruptcy Code provides, in relevant part,

“Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d).

14. Some of the Taxes and Fees constitute “trust fund” taxes, which Debtors are required to collect and/or hold in trust for payment to Authorities. Thus, these Taxes and Fees, and similar Taxes and Fees, are not property of Debtor’s estate under section 541 of the Bankruptcy Code. *See Begier v. IRS*, 496 U.S. 53, 59-60 (1990) (holding that prepetition payment of trust fund taxes are not subject to avoidance because such funds do not constitute property of estate); *Shank v. Wash. State Dept of Revenue (In re Shank)*, 792 F.2d 829, 832 (9th Cir. 1986) (sales tax required by state law to be collected by sellers from their customers is a trust fund tax); *DeChiaro v. N.Y. State Tax Comm'n*, 760 F.2d 432, 433-34 (2d Cir. 1985) (same); *Rosenow v. Ill. Dept. of Revenue (In re Rosenow)*, 715 F.2d 277, 279-82 (7th Cir. 1983) (same); *In re Am. Int’l Airways, Inc.*, 70 B.R. 102, 104-05 (Bankr. E.D. PA 1987). A constructive trust may be imposed on collected taxes where there is a reasonable nexus between the funds and the taxes in question. *See Integrated Health Servs., Inc.*, 344 B.R. 262, 270 (Bankr. D. Del. 2006). Because certain Taxes and Fees are not property of Debtors’ estates, these funds may not be used for the satisfaction of creditors’ claims and Debtors should be permitted to pay the funds to the Authorities as they become due.

B. Portions of The Taxes and Fees are entitled to priority status pursuant to section 507(a)(8) of the Bankruptcy Code.

15. For those Taxes and Fees that are property of the estate under section 541 of the Bankruptcy Code, most, if not all, of such Taxes and Fees will be afforded priority status under section 507(a)(8) of the Bankruptcy Code. *See* 11 U.S.C. § 507(a)(8). Moreover, to the extent that such amounts are entitled to priority treatment under section 507(a)(8), Authorities may also attempt to assess interest and penalties. *See* 11 U.S.C. § 507(a)(8)(G) (granting priority status to “a penalty related to a claim of a kind specified in this paragraph and in compensation for actual pecuniary loss”). As priority claims, these Taxes and Fees must be paid in full before Debtors may obtain confirmation of a chapter 11 plan or make distributions to general unsecured nonpriority creditors. *See* 11 U.S.C. § 1129(a)(9)(C). Accordingly, the payment of the Taxes and Fees at this time affects only the timing of the payment for the vast majority of the amounts at issue and, therefore, should not unduly prejudice the rights of other creditors.

16. Furthermore, payment of the Taxes and Fees likely will give Authorities no more than that to which they otherwise would be entitled under a chapter 11 plan of reorganization and will save Debtors the potential interest expense, legal expense, and penalties that might otherwise accrue on the Taxes and Fees during these chapter 11 cases.

C. Section 363 of the Bankruptcy Code provides authority to remit payment of Taxes and Fees in the ordinary course of business.

17. Section 363 of the Bankruptcy Code provides authority for Debtors to pay the Taxes and Fees when they come due. Section 363(c)(1) provides that a debtor in possession “may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of

business without notice or a hearing.” *See* 11 U.S.C. § 363(c)(1). Pursuant to sections 1107 and 1108 of the Bankruptcy Code, Debtors are operating as debtors-in-possession. Debtors seek authorization only to pay the Taxes and Fees in the ordinary course of business to the same extent as it would have paid such Taxes and Fees prepetition. As there are no “significant alterations” between Debtors’ prepetition activities and the relief sought in this Motion, Debtors submit that this Court should authorize the payment of the Taxes and Fees in the ordinary course of business.

18. Alternatively, section 363(b)(1) of the Bankruptcy Code authorizes debtors-in-possession to use property of the estate outside of the ordinary course of business after notice and a hearing. *See* 11 U.S.C. § 363(b)(1). In such cases, a good business reason must be shown to grant the request. *See Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1069-71 (2d Cir. 1983); *Walter v. Sunwest Bank (In re Walter)*, 83 B.R. 14, 19-20 (B.A.P. 9th Cir. 1988).

19. In order to seek relief under section 363(b)(1), a “debtor must articulate some business justification, other than mere appeasement of major creditors, for using [. . .] property out of the ordinary course of business [. . .].” *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (affirming payment of prepetition wages pursuant to Section 363(b)). Paying the Taxes and Fees will benefit Debtors and their creditors by allowing business operations to continue without interruption, interference, or distraction, and to allow Debtors to operate without interference from the Authorities. Therefore, there is a valid business justification for payment of Taxes and Fees in the ordinary course of business.

20. Among the ways that failure to pay Taxes and Fees could materially and adversely impact Debtor and its business operations are the following.

i. Nonpayment of Taxes and Fees would expose Debtors' estates to substantial penalties.

21. Debtors' failure to pay various Taxes and Fees as and when they become due may unnecessarily expose the estates to substantial penalties. Such penalties would receive priority status under Section 507(a)(8) and would detrimentally affect Debtors' creditors and require the expenditure of estate resources. Any litigation entered into by Debtors to contest the priority status of such penalties would require a significant expenditure of time and resources. Furthermore, any penalties assessed on unpaid Taxes and Fees, even if determined to be general unsecured claims, would dilute the potential recovery to general unsecured creditors. Prompt payment of the Taxes and Fees will avoid all of these issues.

ii. Failure to pay the Taxes and Fees may result in unnecessary audits and the exercise of other remedies against Debtors.

22. Any Authority may cause Debtors to be audited if Debtors fail to timely pay all due and owing Taxes and Fees. An audit by a governmental unit to determine a tax liability is not stayed by the automatic stay. *See* 11 U.S.C. § 362(b)(9)(A). Nor is there a stay of any issuance of a notice of tax deficiency, a demand for tax returns, or the making of an assessment for any tax and issuance of a notice of demand for payment of such an assessment. *See* 11 U.S.C. § 362(b)(9)(B)-(D). Such audits, notices, and demands would divert attention and resources away from the Bankruptcy Cases, to the detriment of all parties in interest.

23. Among other actions the Authorities might take as a result of nonpayment of Taxes and Fees are attempts to suspend Debtors' operations, file liens, attempt to lift the automatic stay, or pursue other remedies detrimentally affecting Debtors. The contesting of such actions would

also use up significant estate resources. If any such actions were to succeed, severe limitations or restrictions on Debtors' businesses and their bankruptcy cases might result.

iii. Failure to pay the taxes and fees may affect Debtors' personnel.

24. Authorities may assert that Debtors' officers are personally liable if Debtors fail to meet obligations imposed to remit Taxes and Fees. Many states holds officers of collecting entities personally liable for sales and use taxes owed by entities that they control or manage. To the extent that any of the Taxes and Fees remain unpaid, Debtors' officers could be subject to legal actions during the pendency of this case, which would distract those key individuals from their duties related to Debtors' restructuring.

D. Section 105 of the Bankruptcy Code provides the Court equitable powers to grant the relief sought.

25. The Court may also authorize payment of prepetition Taxes and Fees pursuant to section 105(a) of the Bankruptcy Code. Under the "necessity of payment" doctrine, first enunciated by the Supreme Court in *Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286 (1882), a bankruptcy court may use its equitable powers under section 105 of the Bankruptcy Code to permit a debtor in possession to pay prepetition claims when payment is necessary to allow for the rehabilitation of the debtor or effectuate the debtor's bankruptcy goals. *See Burchinal v. Cent. Wash. Bank (In re Adams Apple, Inc.)*, 829 F.2d 1484, 1490 (9th Cir. 1987); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (approving payment of prepetition wages due to current employees because the court deemed such payments necessary in order to preserve and protect the debtor's business and prospects of a reorganization). Section 105 codifies the Bankruptcy Court's inherent equitable powers, stating that the court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]."

26. Payment of Taxes and Fees will benefit Debtors and their creditors by allowing Debtors to continue operations without interruption and by reducing the amount and priority of claims to be asserted against Debtors' estates. The relief requested is integral to the continuing operation of Debtors' business and their successful reorganization, and is appropriate and consistent with the provisions of the Bankruptcy Code.

27. In light of the foregoing, the relief requested in this Motion is appropriate and is in the best interests of Debtors their estates and their creditors.

E. Cause Exists To Authorize Debtors' Banks To Honor Checks & Electronic Transfers.

28. Debtors further request that all applicable Banks be authorized to receive, process, honor, and pay any and all checks or electronic fund transfers drawn on Debtors' accounts when Debtors request payment of prepetition Taxes and Fees owed to Authorities. Debtors represent that such checks and electronic transfers can be readily identified as relating to authorized payments of Taxes and Fees to Authorities. Accordingly, Debtors believe that checks and electronic transfers other than those for authorized Taxes and Fees will not be honored inadvertently.

NOTICE

29. The Debtors have provided notice of the Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities holding the largest unsecured claims; (c) the Debtors' prepetition lenders; (d) the Internal Revenue Service; (e) the Securities and Exchange Commission; (f) the Delaware Secretary of State; (g) the Delaware Secretary of Treasury; (h) the California Secretary of State; and (i) the California State Treasurer's Office. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

NO PRIOR REQUEST

30. No prior request for the relief sought in this Motion has been made to this or any other court.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter interim and final orders substantially in the form attached hereto as Exhibit A and Exhibit B respectively (i) authorizing, but not directing, Debtors to negotiate, remit, and pay certain Taxes and Fees (including, but not limited to those described below) as and when they become due in the ordinary course of Debtors' businesses, including, without limitation, Taxes and Fees subsequently determined on audit or otherwise, to be owed for periods prior to the Petition Date, and (ii) authorizing banks and financial institutions to honor and process checks and related transfers thereto; (iii) authority to remit Prepetition Tax Obligations in an aggregate amount (excluding amounts paid prepetition by checks that have not yet cleared and amounts that may be subsequently determined on sales tax audit or adjustment to be owed to a particular Authority or party who ordinarily collects the Prepetition Tax Obligations) not to exceed \$59,000.00, without prejudice to the Debtors' rights to contest the amount of any prepetition tax obligation on any grounds they deem appropriate; (iv) scheduling a Final Hearing on the Motion; and (v) granting such other and further relief as the Court deems proper.

Dated: March 20, 2019

FOX ROTHSCHILD LLP

/s/ Thomas M. Horan

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*Proposed Counsel to the Debtors and
Debtors-in-Possession*

EXHIBIT A

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

In re:	)	Chapter 11
)	
MONTESQUIEU, INC. <u>et al.</u> , ¹	)	Case No. 19-10599 (BLS)
)	
Debtors.	)	Jointly Administered
)	
	)	Re: D.I. _____
)	

INTERIM ORDER (I) AUTHORIZING PAYMENT OF PREPETITION SALES, USE AND FRANCHISE TAXES AND SIMILAR TAXES AND FEES (II) AND GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of Montesquieu, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the “Debtors”), for entry of an interim order (this “Interim Order”) authorizing, but not directing, Debtors to negotiate, remit, and pay Taxes and Fees on an interim basis in an amount up to \$59,000 as and when they become due in the ordinary course of Debtors’ businesses, including, without limitation, Taxes and Fees owed for periods prior to the Petition Date, and (ii) authorizing , but not directing, banks and financial institutions to honor and process checks and related transfers thereto; all without prejudice to the Debtors’ rights to contest the amount of any prepetition tax obligation on any grounds they deem appropriate; (iii) scheduling a Final Hearing on the Motion; and (iv) granting such other and further relief as the Court deems proper, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding

¹ The Debtors and the last four digits of their respective taxpayer identification numbers include: Montesquieu, Inc. (8069), WG Best Weinkellerei, Inc. dba Montesquieu Winery (California) (0458) and Montesquieu Corp. (California) (4025). The headquarters and service address for the above-captioned Debtors is 8929 Aero Dr, San Diego, California 92123.

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

pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate under the circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; ; and after due deliberation and sufficient cause appearing therefor, it is hereby ordered that:

1. The Motion is granted as set forth herein.

2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2019 at __:__ .m., prevailing Eastern Standard Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. on _____, 2019; and shall be served on: (a) the Debtors, 8929 Aero Dr., San Diego, CA 92123; (b) proposed counsel to the Debtors, Fox Rothschild LLP, 919 N. Market St., Suite 300, Wilmington, DE 19801, Attn: Thomas M. Horan (thoran@foxrothschild.com); (c) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, DE 19801, Attn: Linda Richenderfer, Esq. (linda.richenderfer@usdoj.gov); (d) counsel to any statutory committee appointed in these chapter 11 cases; and (d) any other such party entitled to notice. In the event no objection to entry of the Final Order on the Motion is timely received, this Court may enter such Final Order without need for the Final Hearing.

3. The Debtors are authorized, but not directed to, negotiate, remit, and pay Taxes and Fees to the Authorities in the ordinary course of Debtors' businesses, without regard to whether such amounts accrued or arose before or after the Petition Date; provided, however, that such payments for prepetition Taxes and Fees shall not exceed an aggregate amount of \$59,000 without further order of this Court.

4. To the extent that a check issued or an electronic funds transfer requested prior to the Petition Date for payment of Taxes and Fees has not cleared Debtors' Banks as of the Petition Date:

- a. The Banks are authorized, but not directed, to receive, process, honor, and pay such checks and/or fund transfer requests, and/or
- b. The Debtors are authorized, but not directed, to issue replacement checks, submit replacement fund transfer requests, or provide other means of payment to the appropriate Authorities to the extent necessary in replacement of any checks or fund transfer requests in respect to pre-petition Taxes and Fees dishonored or rejected as a consequence of the commencement of the Debtors' chapter 11 cases.

5. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

6. Notice of the Motion shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

7. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

9. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Dated: _____, 2019

The Honorable Brendan Linehan Shannon
United States Bankruptcy Judge

EXHIBIT B

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

In re:	)	Chapter 11
)	
MONTESQUIEU, INC. <u>et al.</u> , ¹	)	Case No. 19-10599 (BLS)
)	
Debtors.	)	Jointly Administered
)	
	)	Re: D.I. _____
)	

**FINAL ORDER (I) AUTHORIZING PAYMENT OF PREPETITION SALES, USE AND
FRANCHISE TAXES AND SIMILAR TAXES AND FEES (II) AND GRANTING
RELATED RELIEF**

Upon the motion (the “Motion”)² of Montesquieu, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the “Debtors”), for entry of a final order (this “Final Order”) authorizing, but not directing, Debtors to negotiate, remit, and pay Taxes and Fees on an interim basis in an amount up to \$59,000 as and when they become due in the ordinary course of Debtors’ businesses, including, without limitation, Taxes and Fees owed for periods prior to the Petition Date, and (ii) authorizing , but not directing, banks and financial institutions to honor and process checks and related transfers thereto; all without prejudice to the Debtors’ rights to contest the amount of any prepetition tax obligation on any grounds they deem appropriate; and (iii) granting such other and further relief as the Court deems proper, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. §

¹ The Debtors and the last four digits of their respective taxpayer identification numbers include: Montesquieu, Inc. (8069), WG Best Weinkellerei, Inc. dba Montesquieu Winery (California) (0458) and Montesquieu Corp. (California) (4025). The headquarters and service address for the above-captioned Debtors is 8929 Aero Dr, San Diego, California 92123.

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

157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate under the circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ordered that:

1. The Motion is granted as set forth herein.

2. The Debtors are authorized, but not directed to, negotiate, remit, and pay Taxes and Fees to the Authorities in the ordinary course of Debtors' businesses, without regard to whether such amounts accrued or arose before or after the Petition Date; provided, however, that such payments for prepetition Taxes and Fees shall not exceed an aggregate amount of \$59,000 without further order of this Court.

3. To the extent that a check issued or an electronic funds transfer requested prior to the Petition Date for payment of Taxes and Fees has not cleared Debtors' Banks as of the Petition Date:

- a. The Banks are authorized, but not directed, to receive, process, honor, and pay such checks and/or fund transfer requests, and/or
- b. The Debtors are authorized, but not directed, to issue replacement checks, submit replacement fund transfer requests, or provide other means of payment to the appropriate Authorities to the extent necessary in replacement of any checks or

fund transfer requests in respect to pre-petition Taxes and Fees dishonored or rejected as a consequence of the commencement of the Debtors' chapter 11 cases.

4. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

5. Notice of the Motion shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

6. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

8. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Dated: _____, 2019

The Honorable Brendan Linehan Shannon
United States Bankruptcy Judge

Exhibit C**Authorities**

State	Authority	Last Four Digits of Account or License Number
WG Best dba Montesquieu Winery		
AR	State of Arkansas ABC Division	0-SLS
AR	State of Arkansas ABC Division	6417
AZ	Arizona Dept. of Liquor	01980
AZ	Arizona Dept. of Liquor	3096
CA	California Department of Alcoholic Beverage Control	131 1
CA	California Department of Alcoholic Beverage Control	4095
CA	California Department of Alcoholic Beverage Control	4252
CA	California Department of Alcoholic Beverage Control	131 1
CA	California Department of Alcoholic Beverage Control	5131
CA	California Department of Alcoholic Beverage Control	5131
CA	California Department of Alcoholic Beverage Control	7563
CA	Franchise Tax Board	0011
City of SD	San Diego County Treasurer Tax Collector	2550
CO	Colorado Dept. of Revenue	0000
CT	Connecticut Dept. of Revenue	0979
CT	Treasurer, State of Connecticut	6214
CT	Treasurer, State of Connecticut	4-001
FED	Producer License - SD (BWC- CA-6265)	CA-W-2689
FED	Producer License - SD (BWC- CA-6032)	CA-W-2402
FED	Wholesaler License	CA-P-6941
FED	Importer License	CA-I-3730
FL	Florida Dept of Revenue	995-2
FL	Florida Dept. of State	3-001
GA	Georgia Dept. of Revenue	1592

State	Authority	Last Four Digits of Account or License Number
GA	Georgia Dept. of Revenue	3862
IA	Iowa Dept. of Comm Alcoholic Bev Division	0450
IL	Illinois Dept. of Revenue	6869
IN	Indiana Dept. of Revenue	0539
IN	Indiana Secretary of State	7639
KS	Kansas Dept. of Revenue	68-11
KS	Kansas Dept. of Revenue	8F-01
LA	Louisiana Dept. of Revenue	5584
LA	Louisiana Dept. of Revenue	3-001
MA	Massachusetts Dept. of Revenue	1367
MI	Michigan Liquor Control Commission/ State of Michigan	7623
MI	Michigan Liquor Control Commission/ State of Michigan	2011
MI	Michigan Liquor Control Commission/ State of Michigan	0458
MD	Comptroller of MD	0182
MO	Missouri Director of Revenue	6672
MT	Montana Secretary of State/Montana Department of Revenue	2-250
NC	North Carolina Dept. of Revenue/State of North Carolina	72DS
NC	North Carolina Dept. of Revenue/State of North Carolina	0713
ND	North Dakota Office of State Tax Commissioner	59 00
ND	North Dakota Office of State Tax Commissioner	0853
NE	Nebraska Liquor Control Commission	3282
NE	Nebraska Dept. of Revenue	9776
NH	New Hampshire Liquor Commission	4433

State	Authority	Last Four Digits of Account or License Number
NM	New Mexico Alcoholic and Gaming Division/New Mexico Taxation and Revenue Dept.	0567
NV	Nevada Dept. of Taxation	1-001
NY	New York State Liquor Authority/New York State Tax Dept.	0458
NY	New York State Liquor Authority/New York State Tax Dept.	5801
NY	New York State Liquor Authority/New York State Tax Dept.	0458
NY	New York State Liquor Authority/New York State Tax Dept.	7917
OH	Ohio Dept. of Commerce/Ohio Division of Liquor Control	220-S
OH	Ohio Dept. of Commerce/Ohio Division of Liquor Control	9842
OR	Oregon Dept. of Revenue/Oregon Liquor Control Commission	7772
PA	Sales Tax License - Retail	67597480
PA	Direct Wine Shippers License	DWS38709
SC	South Carolina Dept. of Revenue	1-PWS
SC	South Carolina Dept. of Revenue	4-PBP
SC	South Carolina Dept. of Revenue	2144
TN	Tennessee Alcoholic Beverage Commission	3701
TX	Texas Comptroller of Public Accounts/ Texas Alcoholic Bev. Commission	458-1
TX	Texas Comptroller of Public Accounts/ Texas Alcoholic Bev. Commission	9533
TX	Texas Comptroller of Public Accounts/ Texas Alcoholic Bev. Commission	5244

State	Authority	Last Four Digits of Account or License Number
VA	Virginia Dept. of Alcoholic Beverage Control/ Virginia Dept. of Tax	7539
VA	Virginia Dept. of Alcoholic Beverage Control/ Virginia Dept. of Tax	0165
VT	Vermont Dept. of Liquor Control	CL-01
VT	Vermont Dept. of Taxes	8F-01
WA	Vermont Dept. of Liquor Control	2480
WI	Wisconsin Dept. of Revenue	09-02
WI	Wisconsin Dept. of Revenue	09-04
Montesquieu Corp licenses and permits		
City of Newport Beach	City of Newport Beach	0362
City of SD	City of San Diego	0169
City of SD	City of San Diego	0105
VA	Virginia Dept. of Alcoholic Beverage Control/ Virginia Dept. of Tax	450-9
VA	Virginia Dept. of Alcoholic Beverage Control/ Virginia Dept. of Tax	63-02
VA	Virginia Dept. of Alcoholic Beverage Control/ Virginia Dept. of Tax	0047