

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

In re:)	Chapter 11
)	
THE GREAT ATLANTIC & PACIFIC TEA)	Case No. 10-24549 (RDD)
COMPANY, INC., <i>et al.</i>)	
)	
Debtors.)	Jointly Administered

**ORDER AUTHORIZING AND APPROVING
EXPEDITED PROCEDURES FOR THE DEBTORS TO
REJECT OR ASSUME EXECUTORY CONTRACTS**

Upon the motion (the “*Motion*”)¹ of The Great Atlantic & Pacific Tea Company, Inc. (“*A&P*”) and certain of its affiliates, as debtors and debtors in possession (collectively, the “*Debtors*”) for the entry of an order (this “*Order*”) authorizing and approving expedited procedures for the Debtors to reject or assume certain executory contracts (collectively, the “*Contracts*”), 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 consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and the Debtors having provided adequate and appropriate notice of the Motion under the circumstances; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is granted to the extent provided herein.

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

2. The following procedures (the “**Rejection Procedures**”) are approved in connection with rejecting Contracts:

- a. Rejection Notice. The Debtors will file a notice (the “**Rejection Notice**”) to reject a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which Rejection Notice shall set forth, among other things: (i) the Contract(s) to be rejected; (ii) the names and addresses of the counterparties to such Contract(s); (iii) the proposed effective date of the rejection for each such Contract(s), which date may not be before the date of service of the Rejection Notice (the “**Rejection Date**”); and (iv) the deadlines and procedures for filing objections to the Rejection Notice (as set forth below).
- b. Service of the Rejection Notice. The Debtors will cause the Rejection Notice to be served: (i) by overnight delivery upon the Contract counterparties affected by the Rejection Notice and (ii) by e-mail upon: (A) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York, 10004, Attn.: Susan Golden, Attn.: Richard Morrissey; (B) counsel to the agent for the Debtors’ postpetition secured lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue New York, New York, 10017, Attn.: Donald S. Bernstein, Attn.: Marshall S. Huebner; (C) counsel for Wilmington Trust Company as indenture trustee for the Debtors’ prepetition unsecured notes, Covington & Burling LLP, 620 Eighth Ave, New York, New York, 10018, Attn.: Michael B. Hopkins, Attn.: Ronald A. Hewitt; (D) counsel for The Bank of New York Mellon Trust Company, N.A., as successor trustee and collateral agent for the Debtors’ prepetition secured notes, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036, Attn.: Glenn E. Siegel, Attn.: Craig P. Druehl; (E) counsel for the official committee of unsecured creditors, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn.: Dennis F. Dunne, Attn.: Abhilash M. Raval, Attn.: Matthew S. Barr; and (F) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002.
- c. Objection Procedures. Parties objecting to a proposed rejection must file and serve a written objection so that such objection is filed with the Court and is actually

received by the following parties (collectively, the “*Objection Service Parties*”) no later than ten (10) calendar days after the date the Debtors serve the relevant Rejection Notice: (i) the Debtors, 2 Paragon Road, Montvale, New Jersey 07645, Attn.: Christopher W. McGarry; (ii) counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York, 10022, Attn.: Ray C. Schrock, Schrock, 300 North LaSalle, Chicago, Illinois 60654, Attn.: James J. Mazza Jr.; (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York, 10004, Attn.: Susan Golden, Attn.: Richard Morrissey; (iv) counsel to the agent for the Debtors’ postpetition secured lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue New York, New York, 10017, Attn.: Donald S. Bernstein, Attn.: Marshall S. Huebner; (v) counsel for Wilmington Trust Company as indenture trustee for the Debtors’ prepetition unsecured notes, Covington & Burling LLP, 620 Eighth Ave, New York, New York, 10018, Attn.: Michael B. Hopkins, Attn.: Ronald A. Hewitt; (vi) Counsel for The Bank of New York Mellon Trust Company, N.A., as successor trustee and collateral agent for the Debtors’ prepetition secured notes, Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036, Attn.: Glenn E. Siegel, Attn.: Craig P. Druehl; (vii) counsel for the official committee of unsecured creditors, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn.: Dennis F. Dunne, Attn.: Abhilash M. Raval, Attn.: Matthew S. Barr; and (viii) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002.

- d. Event of No Objection. Absent an objection being filed within ten (10) calendar days of the date the Debtors serve a Rejection Notice, the rejection of such executory contract shall be deemed effective on the Rejection Date without further notice, hearing or order of this Court.
- e. Unresolved Objections. If an objection to the rejection of any Contract(s) is/are timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract(s) to which such objection relates. If such objection is overruled or withdrawn, such Contract(s) shall be rejected with the effective date of such rejection to be as set forth in the

Rejection Notice or such other date to which the Debtors and the counterparty to such Contract(s) have agreed.

3. Counterparties to Contracts that are rejected pursuant to the Rejection Procedures are hereby required to file a proof of claim relating to the rejection of such Contracts, if any, by the later of (a) any applicable claims bar date established in these chapter 11 cases or (b) thirty (30) days after the Rejection Date.

4. The following procedures (the “*Assumption Procedures*”) are approved in connection with assuming Contracts:

- a. Assumption Notice. The Debtors will file a notice (the “*Assumption Notice*”) to assume a Contract or Contracts pursuant to section 365 of the Bankruptcy Code, which Assumption Notice shall set forth, among other things: (i) the Contract(s) to be assumed; (ii) the names and addresses of the counterparties to such Contract(s); (iii) the proposed effective date of the assumption for each such Contract(s), which date may not be before the date of service of the Assumption Notice; (iv) the proposed cure amount, if any; and (v) the deadlines and procedures for filing objections to the Assumption Notice (as set forth below).
- b. Service of the Assumption Notice. The Debtors will cause the Assumption Notice to be served: (i) by overnight delivery upon the Contract counterparties affected by the Assumption Notice and (ii) by e-mail upon (A) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York, 10004, Attn.: Susan Golden, Attn.: Richard Morrissey; (B) counsel to the agent for the Debtors’ postpetition secured lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue New York, New York, 10017, Attn.: Donald S. Bernstein, Attn.: Marshall S. Huebner; (C) counsel for Wilmington Trust Company as indenture trustee for the Debtors’ prepetition secured and unsecured notes, Covington & Burling LLP, 620 Eighth Ave, New York, New York, 10018, Attn.: Michael B. Hopkins, Attn.: Ronald A. Hewitt; (D) counsel for The Bank of New York Mellon Trust Company, N.A., as successor trustee and collateral agent for the Debtors’ prepetition secured notes, Dechert LLP, 1095 Avenue of the Americas, New York,

New York 10036, Attn.: Glenn E. Siegel, Attn.: Craig P. Druehl; (E) counsel for the official committee of unsecured creditors, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn.: Dennis F. Dunne, Attn.: Abhilash M. Raval, Attn.: Matthew S. Barr; and (F) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002.

- c. Objection Procedures. Parties objecting to a proposed assumption, including to the proposed cure amount, must file and serve a written objection so that such objection is filed with the Court and is actually received by the Objection Service Parties no later than ten (10) calendar days after the date the Debtors serve the relevant Assumption Notice.
- d. Event of No Objection. If an objection to the assumption of any Contract(s) is/are not timely filed, then: (i) the Debtors' proposed cure amount shall be binding upon the non-debtor party to the Contract for all purposes in these chapter 11 cases and will constitute a final determination of the assumption; and (ii) the effective date of such assumption will be as set forth in the Assumption Notice or such other date to which the Debtors and the counterparty or counterparties to such Contract(s) have agreed.
- e. Unresolved Objections. If an objection to the assumption of any Contract(s) is/are timely filed and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the objection for the Contract(s) to which such objection relates. If such objection is overruled or withdrawn, such Contract(s) shall be assumed with the effective date of such assumption to be as set forth in the Assumption Notice or such other date to which the Debtors and the counterparty to such Contract(s) have agreed.

5. Approval of the Contract Procedures and this Order will not prevent the Debtors from seeking to reject or assume a Contract or Contracts by separate motion.

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

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

White Plains, New York
Date: _____, 2011

United States Bankruptcy Judge