

Alter & Brescia, LLP
Attorneys for Debtor
550 Mamaroneck Avenue, Suite 401
Harrison, New York 10528
(914) 670-0030

Hearing Date: November 29, 2016
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

BEEKMAN LIQUORS, INC.

Debtor.

Chapter 11

Case No. 16-11370(MG)

-----X

NOTICE OF HEARING ON DEBTOR'S APPLICATION PURSUANT TO SECTIONS 363(b), (f) AND (m) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002 AND 6004 FOR AN ORDER (i) AUTHORIZING AND APPROVING CONTRACT OF SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS, FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS; (ii) AUTHORIZING PAYMENT TO DEBTOR'S SECURED CREDITORS AT THE CLOSING; (iii) AUTHORIZING PAYMENT OF THE EARNED BROKER'S COMMISSION AT THE CLOSING; (iv) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF THE DEBTOR'S COMMERCIAL LEASE WITH 277 PARK AVENUE LLC AND PAYMENT OF THE LANDLORD'S PRE-PETITION ARREARS AT THE CLOSING; (v) GRANTING GOOD FAITH PURCHASER STATUS TO PURCHASER; (vi) GRANTING RELATED RELIEF PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE, IF DEBTOR'S ASSETS ARE SOLD TO A THIRD PARTY

PLEASE TAKE NOTICE that upon the application of Beekman Liquors, Inc. (the "Debtor"), the above captioned Debtor, by its attorneys, Alter & Brescia, LLP, the undersigned will move this Court, before the Honorable Martin Glenn, United States Bankruptcy Judge at the United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, New York 10004 in Courtroom 523, on the **29th day of November, 2016 at 10:00 a.m.** (the "Hearing Date"), or as soon thereafter as counsel may be heard, for an Order pursuant to Sections 363(b), (f) and (m) of the

Bankruptcy Code and Bankruptcy Rules 2002 and 6004 (i) Authorizing and Approving Contract of Sale of Substantially all of the Debtor's Assets, Free and Clear of All Liens, Claims, Encumbrances and Interests; (ii) Authorizing Payment to Debtor's Secured Creditors at the Closing; (iii) Authorizing Payment of the Earned Broker's Commission at the Closing; (iv) Authorizing the Assumption and Assignment of the Debtor's Commercial Lease with 277 Park Avenue LLC and Payment of the Landlord's Pre-Petition Arrears at the Closing; (v) Granting Good Faith Purchaser Status to Purchaser; (vi) Granting Related Relief pursuant to Section 365 of the Bankruptcy Code, If Debtor's Assets are Sold to a Third Party, together with such other and further relief as is just, proper and equitable under the circumstances.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief requested in the Application must be made in writing, filed electronically with the United States Bankruptcy Court for the Southern District of New York at the Bankruptcy Court's web address www.nysb.uscourts.gov, with a copy delivered directly to the Chambers of Honorable Martin Glenn, and served upon (i) Alter & Brescia, LLP, 550 Mamaroneck Avenue, Suite 401, Harrison, New York 10528, Attn: Bruce R. Alter, Esq. and (ii) The Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn: Paul Schwartzberg, Esq., so as to be received at least three (3) business days prior to the Hearing Date.

Dated: Harrison, New York
October 27, 2016

ALTER & BRESCIA, LLP
Attorneys for Debtor, Beekman Liquors, Inc.

By: /s/ Bruce R. Alter
Bruce R. Alter

Alter & Brescia, LLP
Attorneys for Debtor
550 Mamaroneck Avenue, Suite 401
Harrison, New York 10528
(914) 670-0030

Hearing Date: November 29, 2016
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 11

BEEKMAN LIQUORS, INC.

Case No. 16-11370(MG)

Debtor.
-----X

**APPLICATION PURSUANT TO SECTIONS 363(b), (f) AND (m) OF THE
BANKRUPTCY CODE AND BANKRUPTCY RULES 2002 AND 6004 FOR AN
ORDER: (i) AUTHORIZING AND APPROVING CONTRACT OF SALE OF
SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS, FREE AND CLEAR OF ALL
LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS; (ii) AUTHORIZING PAYMENT
TO DEBTOR'S SECURED CREDITORS AT THE CLOSING; (iii) AUTHORIZING
PAYMENT OF THE EARNED BROKER'S COMMISSION AT THE CLOSING; (iv)
AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF THE DEBTOR'S
COMMERCIAL LEASE WITH 277 PARK AVENUE LLC AND PAYMENT OF THE
LANDLORD'S PRE-PETITION ARREARS AT THE CLOSING; (v) GRANTING GOOD
FAITH PURCHASER STATUS TO PURCHASER; (vi) GRANTING RELATED RELIEF
PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE, IF DEBTOR'S
ASSETS ARE SOLD TO A THIRD PARTY**

**TO: THE HONORABLE MARTIN GLENN,
UNITED STATES BANKRUPTCY JUDGE:**

Beekman Liquors, Inc., the above captioned debtor and debtor-in-possession ("Debtor", "Seller" or "Beekman"), by its attorneys, Alter & Brescia, LLP, as and for its application pursuant to Sections 363(b), (f) and (m) of Title 11 of the United States Code (the "Bankruptcy Code") and Federal Rules of Bankruptcy Procedure ("Bankruptcy Rule(s)") 2002 and 6004 for an Order (i) authorizing and approving the sale of substantially all of the Debtor's assets, pursuant to a contract of sale entered

into with Angela Kwon, to be conveyed free and clear of all liens, claims, encumbrances and interests; (ii) Authorizing Payment to Debtor's Secured Creditors at the Closing; (iii) Authorizing Payment of the Earned Broker's Commission at the Closing; (iv) Authorizing the Assumption and Assignment of the Debtor's Commercial Lease with 277 Park Avenue LLC and Payment of the Landlord's Pre-Petition Arrears at the Closing; (v) Granting Good Faith Purchaser Status to Angela Kwon; and (vi) Granting Related Relief pursuant to Section 365, if the Debtor's Assets are Sold to a Third Party, together with other related relief, respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334 and the "Standing Order of Referral of Cases to Bankruptcy Judges" for the Southern District of New York, dated July 10, 1984 (Ward, C.J.). Venue of these proceedings and this Application is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (M), (N) and (O).

BACKGROUND

2. On or about May 13, 2016 (the "Filing Date"), Debtor filed a voluntary petition for reorganization pursuant to Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. The Debtor has continued in possession of its property and the management of its affairs as debtor-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

3. No Official Committee of Unsecured Creditors has been appointed. No trustee or examiner has been appointed.

4. The Debtor operates a liquor store located at 500 Lexington Avenue, New York, New York 10017 (the "Premises"), where it has been operating since 1996.

5. The Debtor is the tenant of a lease (the "Lease") for the Premises, leased from 277 Park Avenue LLC ("Landlord") pursuant to a written Lease dated March 20, 1996, which Lease was modified and extended thereafter on March 4, 2011 for a term ending on March 31, 2021. As of the Filing Date, Debtor owes the Landlord back rent in the amount of \$148,796.87, of which the sum of \$75,178.62 is secured by a cash security deposit held by Landlord on Debtor's behalf. Debtor's obligations to the Landlord are current post-petition. By Stipulation and Order approved by the Court on August 19, 2016, the Debtor's time within which it must elect to assume or reject the Lease was extended through and including December 9, 2016.

6. As of the Filing Date, Debtor's assets consisted of the following: (a) Cash in the bank in the amount of \$3,736.00; (b) Security Deposit with the landlord in the amount of \$75,178.62; (c) Liquor Inventory of approximately \$497,512.00; (d) Office Equipment and Fixtures of minimal, if any, value; (e) Chrysler Town & Country Minivan; (f) Commercial Lease for the Premises with 277 Park Avenue, LLC; and (g) a NYS Liquor License

7. As of the Filing Date, as evidenced by proofs of claims filed in this matter, Debtor has a total of \$492,075.96 of secured claims owed to the following secured creditors in the following priority: (a) First Priority Secured Claim to American Express Bank, FSB in the amount of \$97,507.68 per UCC-1 Financing Statement filed July 30, 2014; (b) Second Priority Secured Claim to New York State Department of Tax and Finance in the total amount of \$84,120.66 per New York State Tax Warrants entered

September 23, 2014 and April 28, 2015; (c) Third Priority Secured Claim to Merchant Cash & Capital LLC in the amount of \$235,269.00 per UCC-1 Financing Statement filed March 21, 2016; and (d) a Secured Claim to 277 Park Avenue, LLC in the amount of \$75,178.62 against a cash security deposit held by Landlord on Debtor's behalf in connection with the Lease.

THE CONTRACT OF SALE

8. The efforts employed by the Debtor to sell its assets were successful and resulted in the Agreement of Sale with Purchaser, Angela Kwon (hereinafter "Purchaser" or "Kwon"), for the purchase price of \$325,000.00 plus the cost of the alcoholic beverage inventory (the "Purchase Price"). Purchaser's offer was for "all cash" and has no mortgage contingency. Debtor intends to convey and transfer to Purchaser all of its assets and assign to the Purchaser all of its interest in the Lease and in the security deposited with the Landlord under the Lease, in accordance with the Agreement of Sale between Debtor and Kwon (hereinafter "the Agreement"), dated October 13, 2016, a copy of which is attached hereto as Exhibit "A".

9. The following are some of the key provisions of the Agreement:

(a) Seller agrees to sell and the Purchaser agrees to Purchase the liquor/wine store business including the Schedule "A" chattels (all furniture, fixtures and shelving now situated at the Premises), the good will, telephone number and Lease for \$325,000.00, plus the cost of the alcoholic beverage inventory, which Debtor currently estimates at approximately \$450,000.

(b) Purchaser agrees to pay to Seller the sum of \$32,500.00 (the "Cash Deposit") upon execution of the Agreement with the balance due at the closing of the Agreement. Mehler & Buscemi, Esqs. ("Escrowee"), Special Counsel to the Debtor and Escrowee pursuant to the Agreement, are in receipt of the Cash Deposit.

(c) Purchaser agrees to pay the sum of \$75,300.00 at the closing to Seller representing the security deposit posted by Seller with the Landlord of the Premises.

(d) In addition, Purchaser will pay to the NYS Sales Tax Bureau all sales tax on taxable chattels being sold.

(e) All assets being sold will be free and clear of all liens, claims, encumbrances and interests and all "as is" and "where situated".

(f) Purchaser has represented and warranted that to the best of Purchasers' knowledge the Purchaser is a proper person to receive a New York State Liquor Authority off premises liquor license.

(g) Seller will pay the commission owed to Isa Realty Group, LLC in connection with the Agreement in the amount of \$32,500.00 (representing 10% of the Purchase Price of \$325,000) at the closing from the proceeds of the sale.

(h) In the event that a higher and better offer is accepted and approved by the Bankruptcy Court, Purchaser shall be entitled to a \$10,000.00 breakup fee.

(i) The Agreement is subject to and conditioned upon the approval by

the State Liquor Authority of the application by the Purchaser or its assigns for an off-premises liquor license, and the approval by the United States Bankruptcy Court of the Agreement and the assignment of the Seller's Lease to Purchaser.

10. The highlights of the Agreement are the purchase price of \$325,000.00, the absence of a financing contingency, a deposit of \$32,500.00 currently held in escrow and Purchaser already having provided proof of Purchaser having sufficient funds available to her to complete the purchase herein.

11. As of the time of the execution of the Agreement with Kwon, Kwon's offer was the highest offer made for the assets of the Debtor from a potential purchaser evidencing their financial ability to complete the transaction. One higher offer was made for the sale of the Debtor's assets (at a purchase price of \$535,000.00) but it ultimately became apparent that the offeror did not have sufficient funds to complete the transaction. Any other offer made was for a lesser amount and potentially involved financing. Therefore, Kwon's offer for \$325,000 plus the cost of the alcoholic beverage inventory for "all cash" is not only the highest offer, but the best offer for the Debtor's assets. Notwithstanding the foregoing, Debtor and his counsel will continue to meet with, consider and negotiate with any parties showing a potential interest in purchasing the Debtor's assets, as the Debtor believes that the assets should be made available to other potential purchasers, in accordance with the provisions of Section 363 of the Bankruptcy Code.

12. The Debtor, therefore, seeks the approval of the sale to Kwon pursuant to the terms and conditions of the Agreement, but subject to the provisions of Section 363 of the Bankruptcy Code. The instant Motion is being served upon all parties who

expressed an interest in purchasing the assets, prepetition and post-petition, and are herein advised that unless a higher and better offer is made to purchase the assets as set forth in the Agreement, the Debtor seeks Bankruptcy Court approval of the sale of the Debtor's assets to Kwon in accordance with the Agreement.

13. The proposed Agreement with Kwon will yield proceeds to Debtor of approximately \$850,300.00. Said amount is sufficient to satisfy the following in full at the closing (a) the Broker's commission of \$32,500.00; (b) payment to the Landlord of \$148,796.87 upon the assumption and assignment of the Lease which is required under the Agreement; (c) all of the Debtor's secured debt in the approximate amount of \$346,629 (as Merchant Cash & Capital LLC has agreed to payment of \$165,000 as payment in full of its claim, if received by January 31, 2017, reducing the total amount of secured debt by \$70,269.00), and (d) all closing costs of the sale transaction. The remaining balance of the sale proceeds will be deposited into and held in escrow by the Escrowee and only distributed in accordance with the further orders of the Bankruptcy Court. It is believed that the balance of the sale proceeds will be sufficient to pay all administrative claims in full and partial payment to priority creditors.

14. Resolution of the Debtor's secured obligations through the sale of the Debtor's assets will enable Debtor to deal with its remaining creditors by formulating a plan of reorganization. The Debtor anticipates filing a plan of reorganization to be confirmed after approval of the instant Motion. As such, the Debtor submits that the relief sought herein is in the best interests of the estate and its creditors.

RELIEF REQUESTED AND THE LEGAL BASIS THEREFORE

15. Debtor submits this Application for authority to sell the Debtor's assets pursuant to the terms and provisions of the Agreement, free and clear of all liens, claims and encumbrances, pursuant to Sections 363(b) and (f) of the Bankruptcy Code and Bankruptcy Rule, 6004.

16. Section 363(b)(1) of the Bankruptcy Code provides, in pertinent part, as follows:

"The trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate..."

17. In fact, Bankruptcy Rule 6004 specifically addresses the procedures required for a private sale, as contemplated herein and provides as follows:

- (f) Conduct of sale not in the ordinary course of business
 - (1) Public or private sale
 - All sales not in the ordinary course of business may be by private sale or by public auction.

18. "When a debtor desires to sell an asset, its main responsibility, and the primary concern of the bankruptcy court, is the maximization of the value of the asset sold." *In re Integrated Resources, Inc.*, 135 B.R. 746, 750 (Bankr. S.D.N.Y. 1992), *aff'd*. 147 B.R. 650 (S.D.N.Y. 1992).

19. The Debtor believes that the Purchase Price for the sale of the assets is the highest and best price and that the best interests of the estate and its creditors shall be well served with the proposed sale as it will result in the resolution of all of Debtor's secured obligations and will enable Debtor to deal with any remaining priority and unsecured creditors by formulating a plan of reorganization.

20. The Purchaser is represented by separate counsel and has been since the outset of its negotiations with the Debtor and has no connection or relationship with the Debtor or its attorneys.

21. Because the Debtor is a liquor store, subject to the rules and regulations of the New York State Liquor Authority (the "Authority"), a potential purchaser must meet certain criteria in order to obtain a liquor license, which is a contingency to the Agreement. Such criteria include a) experience in the field (or the hiring of a manager with experience in the field which must be disclosed at the outset); b) Applicant/Purchaser has never been convicted of any offense or crime; nor has any license or application obtained by Applicant/Purchaser under the Alcohol Beverage Control Law ever been suspended, canceled, revoked, disapproved or otherwise involuntarily terminated; and c) Applicant/Purchaser must have sufficient funds available to him to complete the proposed purchase and must show where such funds are coming from.

22. In addition, the Authority prohibits the holder of a New York State Liquor License from owning/operating (whether directly or indirectly) more than one (1) liquor store in the State of New York. Furthermore, the Authority will only approve a certain number of liquor stores operating within any given area.

23. The Authority's restrictive requirements and application process make it very difficult, if not impossible, to conduct an auction of the Debtor's assets. Not only do the Authority's requirements significantly reduce the number of potential applicants but the approval process itself makes it impossible, as it is unlikely each potential bidder could complete the approval process in time to bid at a scheduled auction.

24. Further complicating the matter is the timing in which Debtor must elect to assume or reject the Lease. By Stipulation and Order approved by the Court on August 19, 2016, the Debtor's time within which it must elect to assume or reject the Lease was extended through and including December 9, 2016. Approval of the within Agreement enables Debtor to assume its lease and pay the arrears to the Landlord in full, thus reducing further monthly rent payments to the Landlord of approximately \$35,000.00 and eliminating any rejection claim the Landlord may have, which ultimately would significantly reduce the amount of the recovery to other priority or general unsecured creditors. Given the timing associated with assuming or rejecting the Lease, and the complexities associated with the Authority's requirements for issuing a liquor license, an auction cannot be scheduled and held prior to the expiration of the Debtor's lease assumption period, certainly not without incurring an enormous amount of administrative debt, which would only require a potential bid to be that much higher. Moreover, the Landlord insists upon its right to screen the Purchaser and object to this motion if they deem the Purchaser unacceptable.

25. In light of the foregoing, the Debtor submits that the private sale of the Debtor's assets is reasonable and a sale at auction is not warranted as it will not yield any greater purchase price or any greater recovery to the creditors of the Debtor's estate, after considering all expenses attributable to an auction, the Lease issue and the complexities of the Authority's procedures. The Debtor will continue to entertain other offers, pending this Court's approval of the Agreement and the actual closing thereof.

REQUIREMENTS FOR PRE-CONFIRMATION SALE

26. The Debtor submits that it is in the best interest of the estate to obtain immediate approval of the Agreement so that Debtor can assume its Lease and pay all arrears to the Landlord, pay all secured creditors and ultimately file a plan of liquidation dealing with the remaining creditor body.

27. It is well settled that a sale of a debtor's assets may take place prior to the filing and confirmation of a plan of reorganization, if supported by the sound business judgment of the debtor's management. See *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003); *Official Comm. Of Unsecured Creditors of LTV Aerospace and Defense Co. v. LTV Corporation (In re Chateaugay Corp.)*, 973 F.2d 141, 143-144 (2d Cir. 1992); *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983).

28. As set forth above, sound business judgment exists herein for the sale of the assets to the proposed Purchaser. This proposed sale will yield sufficient funds to deal with all of the secured creditors, as well as Debtor's Landlord, and enable Debtor to formulate a plan of liquidation to deal with all other classes of creditors. The Debtor presently believes that the proposed Purchase Price is the highest and best offer and that the estate will not benefit by conducting an auction. In light of the extensive marketing activities that have been undertaken by the Debtor, an auction process would be duplicative of efforts already undertaken and would simply confirm that the Debtor has already procured the highest and best offer and would be a waste of estate resources.

29. Based upon the foregoing, it is respectfully submitted that sound business judgment exists for a pre-confirmation sale of the assets on the terms and conditions set forth in the respective Agreement.

**SALE FREE AND CLEAR OF ALL
LIENS, CLAIMS AND ENCUMBRANCES**

30. Section 363(f) of the Bankruptcy Code provides that a debtor in possession may sell property free and clear of liens, claims and encumbrances with any such encumbrances attaching to the net proceeds of the sale, if one of the following conditions is satisfied:

- (1) applicable nonbankruptcy law permits the sale of such property free and clear of such interest;
- (2) the lien holder or claimholder consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) the lien holder or claimholder could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

See 11 U.S.C. §363(f).

31. The Property is encumbered by secured claims in the total amount of \$492,075.96 in the following priority: (a) First Priority Secured Claim to American Express Bank, FSB in the amount of \$97,507.68; (b) Second Priority Secured Claim to New York State Department of Tax and Finance in

the total amount of \$84,120.66; (c) Third Priority Secured Claim to Merchant Cash & Capital LLC in the amount of \$235,269.00; and (d) a Secured Claim to 277 Park Avenue, LLC in the amount of \$75,178.62 against a cash security deposit held by Landlord on Debtor's behalf in connection with the Lease.

32. The Debtor seeks authority to satisfy all of the secured claims as set forth above (the Landlord's in the amount of \$148,797.00 through the assumption and assignment of the Lease and Merchant Cash & Capital LLC's in the agreed upon reduced amount of \$165,000.00) in full from the sale proceeds of the sale of the Debtor's assets to Kwon. Total payments to the secured creditors and Landlord total \$495,426.00, leaving approximately \$322,374.00 in surplus proceeds ("the Surplus Proceeds"), after adjustments at closing and payment of Isa Realty's \$32,500 broker's commission. The Surplus Proceeds will be deposited into and held in escrow by the Escrowee and only distributed in accordance with the further orders of the Bankruptcy Court. Said proceeds will be utilized to fund Debtor's plan of liquidation.

33. In light of the fact that the Debtor anticipates sufficient proceeds to satisfy all of the liens on the Debtor's assets and provide Surplus Proceeds, it is respectfully submitted that the elements of Section 363(f) of the Bankruptcy Code are satisfied. Debtor believes it will also have some additional funds in its operating account which will be utilized for plan payments.

**REQUEST FOR AUTHORIZATION TO PAY CERTAIN PRE-PETITION
SECURED DEBTS AND CLOSING COSTS
PRIOR TO CONFIRMATION OF A PLAN OF LIQUIDATION**

34. In connection with the closing of the Agreement, the Debtor intends to pay its secured creditors and its Landlord, as set forth above in Paragraph 13, as well as the usual closing costs and adjustments associated with the sale of the Debtor's assets, including payment of the broker's commission at the closing.

35. Because the Debtor will be unable to close if certain pre-petition secured debts, claims, and closing adjustments are not paid at the time of closing, the Debtor seeks authority to pay such charges as may be required at closing pursuant to 11 U.S.C. Sections 105 and 363(b).

36. The Debtor anticipates that the various prepetition and closing obligations, as set forth above, in the approximate total amount of \$527,926.00 will be required to be paid at closing.

37. The Debtor respectfully suggests that the Court has the requisite authority to enter such an order pursuant to Sections 363(b) and 105 of the Bankruptcy Code.

38. Section 105 of the Bankruptcy Code provides as follows:

(a) The court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title.

39. The pre-confirmation sale, and the necessity for the relief requested hereby, is exactly the type of situation envisioned by Section 105.

40. In light of the general prohibition on payment of pre-petition claims prior to confirmation of a plan of reorganization, and the apparently contradictory nature of a pre-confirmation sale pursuant to Section 363(b) of the Bankruptcy Code, the Debtor

requests entry of an order authorizing it to pay such pre-petition secured claims, closing costs and other charges outside of a confirmed plan of reorganization, in its business judgment, as may be required to close the sale transaction contemplated hereby.

GOOD FAITH PURCHASER STATUS

41. Section 363(m) of the Bankruptcy Code provides as follows:

(m) The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

42. The Debtor respectfully requests that the Court enter an order granting the proposed purchaser, Angela Kwon, "good faith purchaser" status pursuant to Section 363(m) of the Bankruptcy Code.

43. Upon information and belief, the Purchaser has negotiated, by and through its respective counsel, and entered into the Agreement in good faith and at arms length with the Debtor. The proposed purchaser is a third party unrelated to the Debtor or its principal, procured by an independent licensed broker after an open and public extensive marketing campaign. The Purchaser is not an "insider" of the Debtor within the meaning of Section 101(31) of the Bankruptcy Code, and is not controlled by, or acting on behalf of, and insider of the Debtor or the Debtor itself.

44. As such, the Debtor submits that the Purchaser has taken part in the transaction contemplated hereby in a manner consistent with granting them "good faith purchaser" status, and the protections concomitant with such status.

THE SURPLUS PROCEEDS

45. As set forth above, the Debtor anticipates approximately \$322,374 (before closing adjustments) in Surplus Proceeds from the sale of the Debtor's assets. The Debtor respectfully requests the authority to maintain possession of the Surplus Proceeds in an attorneys escrow account to be applied towards the Chapter 11 Plan of Liquidation, which is anticipated to be approved by this Court after consummation of the sale transaction. The Surplus Proceeds will be deposited into and held in escrow by the Escrowee and only distributed in accordance with the Debtor's Chapter 11 Liquidating Plan and/or further orders of the Bankruptcy Court.

OTHER CONSIDERATIONS

46. Should a third party make an offer that is higher and better than the terms and conditions as set forth in the Agreement with Kwon, prior to the confirmation of Debtor's plan of liquidation the Debtor herein reserves its rights to reject the Agreement between the Debtor and Kwon pursuant to Section 365 and/or any applicable provision of the Bankruptcy Code. In such event, the claim of Kwon shall be the amount of the 'break-up' fee, set forth in Debtor's Agreement with Kwon.

NOTICE OF SALE AND HEARING

47. Bankruptcy Rule 6004 states, in part, as follows:

(a) Notice of Proposed Use, Sale or Lease of Property. Notice of a proposed use, sale or lease of property, other than in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c)(1), (i) and (k)...

48. This Application is being served in accordance with the applicable provisions of Federal Rule of Bankruptcy Procedure 2002 on (a) all of the Debtor's creditors; (b) all parties filing Notices of Appearance in these proceedings, (c) the Office of the United States Trustee and (d) all parties who have expressed an interest in the Debtor's assets, so as to provide at least twenty one (21) days notice of the relief requested, thereby satisfying Federal Rule of Bankruptcy Procedure 2002(a)(2) and (k). Additionally, the Debtor respectfully submits that the descriptions and notices provided by this Application and exhibits hereto provide adequate notice of the terms and conditions of the proposed sale, thereby satisfying Federal Rule of Bankruptcy Procedure 2002(c)(1). Finally, no committee has been appointed herein, and therefore Federal Rule of Bankruptcy Procedure 2002(i) is not applicable. It is respectfully submitted that this notice constitutes good and sufficient service hereof.

49. No previous request for the relief sought herein has been made to this Court.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order pursuant to Sections 363(b), (f) and (m) of Title 11 of the United States Code and Federal Rules of Bankruptcy Procedure 2002 and 6004 (i) authorizing and approving the sale of substantially all of the Debtor's assets, pursuant to a contract of sale entered into with Angela Kwon, to be conveyed free and clear of all liens, claims, encumbrances and interests; (ii) Authorizing Payment to Debtor's Secured Creditors at the Closing; (iii) Authorizing Payment of the Earned Broker's Commission at the Closing; (iv) Authorizing

the Assumption and Assignment of the Debtor's Commercial Lease with 277 Park Avenue LLC and Payment of the Landlord's Pre-Petition Arrears at the Closing; (v) Granting Good Faith Purchaser Status to Angela Kwon; and (vi) Granting Related Relief pursuant to Section 365, if the Debtor's Assets are Sold to a Third Party, together with other related relief as is just under the circumstances.

Dated: Harrison, New York
October 27, 2016

ALTER & BRESCIA, LLP
Attorneys for Debtor, Beekman Liquors, Inc.

By: /s/ Bruce R. Alter
Bruce R. Alter
550 Mamaroneck Avenue, Suite 401
Harrison, New York 10528
(914) 670-0030

Exhibit "A"

AGREEMENT OF SALE

AGREEMENT, made this 3 day of October, 2016, by and between BEEKMAN LIQUORS INC., a New York corporation, having its principal place of business at 500 Lexington Avenue, New York, New York, 10017, hereinafter referred to as "Seller" and ~~ANGELA KWON~~ Angela Kwon (A.K.), residing at _____, hereinafter referred to as "Buyer" and or "Buyers".

WITNESSETH:

WHEREAS, the Seller is the owner of the liquor/wine store business located at 500 Lexington Avenue, New York, New York, 10017;

WHEREAS, the Seller desires to sell and the Buyers desire to purchase the business inventory, good will, the chattels described in Schedule "A" and the Lease upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereinafter set forth, IT IS AGREED:

1. Seller agrees to sell and Buyer agrees to purchase the liquor/wine store business including the Schedule "A" chattels, the good will, telephone number, Lease for \$325,000.00, plus the cost of the alcoholic beverage inventory (Purchase Price), which the Buyers agree to pay to the Seller as follows:

(a) \$32,500.00 upon the execution of this Agreement (if by check, then subject to collection), receipt of which is acknowledged, the proceeds to be held in escrow by Seller's attorney(s) until closing of title or other termination of this Agreement;

(b) \$292,500.00 at the closing of this Agreement payable to the Seller by certified check, bank check or money order plus an amount for the alcoholic beverage inventory as indicated herein;

- (c) \$75,300.00 at the closing of this Agreement payable to the Seller by certified check, bank check or money order, which represents the security deposit posted by Seller with the Landlord of the Seller's Premises.

2. In addition to the purchase price, the Buyers shall deliver to Seller at the time of closing a check made payable to the New York State Sales Tax Bureau for the New York State sales tax on taxable chattels being sold. Seller shall promptly cause Buyers' check to be mailed to the NYS Department of Taxation and Finance and provide a copy of the cover letter, which accompanies the check to Buyers' attorney. The parties agree that the purchase price is allocated as follows:

- | | | |
|-----|-------------------------|--------------|
| (a) | Machinery and Equipment | \$ 10,000.00 |
| (b) | Goodwill | \$ |
| (c) | Restrictive Covenant | \$ |
| (d) | Lease | \$ |

3. The parties acknowledge that Buyer intends to operate the business as a corporation and/or LLC and intends to and may assign this agreement to a corporation/LLC, of which they will be shareholders, officers and directors or members, and upon the delivery to the Seller, c/o its attorney(s), of a duly executed assumption agreement by the assignee corporation/LLC, said assignment shall be effective.

4. Seller represents and warrants which representations and warranties shall survive closing that:

- (a) The chattels, fixtures and machinery and other assets being sold will be free of all debts, liens or encumbrances.

- (b) There are no proceedings pending against the premises or the Seller by the State Liquor Authority nor have there been any such proceedings charging violations against the Seller in the past, and that Seller's Liquor License is in good standing;

(c) There are no judgments, actions arbitration proceedings or other proceedings of any kind pending or to Seller's knowledge threatened against it in any forum or court, that have not been fully disclosed to Buyers. All actions against Seller will be discontinued or satisfied in full from the Purchase Price;

(d) Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of New York. Seller has full corporate power and authority to own its properties, to carry on its business as presently conducted and to sell and convey the Assets to the Buyer. Seller has no subsidiaries;

(e) This Agreement and all other agreements and instruments to be executed in connection herewith or pursuant hereto and the consummation of the transactions effected hereby have been duly authorized and approved by Seller's Board of Directors and the Shareholder and constitute the legal, valid and binding obligations of Seller enforceable in accordance with their respective terms.

(f) There is to the best of Seller's knowledge (i) no investigation by any governmental or administrative agency, action, suit, proceeding or claim pending, or to the knowledge of Seller, threatened against Seller and (ii) no outstanding order, writ, injunction, decree, judgment or award of any court, government or governmental agency against or affecting Seller's title to the Assets;

(g) From the date hereof until the Closing Date, Seller shall conduct its business in the ordinary course, consistent with the present conduct of its business. Seller is currently a Debtor in Possession in a Chapter 11 Case filed by Seller in the United States Bankruptcy Court for the Southern District of New York, Case No. 16-11370-mg;

(h) Any lien against the assets of Seller's business shall be paid in full, prior to or at closing;

(i) Seller has filed and will pay in full all of its sales taxes now due from the Purchase Price;

(j) Seller is not a party of any collective bargaining agreement;

5. Buyers represent and warrant that:

(a) They have inspected the chattels being sold and the premises wherein they are located, and agrees to accept the chattels and premises "as is", in their present physical condition, and acknowledges that no other representations or warranties, express or implied, have been made to him with respect to the quantity or quality or fitness of such chattels for any particular use, other than Seller's representation that same shall be in working order at the time of closing;

(b) No representations have been made to them as to the amount of the sales of the business;

(c) Except for the representations contained in this Agreement, they have not relied upon any other representation made by the Seller or anyone in his behalf in entering into this Agreement;

(d) To the best of Buyers' knowledge the Buyer are proper persons to receive a New York State Liquor Authority off-premises liquor license; that said Buyers have never been convicted of any offense or crime, nor has he been served with a summons for violation of the Alcoholic Beverage Control Law; that no license or application therefore made by said Buyers individually or as a partner, officer, director or shareholder under the Alcoholic Beverage Control Law of this state or any other state, country or territory, have ever been suspended, canceled, revoked, disapproved or otherwise involuntarily terminated; that said Buyers have sufficient funds available to him to complete the purchase herein, and know of no reason why an off-premises liquor license should not be issued to them;

6. At the closing, the following will be executed:

(a) A Bill of Sale which will convey and transfer to the Buyers all of the assets being sold free and clear of all liens, debts and encumbrances. (the Bill of Sale shall contain the usual affidavit of title);

(b) An assignment to Buyers of the Seller's interest in the Lease and in the security deposited with the Landlord under the Lease, if any.

7. At the time of closing the Buyers will execute and deliver:

(a) An agreement to pay any additional sum which the New York State Sales Tax Commission will demand or assess as an additional tax on the sale of the chattels. By such agreement, the Buyers shall covenant to hold the Seller free and harmless against any such claim;

8. The following adjustments shall be made at the time of closing: rent, real estate taxes, and any additional assessments payable under the Lease, dollar for dollar on closed alcoholic beverage stock, as per Seller's invoice cost or the price in the Beverage Media if no invoice exists; and any other adjustment customarily made.

9. The Buyers represent they have not dealt with any broker other than Isa Realty Group, LLC in connection with this sale. The Seller will pay the commission owed by the Seller in connection with this Agreement that may be owed to Isa Realty Group, LLC, pursuant to a separate agreement the Seller has with Isa Realty Group, LLC. Both parties shall indemnify and hold harmless the other party, including reasonable court fees, costs and disbursements, in the event of breach of these representations. This provision shall survive closing and the bill of sale.

10. All notices required to be given by either party to the other pursuant to the terms of this agreement shall be by certified mail, return receipt requested or personal receipted delivery, to the Seller, c/o MEHLER & BUSCEMI, attention Martin P. Mehler, Esq., at 305 Broadway, Suite 1102, New York, NY 10007, with a copy to Bruce R. Alter, Esq., Alter &

Brescia, LLP, 550 Mamaroneck Avenue, Suite 401, Harrison, New York 10528 and to the Buyer, c/o Robert Swetnick, Esq., 3 Park Avenue, 16th Floor, New York, NY 10016.

11. In the event Seller is unable to transfer the business in accordance with this agreement, except for Seller's willful default, Seller's sole liability shall be to refund all money paid on account of this agreement, and thereupon the parties shall be relieved and released of further liability to each other. However, if title shall not close because of the default, misrepresentation or omission of the Buyers to act, then the sums deposited with this Agreement shall be paid to the Seller as and for its liquidated damages, as its sole remedy, the parties acknowledging that it would otherwise be difficult to compute Seller's damages. Notwithstanding the above, in the event there is a higher and better offer through the Bankruptcy Court that is accepted by the Bankruptcy Court, there would be a payment to the Buyer in the sum of \$10,000.00, in addition to the refund of all money paid on account of this agreement by the Buyer.

12. The closing shall take place at the offices of MEHLER & BUSCEMI, ESQS, 305 Broadway, suite 1102, New York, NY, 10007, on or about five business days after Buyer is approved for an off-premises liquor license.

13. This sale is subject to and conditioned upon the approval by the State Liquor Authority of the application by the Buyer or its assigns for an off-premises liquor license, and the assignment of the Seller's existing lease which must be approved by the United States Bankruptcy Court. It is understood that the Seller is currently in "Chapter 11" in the United States Bankruptcy Court under Case No. 16-11370-mg and this Agreement and the assignment of the Seller's lease must be approved by that Court before there can be any closing of this Agreement. In the event the liquor license is not approved by the New York State Liquor Authority, or the assignment of the Seller's lease is not approved by the United States

Bankruptcy Court, all payments made shall be returned to the Buyers and the rights of the parties shall end. The Buyers agree that within ten (10) days from the date Buyers' attorney receives a fully executed contract of sale to make application for an off-premises liquor license and to comply promptly with and carry out any and all of the customary requirements, demands, requests, rules and regulations of the New York State Liquor Authority so as to expedite the approval of such license applications and issuance of said licenses to the Buyers. Seller shall fully cooperate in Buyers' SLA application and shall promptly provide such information and execute such documents that are customarily required to be provided and signed by seller in connection with the sale of a liquor store. In the event the State Liquor Authority does not approve an off-premises liquor license within 12 weeks from the date Buyers' attorney receives a fully executed contract of sale, Seller, at its option, may cancel this contract by Seller's attorneys providing written notice to Buyers' attorneys. Upon such cancellation, the Seller shall return all monies paid hereunder and there shall be no further liability by either party hereunder, unless of a default, misrepresentation or omission by Buyers pursuant to the provisions of paragraph "5d" hereof. .

14. Buyers agree to place its own deposits for gas and electricity service within 48 hours after delivery of the Bill of Sale, at which time the Seller shall have the right to cancel its utility service contracts and to obtain a return of its deposits for such service.

15. Risk of loss by fire or damage by fire prior to closing shall be borne by the Seller and, in the event of a fire, the Buyers or Seller shall have the option to cancel this Agreement, and the Seller's liability shall be limited solely to the return of the deposit paid hereunder and all parties shall be released from any further liability. Notwithstanding the forgoing, Buyers shall have the right to waive this provision and close title without any reduction in purchase price.

16. Seller, its officers, directors and shareholders will not engage in a similar line of retail business in any capacity whatsoever, directly or indirectly, within a radius of one square

mile from the premises being sold herein, for a period of three (3) years from the delivery of the Bill of Sale, provided that Buyer fully performs all of his obligations hereunder. Said restrictive covenant shall be in the form included in the Bill of Sale.

17. The following is a list of vendor and service contracts Buyer agrees to assume upon closing: none.

18. The amount due at closing as well as the amount collected at the signing of the Agreement is herein referred to as the "Escrow Fund". The Escrow Fund shall be retained in escrow by Seller's attorney and distributed in accordance with the Orders of the United States Bankruptcy Court for the Southern District of New York. In the event of a dispute between the parties which the Escrowee has received written notice of, the Escrowee may deposit the Escrow Fund with an appropriate Court and, after given written notice of such action to the parties, the Escrowee shall have no further obligations with respect to such amount. The Escrowee shall not be liable for the handling of the Escrow Fund except in the case of gross negligence or willful disregard of the provisions of this Agreement.

19. Seller shall be entitled to any Liquor License refund from the Liquor Authority for its license.

20. Any claim, notice, request, instruction or demand to be given hereunder by the Seller and/or the Buyer to the Escrowee shall be in writing, delivered personally or sent by certified mail to the Escrowee at Mehler & Buscemi, Esqs. 305 Broadway, Suite 1102, New York, NY, 10007, with a copy to Bruce R. Alter, Esq., Alter & Brescia, LLP, 550 Mamaroneck Avenue, Suite 401, Harrison, New York 10528 and to the Buyer, c/o Robert Swetnick, Esq., 3 Park Avenue, 16th Floor, New York, NY 10016.

21. Any documents which are executed by the Seller and/or Buyer, pursuant to the terms of this Agreement, shall be transferable or assignable by the Seller for purposes of

liquidation or for any other purposes after the Buyer's attorney receives the Bulk Transfer Release.

22. If two or more persons constitute either the Seller or the Buyer, the words Seller or Buyer herein shall be construed as if it reads "Sellers" or "Buyers" and to be jointly binding, and where either is not a corporation, the word it or its shall be construed to read as "he", "she", "they" or "his", "hers", "theirs", as the case may be and shall be equally, jointly and severally binding.

23. This Agreement, the rights and obligations therein contained, shall inure to the benefit of and be binding upon the respective personal representatives, successors and assigns of the parties hereto.

24. This Agreement contains and sets forth the entire agreement of the parties hereto; no change, modification or amendment shall be effectively binding unless in writing, subscribed to by the parties hereto.

25. This Agreement shall be governed by the laws of the State of New York

26. In the event of breach of contract or breach of any related documents executed in connection with this contract, the party who has breached shall be liable for the reasonable attorney's fees costs and disbursement of the prevailing party.

27. (a) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part, unless taken or suffered in bad faith or in willful disregard of this contract involving gross negligence on the part of Escrowee. Seller and Buyer jointly and severally (with right of contribution) agree to defend (by attorneys selected by Escrowee), indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions omissions taken or suffered by

Escrowee in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee.

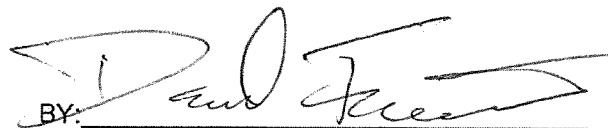
(b) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

28. At the closing Seller shall deliver to Buyers all keys for the business along with alarm codes, keys to gates and other items needed to transfer the premises to the Buyer. Seller shall do all further acts and things as may be necessary, or reasonably requested by Buyers, to consummate the transactions contemplated by this Agreement, including the acquisition of possession of the Assets.

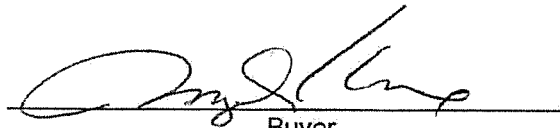
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals first above written.

Dated: New York, NY
October 13 2016

BEEKMAN LIQUROS INC., Seller

BY: 

David Frieser, President



Buyer

Angela Kwon

SCHEDULE A

Fixtures and Equipment

All furniture, fixtures and shelving now situated at the Premises of the Seller at 500 Lexington Avenue, New York, NY; all conveyed as is and where situated.