

Gregg M. Galardi, Esq.
Ian S. Fredericks, Esq.
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM, LLP
One Rodney Square
PO Box 636
Wilmington, Delaware
19899-0636
(302) 651-3000

Dion W. Hayes (VSB No. 34304)
Douglas M. Foley (VSB
No. 34364)
MCGUIREWOODS LLP
One James Center
901 E. Cary Street
Richmond, Virginia 23219
(804) 775-1000

- and -

Chris L. Dickerson, Esq.
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM, LLP
155 North Wacker Drive
Chicago, Illinois 60606
(312) 407-0700

Counsel to the Debtors and
Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

- - - - - x
In re: : Chapter 11
: :
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)
et al., : :
: :
Debtors. : Jointly Administered
- - - - - x

**SETTLEMENT AGREEMENT AND STIPULATION BY AND AMONG THE
DEBTORS AND THE PENSION BENEFIT GUARANTY CORPORATION**

This settlement agreement and stipulation
(this "Agreement") is entered into by and among the

above-captioned debtors and debtors in possession (the "Debtors"), on the one hand, and the Pension Benefit Guaranty Corporation (the "PBGC" and together with the Debtors, the "Parties" and each of which is a "Party"), on the other hand.

GENERAL BACKGROUND

WHEREAS, on November 10, 2008 (the "Petition Date"), the Debtors each filed a voluntary petition in the United States Bankruptcy Court for the Eastern District of Virginia (the "Court") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS, the Debtors have continued as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code; and

WHEREAS, on November 12, 2008, the Office of the United States Trustee for the Eastern District of Virginia appointed a statutory committee of unsecured creditors (the "Creditors' Committee"); and

WHEREAS, to date, no trustee or examiner has been appointed in these chapter 11 cases; and

WHEREAS, on January 16, 2009, the Court authorized the Debtors, among other things, to conduct going out of business sales at the Debtors' remaining 567 stores pursuant to an agency agreement (the "Agency Agreement") between the Debtors and a joint venture, as agent (the "Agent"). On January 17, 2009, the Agent commenced going out of business sales pursuant to the Agency Agreement at the Debtors remaining stores. As of on or about March 8, 2009, the going out of business sales concluded; and

SETTLEMENT BACKGROUND

A. The Debtors' Pension Plan.

WHEREAS, the Debtors previously maintained the Retirement Plan of Circuit City Stores, Inc. (as amended, the "Pension Plan") to provide retirement benefits for certain of its employees. The Pension Plan was established effective September 1, 1980, and was amended and restated as of March 1, 2001; and

WHEREAS, the Pension Plan is an employee pension benefit plan to which 29 U.S.C. § 1321(a) applies and is not exempt under 29 U.S.C. § 1321(b). The Pension Plan is therefore covered by Title IV of the

Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1301-1461 ("ERISA"); and

B. Termination Of The Pension Plan.

WHEREAS, on or about April 20, 2009, the PBGC provided the Debtors with a Notice of Determination, stating PBGC's determination that the Pension Plan had to be terminated in order to protect the interests of the Pension Plan's participants and stating its intention to seek termination of the Pension Plan under 29 U.S.C. section 1342, either by agreement with Debtor, Circuit City Stores, Inc., as plan administrator, or by court action; and

WHEREAS, on May 21, 2009, the Pension Plan administrator signed a Termination and Trusteeship Agreement ("Termination Agreement") with respect to the Pension Plan. PBGC signed the Termination agreement on or about May 26, 2009. Under the Termination Agreement, the Pension Plan was terminated and PBGC was appointed statutory trustee of the Pension Plan pursuant to 29 U.S.C. § 1342, and March 31, 2009 (the "Termination Date"), was established as the date of plan termination pursuant to 29 U.S.C. § 1348. As a result of the Pension

Plan termination and PBGC's appointment as statutory trustee, PBGC assumed the assets and liabilities of the Pension Plan and is responsible for paying benefits under the Pension Plan, up to the levels permitted by law; and

WHEREAS, on the Termination Date, the Pension Plan had approximately 22,000 participants. No due and unpaid contributions were owed to the Pension Plan, but PBGC estimated that the difference between the present value of Pension Plan assets on March 31, 2009, and the value of benefit liabilities under the plan as determined under Title IV of ERISA (the "Unfunded Benefit Liabilities") as of March 31, 2009, was \$36,900,000.00.

C. The PBGC Claims.

WHEREAS, on January 30, 2009, PBGC filed three proofs of claim, which claims it later amended, in each of the Debtors' cases (collectively, the "PBGC Claims"). Specifically, the PBGC filed amended proofs of claim numbered (i) 14470 (the "Minimum Funding Claim"), (ii) 14491 (the "Unfunded Benefit Liabilities Claim"), and

(iii) 14471 (the "Premium Claim"), each of which is asserted individually against each of the Debtors; and

WHEREAS, PBGC contends that the Debtors are jointly and severally liable for all of the PBGC Claims; and

WHEREAS, the Minimum Funding Claim was filed on account of minimum contributions allegedly due, but unpaid, under the Pension Plan. PBGC filed such Claim, in the amount of \$0.00, but reserved its right to further amend the proof of claim; and

WHEREAS, the Unfunded Benefit Liabilities Claim asserts liability for the Pension Plan's alleged Unfunded Benefit Liabilities measured as of March 31, 2009 -- the date of the Pension Plan's termination. Based on PBGC's calculation under ERISA and its accompanying regulations (the "Regs"), PBGC alleges that the Pension Plan's Unfunded Benefit Liabilities are \$36,900,000.00. The Debtors disagree with PBGC's contentions; and

WHEREAS, the Premium Claim was bifurcated into two claims -- the Annual Premium Claim and the Termination Premium Claim. The Annual Premium Claim was

filed as an administrative expense and seeks payment of annual flat-rate and variable-rate premiums allegedly arising under 29 U.S.C. § 1306(a)(3) after the petition date. The flat-rate premium is a flat dollar amount per participant per year, which is currently \$33.00. 29 U.S.C. § 1306(a)(3)(A). The variable-rate premium is \$9.00 for each \$1,000.00 of the plan's unfunded vested benefits each year. 29 U.S.C. § 1306(a)(3)(E). PBGC asserts that the total amount of unpaid flat-rate and variable-rate premiums for the Pension Plan equals \$159,076.00. The Debtors assert that the PBGC has not satisfied its burden of demonstrating that the Annual Premiums should be afforded administrative expense priority; and

WHEREAS, the Termination Premium Claim was filed on account of termination premiums allegedly due under 29 U.S.C. § 1306(a)(7) (the "Termination Premiums"). See Statement of the Pension Benefit Guaranty Corporation in Support of its Amended Claim for Pension Insurance Premiums, at ¶ 7. Termination Premiums total \$1,250 for each participant in a pension plan immediately before the plan termination, and are

due for a period of three years. In the case of the Pension Plan, there were approximately 22,000 participants prior to its termination. Based on these figures, PBGC asserts that the Debtors are liable for Termination Premiums totaling \$82,091,250.00. The Debtors disagree and contend that the Termination Premium Claim should be disallowed in its entirety; and

WHEREAS, rather than proceed with litigation concerning the PBGC Claims, the parties engaged in good faith, arms' length negotiations to resolve the PBGC Claims in their entirety.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby STIPULATE AND AGREE as follows:

1. PBGC shall have an allowed claim equal to \$33.5 million in case no. 08-35653 (KRH) which shall be paid in the full amount of \$33.5 million (the "Settlement Payment").

2. The entire Settlement Payment shall be paid to PBGC within ten business days after entry of an order by the Bankruptcy Court approving this Agreement.

3. Upon payment of the Settlement Payment, the PBGC Claims, together with any other claims obligations, suits, judgments, damages, demands, debts, rights, causes of action, and liabilities against the Debtors (or Digital Video Express, LP or the Debtors' foreign affiliates) held by PBGC, shall be deemed fully and finally satisfied.

4. The PBGC will neither vote to accept nor reject the Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors In Possession and its Official Committee of Creditors Holding General Unsecured Claims (as amended from time to time, the "Plan").

5. The Debtors will add the following language to the Plan:

notwithstanding anything in the Plan or the Confirmation Order, no claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities whatsoever against any entity, except the Debtors, Digital Video Express, LP, and the Debtors' foreign affiliates, with respect to the Pension Plan shall be released, exculpated, discharged, enjoined, or otherwise effected by the Plan, nor shall the entry of the Confirmation Order constitute the approval of any release, exculpation, discharge, injunction, or other impairment of any claims obligations, suits, judgments, damages, demands, debts, rights, cause

of action or liabilities whatsoever against any entity, except the Debtors, Digital Video Express, LP, and the Debtors' foreign affiliates, with respect to the Pension Plan.

6. Notwithstanding anything to the contrary in paragraph 5 of this Agreement, the Plan or the Confirmation Order, PBGC hereby releases, waives, and discharges the Debtors' directors and officers from and against all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, and liabilities with respect to the Pension Plan; provided, however, that nothing herein shall constitute a release, waiver, or discharge of any such claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities arising under Title I of ERISA for breaches of fiduciary duty (the "Preserved Claim") against the Debtors' directors or officers; provided, however, damages, if any, from the Preserved Claim shall, at most, be limited to and capped at the difference between (i) the Settlement Payment and (ii) the Pension Plan's total unfunded benefit liabilities as determined in accordance with ERISA. Nothing in this paragraph or this Agreement shall be construed as or

constitute an admission of liability for the Preserved Claim or otherwise by the Debtors' directors or officers.

7. Neither this Agreement, nor any statement made or action taken in connection with the negotiation of this Agreement, shall be offered or received in evidence or in any way referred to in any legal action or administrative proceeding among or between the parties hereto, other than as may be necessary (a) to obtain approval of and to enforce this Settlement Agreement or (b) to seek damages or injunctive relief in connection therewith.

8. Each of the Parties hereto shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary or appropriate in conjunction with the performance of their respective obligations hereunder.

9. No provision of this Settlement Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any person

other than the parties hereto and their respective successors.

10. Except where preempted by applicable Federal law, this Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Virginia without regard to any choice of law provisions.

11. This Agreement may be signed in counterpart originals and delivered by facsimile or email, which, when fully executed, shall constitute a single original.

12. This Agreement constitutes the entire agreement and understanding of the parties regarding the Agreement and the subject matter thereof.

13. The United States Bankruptcy Court for the Eastern District of Virginia shall retain exclusive jurisdiction (and the parties consent to such retention of jurisdiction) with respect to any disputes arising from or related to, or other actions to interpret, administer or enforce the terms and provisions of, this Agreement.

14. Each person or entity who executes this Settlement Agreement on behalf of another person or entity represents and warrants that he, she, or it is duly authorized to execute this Agreement on behalf of such person or entity, has the requisite authority to bind such person or entity, and such person or entity has full knowledge of and has consented to this Agreement. The representations and warranties set forth in this paragraph shall survive execution of this Agreement.

15. This Agreement shall not be modified, altered, amended or vacated without the written consent of all parties hereto or order of the Bankruptcy Court.

IN WITNESS WHEREOF, this Agreement is hereby
executed as of the later of the dates set forth below.

ACCEPTED AND AGREED TO BY:

CIRCUIT CITY STORES, INC.

By:

SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP
Gregg M. Galardi, Esq.
Ian S. Fredericks, Esq.
P.O. Box 636
Wilmington, Delaware 19899-0636
(302) 651-3000

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP
Chris L. Dickerson, Esq.
155 North Wacker Drive
Chicago, Illinois 60606
(312) 407-0700

- and -

MCGUIREWOODS LLP

/s/ Douglas M. Foley _____
Dion W. Hayes (VSB No. 34304)
Douglas M. Foley (VSB No. 34364)
One James Center
901 E. Cary Street
Richmond, Virginia 23219
(804) 775-1000

*Counsel for Circuit City Stores, Inc.,
et al., Debtors and Debtors-in-Possession*

