

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA**

In re: **HOLIDAY SUPERMARKETS, INC.,** : **CHAPTER 11**
Debtor : **BANKRUPTCY NO. 16-17541**

ORDER GRANTING DEBTOR'S MOTION FOR PERMISSION TO SELL ASSETS

AND NOW, this day of April, 2017, it is hereby ORDERED that the Debtor is granted permission to sell its supermarket assets at 7938 Dungan Road, Philadelphia, PA. 19111 ("the Dungan Store") to Garys Market, Inc. for \$100,000 and its supermarket assets at 6499 Sackett Street, Philadelphia, PA. 19149 ("the Mayfair Store"), to Rosanns Market, Inc. for \$25,000, pursuant to the terms of the Agreements of Sale attached to the Motion as Exhibit "A" and "B" with the proceeds to be distributed to the Debtor, into the IOLTA account of the Debtor's counsel, pending further order of this court.

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA**

In re: **NORMAN EDWARD McMAHON,** : **CHAPTER 11**
Debtor : **BANKRUPTCY NO. 16-11874**

**DEBTOR'S MOTION FOR PERMISSION TO SELL ITS RESPECTIVE
SUPERMARKET ASSETS AT 7938 DUNGAN ROAD, PHILADELPHIA, PA. 19111, TO
GARYS MARKET FOR \$100,000 AND ITS SUPERMARKET ASSETS AT 6499
SACKETT STREET, PHILADELPHIA, PA. 19149 TO ROSANN'S MARKET, INC. FOR
\$ 25,000, RESPECTIVELY**

The Debtor now comes and seeks permission to sell its supermarket assets at 7938 Dungan Road, Philadelphia, PA. to Garys Market, Inc. for \$100,000; and to sell its supermarket asset at 6499 Sackett Street, Philadelphia, PA. 19149 to Rosanns Market for \$25,000, pursuant to Agreements of Sale of March 2, 2017, attached to the original Motion filed, and available to any interested party upon request from the undersigned, subject to higher and better offers, with the proceeds to be paid, subject to the court's approval, into the IOLTA account of the undersigned, subject to distribution to the creditors of the Debtor in conformity with the Bankruptcy Code.

WHEREFORE, the Debtor requests that the order attached to this Motion be entered.

/s/DAVID A. SCHOLL
512 Hoffman Street
Philadelphia, PA. 19148
610-5550-1765
Attorney for Debtor

**AGREEMENT OF SALE OF CERTAIN SPECIFIED ASSETS OF
HOLIDAY SUPERMARKETS, INC. OUT OF BANKRUPTCY**

This Agreement for the sale for certain described assets of Holiday Supermarkets, Inc. is made this 2nd day of March, 2017, between Garys Market, Inc. ("Buyer") and Holiday Supermarkets, Inc. ("Debtor") and will not be binding without the approval of both parties and of the Bankruptcy Court.

BACKGROUND:

WHEREAS Debtor operates two grocery stores, one of which is located at 7938 Dungan Road, Philadelphia, PA 19111, the assets of which store are the sole assets included in this Agreement;

WHEREAS Debtor leases the location where this grocery store operates and owns only the machinery, equipment, fixtures and existing inventory;

WHEREAS Debtor's machinery, equipment and fixtures have already exceeded their useful life expectancy and have little or no resale value, and have only minimal value when in place as opposed to being moved to another location;

WHEREAS Buyer is a newly formed entity which is not a successor to Debtor, and

WHEREAS the parties to this Agreement agree that an immediate sale of the assets to enable the Dungan Road Store to continue operating and purchasing inventory is essential to retaining the value of Seller's assets,

NOW THEREFORE, Debtor and Buyer enter into this Agreement for Sale of Certain Specified Assets of Holiday Supermarkets, Inc. located at the Dungan Road Store, and upon approval of the Bankruptcy Court, INTENDING TO BE BOUND HEREBY, agree as follows:

TERMS:

EXHIBIT "A"

1. **Background Incorporated.** Debtor and Buyer incorporate the Background of the Agreement into the Terms.

2. **Purchase Price.** Buyer will pay \$100,000 for that portion of Debtor's assets located at the Dungan Store location, including without limitation all Seller's trade name, trade and/or service marks used at that location, good will, machinery, equipment, fixtures and existing inventory.

3. **Debtor's Agreement.** Debtor agrees to sell to Buyer for \$100,000 all of Seller's assets located at the Dungan Store location, including without limitation all Seller's trade name, trade and/or service marks used at that location, good will, machinery, equipment, fixtures and existing inventory. Debtor further agrees to maintain its assets in their current condition, subject only to ordinary wear and tear (and sale of inventory) up to the time of Closing.

4. **Agreement Regarding Debtor's Debt.** The parties expressly agree that by purchasing certain specified assets of Debtor, Buyer is not becoming a successor to Debtor. Debtor further agrees that nothing in this Agreement shall in any way obligate Buyer to assume any of Debtor's obligations or outstanding debt, including without limitation any debt incurred by Debtor under any collective bargaining agreement entered into by Debtor. The parties agree that Buyer is not assuming any liability or responsibility for any pension and/or profit sharing plans, whether past, present or future, and is not responsible for any healthcare benefits.

5. **Closing.** Buyer will close ten (10) days from the date that both parties execute this Agreement and the Agreement is approved by the Bankruptcy Court. The parties agree that time is of the essence.

6. **No Contingencies.** Buyer will close by paying \$100,000 in immediately available funds. Buyer agrees to close without any contingencies except approval by the parties and the Court.

7. **Possession.** Buyer will be given possession at Closing by transfer of the keys and any and all security codes. Buyer is negotiating a new lease with the owner of the real property upon which the Dungan Road Store is located.

8. **Debtor Obligations.** Debtor agrees to disclose any and all ongoing agreements it has with any vendor, contractor and/or service provider and to immediately provide any and all such agreements and related documentation to Buyer upon the Bankruptcy Court's approval of this Agreement. Seller further agrees to assist Buyer in either canceling such contracts or assigning such contracts to Buyer, at Buyer's sole discretion.

9. **Ability to Close.** Both parties acknowledge that a condition precedent to Closing under this Agreement is approval by the Bankruptcy Court. Buyer represents that he currently has \$94,000 in immediately available funds and will obtain the remaining \$6,000 necessary to Close prior to the Closing date.

10. **Retention of Current Employees.** Buyer will use its best efforts to retain approximately 75% of the current employees at the Dungan Road location. Buyer shall have full discretion to determine which employees to retain. The parties agree that Buyer is not assuming any obligation to or relationship with any of Debtor's employees except as expressly set forth in this Agreement and that Buyer's agreement with respect to the employees is only an agreement with respect to the employees at the Dungan Road location. Buyer has no obligation whatsoever to any persons employed by Debtor at any of its other locations.

11. **Employment Terms.** The parties agree that Buyer is not assuming any liability or responsibility for any pension and/or profit sharing plans, whether past, present or future. Buyer agrees to pay the employees at the Dungan Road location at the same rate as they are presently being paid. Buyer will expect the employees to make contributions out of their salary for their health care and insurance coverage.

12. **Further assurances.** In connection with this Agreement and the transactions contemplated hereby, all parties shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement.

13. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, heirs and assigns.

14. **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania without regard to choice of law provisions.

15. **Entire Agreement.** This Agreement is the entire and only agreement between the parties and cancels any previous agreements between the parties. This Agreement may only be modified in writing signed by all parties.

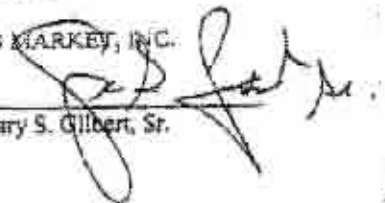
AGREED TO:

BY BUYER:

GARYS MARKEY, INC.

By:

Gary S. Gilbert, Sr.



BY DEBTOR:

HOLIDAY SUPERMARKETS, INC.

By:

Harry B. Gilbert, President



3/3/17

**AGREEMENT OF SALE OF CERTAIN SPECIFIED ASSETS OF
HOLIDAY SUPERMARKETS, INC. OUT OF BANKRUPTCY**

This Agreement for the sale for certain described assets of Holiday Supermarkets, Inc. is made this 2nd day of March, 2017, between Rosanns Market Inc. ("Buyer") and Holiday Supermarkets, Inc. ("Debtor") and will not be binding without the approval of both parties and of the Bankruptcy Court.

BACKGROUND:

WHEREAS Debtor operates two grocery stores, one of which is located in the Mayfair Shopping Center, 6499 Sackett Street, Philadelphia, PA 19149, the assets of which store are the sole assets included in this Agreement;

WHEREAS Debtor leases the location where this grocery store operates and owns only the machinery, equipment, fixtures and existing inventory;

WHEREAS Debtor's machinery, equipment and fixtures have already exceeded their useful life expectancy and have little or no resale value, and have only minimal value when in place as opposed to being moved to another location;

WHEREAS Buyer is a newly formed entity which is not a successor to Debtor, and

WHEREAS the parties to this Agreement agree that an immediate sale of the assets to enable the Mayfair Store to continue operating and purchasing inventory is essential to retaining the value of Seller's assets,

NOW THEREFORE, Debtor and Buyer enter into this Agreement for Sale of Certain Specified Assets of Holiday Supermarkets, Inc. located at the Mayfair Store, and upon approval of the Bankruptcy Court, INTENDING TO BE BOUND HEREBY, agree as follows:

EXHIBIT "B"

TERMS:

1. **Background Incorporated.** Debtor and Buyer incorporate the Background of the Agreement into the Terms.
2. **Purchase Price.** Buyer will pay \$25,000 for that portion of Debtor's assets located at the Mayfair Store location, including without limitation all Seller's trade name, trade and/or service marks used at that location, good will, machinery, equipment, fixtures and existing inventory.
3. **Debtor's Agreement.** Debtor agrees to sell to Buyer for \$25,000 all of Seller's assets located at the Mayfair Store location, including without limitation all Seller's trade name, trade and/or service marks used at that location, good will, machinery, equipment, fixtures and existing inventory. Debtor further agrees to maintain its assets in their current condition, subject only to ordinary wear and tear (and sale of inventory) up to the time of Closing.
4. **Agreement Regarding Debtor's Debt.** The parties expressly agree that by purchasing certain specified assets of Debtor, Buyer is not becoming a successor to Debtor. Debtor further agrees that nothing in this Agreement shall in any way obligate Buyer to assume any of Debtor's obligations or outstanding debt, including without limitation any debt incurred by Debtor under any collective bargaining agreement entered into by Debtor. The parties agree that Buyer is not assuming any liability or responsibility for any pension and/or profit sharing plans, whether past, present or future, and is not responsible for any healthcare benefits.
5. **Closing.** Buyer will close ten (10) days from the date that both parties execute this Agreement and the Agreement is approved by the Bankruptcy Court. The parties agree that time is of the essence.

6. **No Contingencies.** Buyer will close by paying \$25,000 in immediately available funds. Buyer agrees to close without any contingencies except approval by the parties and the Court.

7. **Possession.** Buyer will be given possession at Closing by transfer of the keys and any and all security codes. Buyer is negotiating a new lease with the owner of the real property upon which the Mayfair Store is located.

8. **Debtor Obligations.** Debtor agrees to disclose any and all ongoing agreements it has with any vendor, contractor and/or service provider and to immediately provide any and all such agreements and related documentation to Buyer upon the Bankruptcy Court's approval of this Agreement. Seller further agrees to assist Buyer in either canceling such contracts or assigning such contracts to Buyer, at Buyer's sole discretion.

9. **Ability to Close.** Both parties acknowledge that a condition precedent to Closing under this Agreement is approval by the Bankruptcy Court. Buyer represents that she currently has \$25,000 in immediately available funds necessary to Close prior to the Closing date.

10. **Retention of Current Employees.** Buyer will use its best efforts to retain approximately 75% of the current employees at the Mayfair Store location. Buyer shall have full discretion to determine which employees to retain. The parties agree that Buyer is not assuming any obligation to or relationship with any of Debtor's employees except as expressly set forth in this Agreement and that Buyer's agreement with respect to the employees is only an agreement with respect to the employees at the Mayfair Store location. Buyer has no obligation whatsoever to any persons employed by Debtor at any of its other locations.

11. **Employment Terms.** The parties agree that Buyer is not assuming any liability or responsibility for any pension and/or profit sharing plans, whether past, present or future. Buyer

agrees to pay the employees at the Mayfair Store location at the same rate as they are presently being paid. Buyer will expect the employees to make contributions out of their salary for their health care and insurance coverage.

12. **Further assurances.** In connection with this Agreement and the transactions contemplated hereby, all parties shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement.

13. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, heirs and assigns.

14. **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania without regard to choice of law provisions.

15. **Entire Agreement.** This Agreement is the entire and only agreement between the parties and cancels any previous agreements between the parties. This Agreement may only be modified in writing signed by all parties.

AGREED TO:

BY BUYER:

ROSANNS MARKET INC.

By: Rosann Mazzotta
Rosann Mazzotta

BY DEBTOR:

HOLIDAY SUPERMARKETS, INC.

By: Harry B. Gilbert
Harry B. Gilbert, President
3/3/17