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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
	:	**Chapter 11**
AGENT PROVOCATEUR, INC., *et al.*,[1]	:	**Case No. 17-10987 (MEW)**
	:	**Jointly Administered**
	:	
Debtors.	:	

MOTION OF DEBTORS FOR AUTHORITY TO OBTAIN POSTPETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 362, 364(c)(1), (2), AND (3), AND 364(e)

Now come Agent Provocateur, Inc. and its affiliated debtor Agent Provocateur, LLC (each a "Debtor" and collectively, the "Debtors"), pursuant to sections 105, 362, 364(c)(1), (2), and (3), and 364(e) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), to request the Court to permit them to obtain postpetition financing, on a final basis, as set forth herein (the "Motion"). In support of this Motion, the Debtors respectfully state the following.

[1] The Debtors in these two chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Agent Provocateur, Inc. (9441) and Agent Provocateur, LLC (0862).

Background

1. On April 11, 2017 (the "Petition Date"), the Debtors filed their voluntary petitions under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of this date, no trustee or examiner has been appointed in these chapter 11 cases. On May 4, 2017, the United States Trustee appointed an Official Committee of Unsecured Creditors.

2. On April 17, 2017, the Court entered an order providing for the joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the *Amended Standing Order of Reference M-431*, dated January 31, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Preliminary Statement

4. Agent Provocateur, Inc. was incorporated in 2000 as a California corporation with stores located in New York, California, and other parts of the country. Debtor Agent Provocateur, LLC was formed in 2004 as a Delaware limited liability company with stores in Nevada. The Debtors were formed in the United States for the purpose of operating U.S. retail outlets for merchandise supplied by their then parent in the United Kingdom, Agent Provocateur, Limited (the "Parent").

5. As set forth in the Declaration of Amanda Brooks [Docket Entry #5] (the "Brooks Declaration"), the Parent was placed into administration under the insolvency laws of the United Kingdom prior to the Petition Date. A number of years before the commencement of the UK

administration, in November 2007, funds managed by 3i Investments plc ("3i") acquired a majority stake in the Parent.[2] During the years following the acquisition, the Parent expanded its international business by opening stores and incorporating additional subsidiary companies in various international locations.

6. Also prior to the Petition Date, in August 2016, certain accounting irregularities were discovered, after which it became apparent that the Parent required significant additional capital to fund future operations. In an effort to restructure, the Parent entered into a standstill agreement in October of last year with its secured lender, Barclays Bank plc, to allow it a period of time to complete a restructuring, a refinancing, and/or sale.

7. In connection with these efforts, Rothschild & Co. was retained last December to identify prospective buyers and/or investors in respect of the Parent. A marketing process ensued, culminating on February 16, 2017 with the submission of a number of offers from prospective purchasers. Each offer was an offer to purchase assets (as opposed to equity interests in the Parent), and none of them provided sufficient consideration to satisfy all liabilities in full. As a result, a sale was necessitated by way of a pre-packaged administration under insolvency laws of the United Kingdom.

8. In order to consummate the transaction, on March 1, 2017, a joint administrator (the "UK Administrator") was appointed and the next day, the UK Administrator completed a sale of the Parent's business and assets to a company formed by the Four Marketing Group for the purpose of acquiring and operating the Parent's business and assets. While the sale encompassed, among other things, the Parent's inventory and intellectual property, it did not include the equity of any of the Parent's subsidiaries, including the Debtors herein.

[2] The Parent was the entity within the wider Agent Provocateur group that, among other things, provided head office services, entered into contracts with key suppliers of inventory, and arranged for the delivery of such inventory to other subsidiaries within the group.

9. Prior to the sale, the Parent had provided the intellectual property, including the right to use the Agent Provocateur trademarks and tradenames, to the U.S. companies (*i.e.*, the Debtors). Up until that time, the U.S. companies also had relied on their Parent to supply inventory for sale in their stores, which obviously is the lifeblood of the Debtors' business operations. Following the sale, the Parent remains under the control of the UK Administrator, and Four Marketing Group—through its affiliated entities, Agent Provocateur IP Limited and Agent Provocateur Limited—has continued to operate the Agent Provocateur UK business.

10. Following the sale of the Parent's operating assets, and the subsequent administration of the Parent in the UK, the U.S. companies (*i.e.*, the Debtors) were left utterly stranded, and were about to shut down. The primary reasons for this were twofold: (1) the U.S. entities could no longer rely upon the use of the former Parent's intellectual property; and (2) they no longer had a source of merchandise to place on their store shelves and sell to customers.

11. Accordingly, without a license to use intellectual property, and with no continuing supply of inventory, the Debtors were left with no further ability to maintain viable operations on a going forward basis, and they were on the verge of a complete and immediate shutdown. As they were about to shut down and file petitions under Chapter 7 of the Bankruptcy Code, an affiliate of Four Marketing Group (alternatively referred to herein as the "Buyer" or the "Lender" as appropriate) expressed an interest in purchasing a number of stores from the U.S. companies.

12. As a result of their discussions, the Buyer made a proposal to purchase a number of stores and to fund ongoing operations, to the extent necessary during these bankruptcy cases, in order to consummate the sale.

13. The Debtors' cases are, perhaps, a bit unusual in that there are no secured parties with an interest in their cash. According to projections, cash flow from operations will be

sufficient to fund their business for a period of time during the bankruptcy. However, the Debtors may require additional funding at one or more points during these cases in order to allow them to obtain authority for, and to close, a sale of assets pursuant to section 363.

14. To achieve this goal, the Buyer has offered debtor in possession financing (the "DIP Loan"), in an amount of up to $200,000, to facilitate the sale of assets as set forth above and herein. The DIP Loan is proposed to be a senior superpriority loan from the Lender, to be used to the extent necessary to fund day-to-day operations. Subject to approval by the Court, it will be secured by a first priority lien on substantially all of the Debtors' assets.

15. Under the circumstances set forth above, there is no source of financing, secured or otherwise, available to the Debtors from any other source, apart from that to be provided by Lender pursuant to the DIP Loan. The Lender is the one and only party in existence with both the means and motivation to extend the financing required by the Debtors.

16. In an exercise of sound business judgment, the Debtors have elected to move forward with the DIP Loan, as it in conjunction with the proposed sale, provides the only viable means of averting a permanent cessation of all operations. For the reasons set forth herein, the Debtors believe that authority to obtain the DIP Loan is in the best interests of the Debtors, their estates, their employees, and their creditors and should be granted.

Relief Requested

17. Pursuant to Bankruptcy Code sections 105, 362, 364(c)(1) and (2), 364(c)(3), and 364(e), Bankruptcy Rules 2002, 4001, and 9014, and Local Rule 4001-2, the Debtors request the following relief:

(a) Authority for the Debtors to borrow (in such capacity, the "Borrower") under the DIP Loan;

(b) Authority for the Borrower and the Lender to execute and enter into the Super Priority Debtor in Possession Loan and Security Agreement (the

"DIP Loan Agreement", and, together with any exhibits attached thereto and other agreements related thereto, the "DIP Documents")[3] and to perform all such other and further acts as may be necessary or appropriate in connection with the DIP Documents; and

(c) Authority for the Debtors to grant a security interest, lien, and superpriority claim to the Lender, as well as related protections to secure all obligations of the Debtors with respect to the DIP Loan in the order of priority and as provided in the proposed Final Order (defined below) and the DIP Documents; and

18. A proposed form of order granting the relief requested herein is attached hereto as Exhibit A (the "Final Order").

Concise Summary of the Terms of the DIP Loan

19. In accordance with Bankruptcy Rules 4001(d) and Local Rule 4001-2(a), the following table summarizes significant terms of the Final Order and the DIP Documents:[4]

Material Terms of the DIP Loan	
Borrower Bankruptcy Rule 4001(c)(1)(B)	Agent Provocateur, Inc. and Agent Provocateur, LLC. **DIP Loan Agreement at 1; Final Order at 1.**
Lender Bankruptcy Rule 4001(c)(1)(B)	Agent Provocateur International (US) LLC. **DIP Loan Agreement at 1; Final Order at 1.**
DIP Loan Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(ii)	$200,000 multi-draw term loan. **DIP Loan Agreement at 1; Final Order at 1.**
Borrowing Limit Bankruptcy Rule 4001(c)(1)(B)	$200,000. **DIP Loan Agreement at 1; Final Order at 1.**
Budget Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(2)	Borrower to make disbursements subject to an agreed upon budget, which budget is attached to the Final Order as Exhibit 1. **Final Order at Exhibit 1.**
Use of DIP Loan	For funding of business operations to the extent necessary to

[3] A copy of the DIP Loan Agreement is attached hereto as Exhibit B.

[4] This concise statement is qualified in its entirety by reference to the applicable provisions of the DIP Loan Agreement or the Final Order. To the extent there exists any inconsistency between this concise statement and the provisions of the DIP Loan Agreement, the provisions of the DIP Loan Agreement control. **In accordance with Local Rule 4001-2, sections that must be highlighted for the Court are in bold.**

In addition, many of the provisions of Bankruptcy Rule 4001 and Local Rule 4001-2 regarding cash collateral and treatment of prepetition secured claims are not implicated by the DIP Loan Agreement or the proposed Final Order.

Material Terms of the DIP Loan	
Bankruptcy Rule 4001(c)(1)(B); Local Bankruptcy Rule 4001-2(a)(6)-(a)(7)	supplement cash flow. **DIP Loan Agreement at § 2.4.**
Interest Rates Bankruptcy Rule 4001(c)(1)(B)	Base Rate: 3% Default Rate 5% **DIP Loan Agreement at § 2.4.**
Expenses and Fees Local Rule 4001-2(a)(3)	**$5,000 commitment fee and $5,000 monthly servicing fee (subject to forgiveness if Lender is successful purchaser), and reimbursement of expenses, including attorneys' fees, up to $25,000.** **DIP Loan Agreement at § 2.3.**
Maturity Date Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(10)	June 30, 2017 **DIP Loan Agreement at pg. 25.**
Collateral and Priority Bankruptcy Rule 4001(c)(1)(B)(ii); Local Rule 4001-2(a)(4)	DIP Loan secured by fully perfected security interest in substantially all assets of the Debtors. **DIP Loan Agreement at § 4; Final Order at § 9.**
Conditions to Closing and Borrowing Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(2)	Customary conditions, including, among other things: • Execution of DIP Documents • All necessary consents • Payment of Lender expenses then due **DIP Loan Agreement at § 3.**
Covenants Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(8)	Customary covenants, including, among others, the following: government compliance, weekly reconciliation of cash receipts and disbursements, compliance with budget, access to Lender to records and collateral, maintenance of insurance, protection of intellectual property, cooperation with any litigation, compliance with sale milestones. **DIP Loan Agreement at § 6.**
Events of Default **Bankruptcy Rule 4001(c)(1)(B);** **Local Rule 4001-2(10)**	Customary events of default, including the following: failure to make payment, failure to perform covenants, entry of money judgment against Borrower, compliance with timeline and benchmarks, and conversion of cases to chapter 7 or appointment of examiner with expanded powers. **DIP Loan Agreement at Section 8.**
Milestones Bankruptcy Rule 4001(c)(1)(B)(vi); Local Rule 4001-2(10)	• On or before May 19, 2017, filing of motion to sell the stores, on terms reasonably acceptable to the Lender; • The holding of a sale hearing in this Court no later than June 15, 2017;

Material Terms of the DIP Loan	
	• Approval of sale motion on or before June 15, 2017; • Consummation of sale on or before June 30, 2017. **DIP Loan Agreement at Schedule 6.12.**
Use of Cash Collateral Bankruptcy Rule 4001 (b)(1)(B)(ii) Local Rule 4001-2(a)(ii)	N/A
Liens on Avoidance Actions Bankruptcy Rule 4001(c)(1)(B)(xi); Local Bankruptcy Rule 4001-2(a)(i)(C)	**Final Order at § 9.**
Effect of Debtors' Stipulations on Third Parties Bankruptcy Rule 4001(c)(1)(B)(iii),(viii)	N/A
Waiver or Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	**Upon prior three business days' notice to the Debtors, the automatic stay is vacated to permit the exercise of remedies by the Lender to the extent set forth in the DIP Loan Agreement.** **DIP Loan Agreement at § 9; Final Order at § 22.**
Waiver or Modification of Applicability of Non- Bankruptcy Law Relating to the Perfection or Enforcement of a Lien Bankruptcy Rule 4001(c)(1)(B)(vii)	Lender's security interest in the collateral shall be valid and perfected upon entry of the Final Order. **DIP Loan Agreement at Section 5.15; Final Order at § 22.**
Section 506(c) Waiver Bankruptcy Rule 4001 (c)(1)(B)(x)	**DIP Loan Agreement at Section 7.11; Final Order at § 15.**
Section 552(b) Waiver Bankruptcy Rule 4001(c)(1)(B)	**The "equities of the case" exception in section 552(b) of the Bankruptcy Code shall not apply to the Lender's secured claim.** **Final Order at § 25.**
Release, Waivers or Limitation on any Claim or Cause of Action Bankruptcy Rule 4001(c)(1)(B)(viii)	N/A

The Need for the DIP Loan

20. As mentioned above, and as discussed in the Brooks Declaration, the Debtors have no secured creditors, and there are no creditors with an interest in the Debtors' cash.

21. The Debtors' chapter 11 strategy is focused on the successful execution of a sale of a number of its stores to the Buyer. For the reasons set forth in detail above, the Debtors are simply unable to operate in business any longer without the Buyer's acquiescence.

22. To stave off any lease terminations and to restore access to inventory—without which the Debtors cannot survive—the Debtors commenced the chapter 11 cases. The DIP Loan is necessary to allow the Debtors to proceed towards a sale of their stores, followed by a liquidation of remaining estate assets.

23. The Debtors must act swiftly in chapter 11 to save a number of their stores, and the DIP Loan contains a number of milestones focused on ensuring a swift process. Such milestones include the following:

- the holding of a sale hearing in this Court no later than June 15, 2017;
- approval of the sale motion on or before June 15, 2017;
- consummation of the sale on or before June 30, 2017.

24. As set forth in greater detail therein, the DIP Loan Agreement contains reasonable financial terms that are beneficial to the Debtors. Indeed, the DIP Loan is the only source of financing available to the Debtors. Subject to Court approval, the DIP Loan will provide the Debtors access to up to $200,000 of liquidity to sustain their business operations to the extent cash flow is insufficient to do so. The Debtors anticipate that the DIP Loan, combined with the flow of cash from their stores, will provide them with sufficient liquidity to pursue a swift and orderly sale and a subsequent liquidation.

25. The success of the Debtors' cases hinges on their ability to access the DIP Loan, which is necessary to fund the Debtors' operations through the date of a sale.

The DIP Loan

26. The Debtors and the Lender engaged in extensive, good faith, arm's-length negotiations with respect to the terms and conditions of the proposed DIP Loan, which negotiations culminated in the agreed upon terms set forth therein. The DIP Loan will enable the Debtors to implement and complete the sale process and to satisfy their administrative obligations during these cases.

27. The Debtors and the Lender have agreed upon a budget (the "Budget") to ensure that proceeds of the DIP Loan are used in a manner designed to maximize value. A copy of the Budget is attached to the Final Order as Exhibit 1. The Debtors believe the Budget is achievable given the existing availability under the DIP Loan and the anticipated cash flow from their ongoing business operations.

Basis for Relief

A. The Debtors Should Be Authorized to Obtain Secured, Superpriority Postpetition Financing.

28. Pursuant to section 364 of the Bankruptcy Code, a debtor is authorized to obtain postpetition financing on a secured or superpriority basis, so long as it is unable to obtain such financing on an unsecured or administrative expense priority basis. The Debtors satisfy this standard. The Debtors were stranded after the sale of their Parent's operations. They lacked an ongoing supply of inventory, as well as the ability to use the Agent Provocateur brand, and numerous landlords were initiating eviction actions and/or threatening to terminate leases due to the Debtors' failure to pay rent, forcing the Debtors to the brink on more than one occasion.

29. It was not until the Buyer agreed to purchase a number of stores and provide the

financing necessary to consummate the sale that the Debtors' hopes for a sustained existence were rekindled.

30. The Debtors have carefully assessed all options and they have concluded that there are only two: (1) to shut down the stores; or (2) proceed with the sale and enter into the DIP Loan with the Lender. The DIP Loan is tailored to the Debtors' current circumstances and it provides a path to a sale of stores and subsequent liquidation of remaining assets.

31. For these reasons, as well as those set forth below, the Debtors submit that the necessary conditions under section 364(c) for authority to enter into the DIP Loan have been satisfied.

i. DIP Loan is Sound Exercise of Debtors' Business Judgment

32. Where a lending arrangement complies with applicable Bankruptcy Code provisions, a debtor is granted considerable latitude and deference in its decision, in its sound business judgment, to obtain such credit. *In re Ames Dep't Stores, Inc*., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (exercise of debtor's reasonable business judgment); *In re Farmland Indus., Inc*., 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (approval of postpetition financing involves an exercise of sound and reasonable business judgment).

33. Thus, in determining whether the Debtors have exercised sound business judgment in entering into the DIP Loan, the Court should consider the economic terms of the DIP Loan in light of the Debtors' present situation.

34. Given the Debtors' precarious and fragile existence, as explained in detail above, their decision to secure the DIP Loan was a sound business decision. Indeed, the only other option is to cease all operations permanently. Bankruptcy courts generally will not second guess a debtor's business decision when it involves a good faith business judgment, with a reasonable basis, and is within the scope of the Bankruptcy Code. *In re Curlew Valley Assocs*., 14 B.R. 506,

513-14 (Bankr. D. Utah 1981). To determine whether the business judgment test is met, the court considers whether "a reasonable business person would make a similar decision under similar circumstances." *In re Dura Auto. Sys. Inc.*, Case No. 06-11202, 2007 Bankr. LEXIS 2764, at *272 (Bankr. D. Del. Aug. 15, 2007).

35. Under the existing circumstances, where the DIP Loan is the only option available short of a permanent closure of the business, the Debtors submit the DIP Loan is a sound and reasonable exercise of their business judgment.

ii. Postpetition Financing Appropriate on a Secured and Superpriority Basis

36. The Debtors satisfy the requirements of section 364 of the Bankruptcy Code, which allow a debtor to obtain secured or superpriority financing under the following circumstances:

> If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt:
>
> (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
>
> (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
>
> (3) secured by a junior lien on property of the estate that is subject to a lien[.]

11 U.S.C. § 364(c).

37. Section 364(c) is satisfied by a demonstration that credit was not available to a debtor on an unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Says. & Loan Ass'n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986); *Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp*., 266 B.R. 575, 584 (S.D.N.Y. 2001) (superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense). When lenders are unlikely to be able and willing to extend credit to a debtor, it is unrealistic and unnecessary for

the debtor to conduct such an exhaustive search for financing. *In re Sky Valley, Inc*., 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988).

38. The Debtors are unable to obtain unsecured financing. Apart from the DIP Loan from the Lender, there is simply no available source of secured financing under the circumstances facing the Debtors. The Debtors believe that the DIP Loan is the best and only financing available.

B. DIP Loan Interest and Fees Appropriate under the Circumstances.

39. As described in the above summary, the DIP Loan provides, subject to Court approval, for payment of interest and certain fees to the Lender in exchange for funding the DIP Loan.

40. The DIP Loan calls for an interest rate of three percent per annum on the obligations, with a default interest rate of an additional two percent, which are very reasonable rates in light of the market and the factual circumstances here. The DIP Loan also provides for a commitment fee of $5,000 and a monthly servicing fee of $5,000, provided that the foregoing fees shall be waived and forgiven if Lender, as Buyer, is the successful purchaser of the Debtors' assets. It also provides, subject to Court approval, for reimbursement of the Lender's expenses, including attorneys' fees, up to a maximum of $25,000, provided the monetary cap does not apply in the event of a challenge to the DIP Loan.

41. The Debtors considered the fees described above in determining in their sound business judgment that the DIP Loan was the best and only available financing. They submit that the DIP Loan is reasonably priced and that the fees provided for therein are appropriate.

C. The Lender as a Good Faith Lender under Section 364(e).

42. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the

authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) provides as follows:

> The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

43. Here, the DIP Loan is the result of the Debtors' reasonable and informed determination, in their business judgment, that the Lender has offered the only form of postpetition financing available, on reasonable terms, and after arm's length, good faith negotiations. The terms and conditions of the DIP Loan are fair and reasonable, and the proceeds of the loan will only be used for permissible purposes under the Bankruptcy Code. Accordingly, it would be appropriate for the Court to find that the Lender is a "good faith" lender under section 364(e) of the Bankruptcy Code, and it is thus entitled to all of the protections afforded thereby.

D. Modification of the Automatic Stay.

44. The relief requested in this Motion contemplates a modification of the automatic stay (to the extent applicable) to permit the Debtors to: (i) grant the security interest and superpriority claim described above and to perform such acts as may be requested to assure the perfection and priority of the security interest, (ii) entitle the Lender, upon an Event of Default (as defined in the DIP Loan), after the applicable notice period and opportunity for the Debtors to respond, to certain remedies, as further detailed in the DIP Loan and the Final Order.

45. Stay modifications of this nature are typical of postpetition financing arrangements and are, in the Debtors' business judgment, appropriate in these cases.

Reservation of Rights

46. Nothing contained herein is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the rights of the Debtors or any other party in interest to dispute any claim, or (iii) an assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

Notice

47. Notice of this Motion has been provided to (i) the Office of the United States Trustee for Region 2; (ii) all parties registered to receive notice via the Court's ECF system and all parties who have requested notice of pleadings and filings in these cases; (iii) counsel to the Official Committee of Unsecured Creditors; (iv) the Internal Revenue Service; (v) the United States Attorney's Office for the Southern District of New York; and (vi) counsel for the Lender/Buyer. The Debtors submit that such notice is appropriate and sufficient under the circumstances and they request that the Final Order so provide.

48. No previous request for the relief sought herein has been made in this or any other Court.

WHEREFORE the Debtors respectfully request entry of a Final Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: May 19, 2017
New York, New York

Respectfully submitted,

THOMPSON HINE LLP

By: /s/ Andrew Turscak, Jr.
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