

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In re:)
) Case No. 09-04198-TBB-11
MOORE-HANDLEY, INC., et al.,)
) Jointly Administered
Debtors.)

**ORDER APPROVING DEBTORS' MOTION (1) TO SELL SUBSTANTIALLY ALL
ASSETS OTHER THAN IN THE ORDINARY COURSE OF BUSINESS FREE AND
CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS
PURSUANT TO 11 U.S.C. § 363(f), (2) TO ASSUME AND ASSIGN UNEXPIRED
LEASES AND EXECUTORY CONTRACTS PURSUANT TO 11 U.S.C. § 365
AND (3) FOR RELATED RELIEF**

THIS MATTER came before the Court for hearing on September 29, 2009, on the motion of Moore-Handley, Inc. ("Moore-Handley") and Hardware House, Inc. ("Hardware House"), debtors and debtors-in-possession (collectively, the "Debtors"), for authority, pursuant to 11 U.S.C. §§ 105, 363 and 365, and Rules 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for the Debtors (a) to sell substantially all of their assets, free and clear of liens, claims, encumbrances, and other interests, and (b) to assume and assign unexpired leases and executory contracts [Docket No. 288] (the "Motion").¹ Appearances were noted in the record. Upon due consideration of the Motion, the testimony and other evidence presented at the hearing, the pleadings of record, the arguments and representations of counsel, all other matters brought before the Court, and for good cause shown, the Court FINDS, DETERMINES and CONCLUDES as follows:

¹ Capitalized terms not defined herein and not otherwise apparent from the context shall have the meanings set forth in the Motion.

1. On July 17, 2009 (the "Filing Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"). The Debtors' cases are being jointly administered. The Debtors are managing their assets and affairs as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. On or about August 12, 2009, the Bankruptcy Administrator appointed an official committee of unsecured creditors (the "Committee"). No trustee or examiner has been requested or appointed in either of the Debtors' cases.

2. On September 1, 2009, the Debtors filed the Motion with the Court. The Debtors bring the Motion pursuant to Sections 105, 363 and 365 of the Bankruptcy Code and Bankruptcy Rules 6004, 6006 and 9014. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334(b). The Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Debtors' cases and the Motion is proper before the Court under 28 U.S.C. §§ 1408 and 1409.

3. On September 1, 2009, the Debtors filed their Motion for Order Approving Bidding Procedures for the Sale of Substantially All of Debtors' Assets, the Assumption and Assignment of Unexpired Leases and Executory Contracts, and the Transfer and Assignment of Non-Competition Agreements Pursuant to 11 U.S.C. §§ 105, 363 and 365 and Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure [Docket No. 289] (the "Bidding Procedures Motion"). On September 4, 2009, the Court entered an Order granting the Bidding Procedures Motion [Docket No. 325] (the "Bidding Procedures Order"), pursuant to which the Court scheduled a final sale hearing for September 29, 2009 at 9:00 a.m. central time (the "Sale Hearing") and approved the bidding procedures attached as Exhibit A to the Bidding Procedures Order (the "Bidding Procedures").

4. The Debtors timely served the Motion, the Bidding Procedures Motion, and the order setting the Bidding Procedures Motion for hearing upon the (a) the Bankruptcy Administrator, (b) counsel for CIT, (c) counsel for the Committee, (d) counsel for the Bostwick Parties, (e) the taxing authorities to which the Debtors pay property taxes, (f) all parties asserting via public records a lien in property of the Debtors' estates, (g) all counterparties to the Non-Competition Agreements that the Debtors proposed to transfer and assign to the Proposed Buyer, (h) all counterparties to the executory agreements and unexpired leases that the Debtors proposed to assume and assign to the Proposed Buyer, and (i) all parties requesting notice.

5. The Debtors timely served copies of the Motion, the Bidding Procedures Motion, the order setting the Bidding Procedures Motion for hearing, and the Bidding Procedures Order on known potential Qualifying Bidders (as said term is defined in the Bidding Procedures Motion).

6. The Bidding Procedures Order was served by the Bankruptcy Noticing Center on the Debtors' entire creditor matrix.

7. The Debtors timely served the Court-approved Notice of Auction, Objection Deadline and Sale Hearing (the "Notice of Sale") on the parties identified on the Debtor's creditor matrix, which said creditor matrix includes, without limitation, the Debtors' known creditors, the taxing authorities to which the Debtors pay property taxes, the counterparties to executory agreements and unexpired leases of the Debtors, the counterparties to Non-Competition Agreements, the parties asserting via public records a lien in property of the Debtors' estates, the Debtors' equity security holders, the Bankruptcy Administration, counsel for CIT, counsel for the Committee, and counsel for the Bostwick Parties.

8. The Debtors timely served the Court-approved Notice of Potential Assumption and Assignment of Executory Contracts and Unexpired Leases (the "Executory Agreement Notice") on each counterparty to an executory agreement or unexpired lease of the Debtors along with documentation identifying the counterparty's agreement(s) and the proposed cure cost(s) associated with the counterparty's agreement(s).

9. The Debtors timely served the Court-approved Notice of Potential Transfer and Assignment of Non-Competition Covenants, Non-Compete Agreement and Non-Disclosure Agreements (the "Non-Competition Agreement Notice") on each counterparty to a Non-Competition Agreement along with documentation identifying the counterparty's known Non-Competition Agreement(s).

10. The Debtors published the Notice of Sale in The Birmingham News on September 13, 16, and 18, 2009, as set forth in the Affidavit of Publication dated September 18, 2009 [Docket Number 522]. The Debtors also published the Notice of Sale in the electronic edition of The Home Channel News at www.hcn.com from September 14, 2009 through and including September 28, 2009 and in the print edition of The Home Channel News on September 21, 2009, as set forth in the Verification of Publication dated September 23, 2009 [Docket Number 522], thereby providing additional notice to all parties in interest, including, without limitation, any holders of claims or interests who were unknown to the Debtors.

11. The Debtors have complied with all applicable service requirements, including notification of the Bankruptcy Administrator. The notice provided is appropriate, sufficient for all purposes under the Bankruptcy Code and the Bankruptcy Rules (including to sell the Purchased Assets free and clear of all Liens (as such term is hereinafter defined) under

Section 363 of the Bankruptcy Code) and is reasonably calculated to apprise all parties in interest of the Sale (as defined below) being made free and clear of their respective claims, liens and interests. No further notice is due or necessary with respect to the Motion, the hearing on the Motion, or the relief requested in the Motion.

12. Objections to the Motion (collectively, the “Objections”) were filed by the following parties:

- a. Wells Fargo Equipment, Inc., on its behalf and as servicer for First Hawaiian Leasing, Inc. (“WFE”) [Docket Number 310 and Docket Number 506] (the “WFE Objections”).
- b. The Committee [Docket Number 501] (the “Committee Objection”).
- c. Phifer Incorporated (“Phifer Inc.”) [Docket Number 431] (the “Phifer Inc. Objection”);
- d. Laitner Brush [Docket Number 470] (the “Laitner Brush Objection”);
- e. MP Global Marketing, LLC and Mark Pelley (“MP Global”) [Docket Number 464] (the “MP Global Objection”);
- f. Louisville Ladder (“Louisville Ladder”) [Docket Number 480] (the “Louisville Ladder Objection”);
- g. Alabama Power Company (“APCo”) [Docket Number 499] (the “APCo Objection”);
- h. Mark A. Kleparek [Docket Numbers 466 and 468], Keith E. Kilgore [Docket Number 471], Sol Malka [Docket Number 458], Frank Barnes [Docket Number 440], Robert A. Crooks [Docket Number 477], Dennis S. Bigler [Docket Number 476], Thomas J. Schifanella, Jr. [Docket Number 496], Kevin Grice [Docket

Number 497], Pat McCutcheon [Docket Number 500], Troy Odum [Docket Number 502], Rick Walker [Docket Number 504], Mike Mason [Docket Number 505], Clay Alford [Docket Number 472], and Thomas A. Seifert [Docket Number 475], (collectively, the “Unassigned Non-Competition Objections”);

- i. Danny Aldridge [Docket Number 482], Stan Winslett [Docket Number 481], Terry Bender [Docket Number 488], Arthur “Skip” Reid [Docket Number 483], Parker Langston [Docket Number 484], Chad Murray [Docket Number 487], and Handy Hardware Wholesale, Inc., on behalf of Rory Fowler and Jamey Merritt [Docket Number 526] (collectively, the “Unresolved Non-Competition Objections”);
- j. Robert Tolbert [Docket Number 486] (the “Tolbert Non-Compete Objection”); and
- k. The Retail, Wholesale & Department Store Union, Mid-South Council and its Local 261 (collectively referred to as the “Union”) [Docket No. 525] (the “Union Objection”).

13. Moore-Handley is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Pelham, Alabama. Hardware House is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Pelham, Alabama. Hardware House is a wholly-owned subsidiary of Moore-Handley.

14. On a consolidated basis, the Debtors’ net sales revenues in 2008 totaled approximately \$145.50 million. On a consolidated basis, through June 30, 2009, net sales revenues totaled \$60.60 million. The Debtors’ sales revenues historically have tracked housing starts in their primary market, the Southeast. The Debtors’ sales began to decline with the decline in the housing market, and the current general economic climate has accelerated the

15. On June 22, 2009, the Debtors and Carl Marks Advisory Group LLC (“CMAG”), entered into a consulting agreement (the “Consulting Agreement”) pursuant to which CMAG, as management and financial consultants to the Debtors, was engaged to streamline the Debtors’ business operations, restructure their financial affairs, and/or assist the Debtors in their efforts to sell or combine various divisions and/or assets of the Debtors. After evaluating all restructuring options, the Debtors, exercising sound business judgment, concluded that the highest and best use of the Debtors’ assets was a sale on an ongoing basis. To that end, CMAG has guided the Debtors in marketing and sales efforts. On August 10, 2009, the Debtors filed an application to employ CMAG as financial advisors and investment bankers pursuant to §§ 327 and 328 of the Bankruptcy Code. By order dated August 31, 2009 [Docket Number 282], the Court approved the Debtors’ application to employ CMAG. The terms set forth in the Consulting Agreement provide that CMAG is entitled to a success fee equal to one percent (1%) of the gross proceeds (the “Success Fee”) realized from the sale of the Debtors’ hardware distribution segment.

16. As a result of the Debtors’ and CMAG’s marketing efforts, pursuant to an Asset Purchase Agreement dated August 27, 2009 (the “Bostwick Asset Purchase Agreement”) by and among the Debtors, on the one hand, and BB/MH Acquisition Company, LLC (“BB/MH”) and The Bostwick Braun Company, on the other (“Bostwick” and, together with BB/MH, the “Bostwick Parties”), the Debtors agreed – subject to higher or otherwise better

offers and bankruptcy court approval – to sell, assign, transfer and deliver the Purchased Assets (as said term is defined in the Bostwick Asset Purchase Agreement) to the Proposed Buyer.

17. The Debtors have thoroughly marketed the Debtors' assets for sale on a going concern basis and on a liquidation basis in accordance with the Bidding Procedures. In addition to the offer made by the Proposed Buyer pursuant to the Asset Purchase Agreement, the Debtors received a timely competing Qualifying Bid (as said term is defined in the Bidding Procedures) for the Purchased Assets from HHH Acquisition Company, LLC ("HHH"). HHH's Qualifying Bid was an All Assets Bid (as such term is defined in the Bidding Procedures). BB/MH and HHH were the only parties submitting All Assets Bids. The Debtors also timely received a Qualifying Bid from WFE, which bid was a credit bid to purchase only the Debtors' assets upon which WFE asserts a perfected lien (the "WFE Bid"). The WFE Bid was a Select Assets Bid (as such term is defined in the Bidding Procedures). Other than the WFE Bid, no other Select Asset Bids were submitted to the Debtors.

18. Pursuant to the Bidding Procedures Order, the Debtors conducted the Auction on September 25, 2009. The Auction was conducted in accordance with the Bidding Procedures. Participating in the bidding at the Auction were HHH and BB/MH. Also attending the Auction were representatives of the Debtors, CIT, WFE, the Committee, and CMAG. Prior to the Auction, the Debtors and CMAG compared the Qualifying Bids of BB/MH and HHH to evaluate the relative merits of each bid, including various adjustments relating to executory contract cure costs, working capital adjustments, and other matters, and involved representatives of CIT and the Committee in such evaluation. BB/MH's bid contemplated extending offers to more of the Debtors' employees than did HHH's bid. The Debtors and CMAG calculated that, if

the Debtors accepted HHH's bid, the Debtors would potentially incur administrative claims to its employees under The Workers' Adjustment and Retraining Act, 29 U.S.C. § § 2101 et seq. (the "WARN Act"), totaling \$1,159,247 (the "HHH Bid WARN Act Claims"). In contrast, if the Debtors accepted BB/MH's bid, the Debtors would potentially incur administrative WARN Act claims totaling \$360,615 (the "BB/MH Bid WARN Act Claims"). In light of this, the Debtors and CMAG, after a consultation with and with the support of CIT, determined that the sum of \$798,632 would be credited to any Qualifying Bids submitted by BB/MH.

19. At the Auction, the Debtors, in consultation with CIT and hearing no objection from the Committee representative present at the Auction, determined that HHH ("HHH") submitted the highest and best bid for the Purchased Assets and was the Prevailing Bidder (as said term is defined in the Bidding Procedures) and that BB/MH had submitted the next highest or otherwise best bid for the Purchased Assets and was the Backup Bidder (as said term is defined in the Bidding Procedures).

20. The bid submitted by HHH at the Auction is evidenced by that certain Asset Purchase Agreement (as amended, the "HHH Asset Purchase Agreement") dated as of September 28, 2009 by and among the Debtors, HHH, and House-Hasson Hardware Company ("House-Hasson"). A copy of the HHH Asset Purchase Agreement has been filed with the Court under seal and hereby is incorporated by reference into this Order. As more particularly set forth in the HHH Asset Purchase Agreement, the HHH Asset Purchase Agreement (a) names HHH as the buyer, (b) provides for a Base Purchase Price (as defined in the HHH Asset Purchase Agreement) of \$14,400,000, (c) amends the effective date of the working capital adjustment for the Debtor's accounts receivable to September 24, 2009 – a modification that may increase the

consideration paid for the Purchased Assets (as such term is defined in the HHH Asset Purchase Agreement) by as much as \$894,091, (d) excludes additional material assets from the Purchased Assets, and (e) names House-Hasson as guarantor and direct beneficiary of the HHH Asset Purchase Agreement. Pursuant to the HHH Asset Purchase Agreement, HHH agrees assume certain liabilities of the Debtors, including, without limitation: liabilities under the Assigned Executory Agreements (as defined below), provided that the Debtors will pay all of the Cure Costs (as defined below) at Closing (as defined in the HHH Asset Purchase Agreement); liabilities and obligations, as of the Closing Date (as defined in the HHH Asset Purchase Agreement), to customers under outstanding Customer Orders (as defined in the HHH Asset Purchase Agreement) or otherwise; and liabilities and obligations, as of the Closing Date, under Vendor Orders (as defined in the HHH Asset Purchase Agreement) (collectively, and as more particularly set forth in the HHH Asset Purchase Agreement, the "Assumed Liabilities").

21. At the Sale Hearing, counsel for BB/MH represented to the Court that BB/MH was willing to increase its final bid at the Auction by the amount necessary to be equivalent to the final bid of HHH at the Auction. At the request of the Debtors, the Court reconvened the Auction pursuant to the Bidding Procedures, and both BB/HM and HHH submitted additional competing bids for the Purchased Assets in accordance with the Bidding Procedures. At the conclusion of bidding, the Debtors, in consultation with CIT and the Committee, determined that HHH had submitted the highest and best bid for the Purchased Assets and was the Prevailing Bidder (as said term is defined in the Bidding Procedures) and that

BB/MH had submitted the next highest or otherwise best bid for the Purchase Assets and was the Backup Bidder (as said term is defined in the Bidding Procedures).¹

22. As represented to the Court at the Sale Hearing, the Prevailing Bid (as said term is defined in the Bidding Procedures) includes the following amendments to the HHH Asset Purchase Agreement: (a) Section 1.1(l) of the Asset Purchase Agreement is amended by deleting the word “and” immediately preceding the words “rights of recovery” in the last sentence of such Section, and adding the words, “and the proceeds payable under any policy or policies of property or casualty insurance covering the Purchased Assets and all other rights of the insureds under such policies with respect to claims for insured losses to Purchased Assets occurring on or before the Closing Date,” after the words “Purchased Assets” immediately following the last parenthetical phrase appearing at the end of such Section; (b) Schedule 1.2(h) of the HHH Asset Purchase Agreement is hereby amended by adding the words, “but not the proceeds payable under any such policy or policies of property or casualty insurance covering the Purchased Assets, payable on account of an insured loss to one or more of the Purchases Assets occurring on or before the Closing Date” immediately following the phrase “Schedule 4.20” of the second numbered line of such Schedule; (c) Section 2.1 of the HHH Asset Purchase Agreement is amended to change the Base Purchase Price from Fourteen Million Four Hundred Thousand Dollars (\$14,400,000) to Fourteen Million Five Hundred Thousand Dollars (\$14,500,000); (d) HHH waives the conditions to its obligation to consummate the transactions contemplated in the HHH Asset Purchase Agreement set forth in Sections 7.1, 7.3 and 7.6 of the HHH Asset

¹ The terms and conditions of the Backup Bid (as said term is defined in the Bidding Procedures) of BB/MH are set forth in the Asset Purchase Agreement dated as of August 27, 2009 by and among the Debtors, BB/MH, and Bostwick, and the Amendment to Asset Purchase Agreement dated as of September 28, 2009 by and among the Debtors, BB/MH, and Bostwick, and as amended by the agreement of BB/MH and Bostwick on the record of the Sale Hearing (as amended, the “Backup Asset Purchase Agreement”).

Purchase Agreement; and (e) Section 6.3(a) of the HHH Asset Purchase Agreement is hereby amended by adding the following sentence at the end thereof “In furtherance of the foregoing (and without limiting the provisions of Section 6.6(b) hereof), Sellers shall use commercially reasonable efforts to maintain in force and to enforce all contractual rights of Sellers under the noncompetition and confidentiality agreements that are included in the Purchased Assets; provided, that (i) any such enforcement actions shall be taken only at the request and at the expense of the Buyer, and (ii) Sellers’ obligations under this sentence shall terminate as of the date on which such contractual rights are effectively assigned to the Buyer.”

23. The Purchased Assets include, without limitation, all of the Debtors’ right, title and interest in and to, and claims and rights under, all unexpired leases and executory contracts listed on the attached Exhibit A (the “Assigned Executory Agreements,” and each an “Assigned Executory Agreement”). HHH has excluded from the Assigned Executory Agreements all of the Debtors’ unexpired leases and executory contracts not specifically listed on Exhibit A, including, without limitation, the unexpired leases and executory contracts of MP Global, Louisville Ladder, APCo, and Laitner Brush.

24. The Purchased Assets include, without limitation, all of the Debtors’ right, title and interest in and to, and claims and rights under, certain non-piracy and non-compete agreements listed on Schedule 1.1(d)(i) to the HHH Asset Purchase Agreement (collectively, the “Assigned Non-Competition Agreements,” and each party thereto, singly, an “Assigned Non-Competition Agreement Counterparty,” and, collectively, the “Assigned Non-Competition Agreement Counterparties”). By agreement of HHH, the Assigned Non-Competition Agreements shall not include the agreements referenced in the Unassigned Non-Competition

Objections. Furthermore, the Non-Piracy Agreement executed by Robert Tolbert in favor of Moore-Handley dated February 13, 2004, and the Agreement Regarding Proprietary Rights and Restrictive Covenants executed by Robert Tolbert in favor of Moore-Handley dated December 1, 2006, shall not be included among the Assigned Non-Competition Agreements based on the Court's conclusion at the Sale Hearing that these agreements are not assignable under applicable state law. This finding is without prejudice to the rights of the Debtors to petition the Court for authority to assign any other agreement of Robert Tolbert to HHH and is without prejudice to the rights of the Debtors (or the Debtors' assignees) under any applicable statute or common law doctrine which governs the subject of the Non-Piracy Agreement executed by Robert Tolbert in favor of Moore-Handley dated February 13, 2004, and/or the Agreement Regarding Proprietary Rights and Restrictive Covenants executed by Robert Tolbert in favor of Moore-Handley dated December 1, 2006.

25. Pursuant to the HHH Asset Purchase Agreement, neither HHH nor House-Hasson will, or shall be deemed to have, become the employer of any employee of the Debtors, except for such of the Debtors' employees who are offered employment pursuant to Section 6.3 of the HHH Asset Purchase Agreement, and who accept such offer.

26. Pursuant to the HHH Asset Purchase Agreement, HHH has the option to include the Cummings Street Property among the Purchased Assets and to purchase at Closing certain real property located at 3114 Cummings Street, Pelham, Alabama (the "Cummings Street Property") currently owned by Moore-Handley. HHH has now elected to exercise such option and to include the Cummings Street Property among the Purchased Assets.

27. The Debtors have complied in all material respects with the Bidding Procedures Order. The offer submitted by HHH pursuant to the HHH Asset Purchase Agreement, is the highest or otherwise best offer generated through a fair, open, public, thorough and reasonable marketing process. The Purchase Price is a fair and reasonable market price and constitutes fair and reasonably equivalent value for the Purchased Assets, including, without limitation, the Assigned Executory Agreements and the Assigned Non-Competition Agreements. The sale of the Purchased Assets to HHH (or its assignees or designees) pursuant to the HHH Asset Purchase Agreement (the "Sale"), is the highest or otherwise best use for the Purchased Assets, and represents a maximization of value to the Debtors' estates. The Debtors and their professionals have established, to the Court's satisfaction, that continued operations by the Debtors will not yield any greater value for the Debtors' estates and would likely yield less value.

28. The Sale is in all respects an arms-length transaction negotiated in good faith by all parties and, if consummated, will be a purchase in good faith by HHH (and, as applicable, HHH's assignee or designees). The Debtors, CIT, the Committee and HHH have at all times been represented by professionals and have engaged in vigorous negotiations regarding the terms of the Sale. The Purchase Price was not controlled by any agreement among potential bidders. The actions of HHH (and its assignees and designees) and the transactions contemplated by the HHH Asset Purchase Agreement, are entitled to the protections of Section 363(m) of the Bankruptcy Code with respect to the purchase of the Purchased Assets. Neither the Debtors nor HHH (nor its assignees or designees) has engaged in any conduct that would cause or permit the HHH Asset Purchase Agreement to be voided or otherwise challenged under Section 363(n) of the Bankruptcy Code.

29. To consummate the Sale, the Debtors must assume and assign to HHH (or its assignees or designees) the Assigned Executory Agreements. The Assigned Executory Agreements are in full force and effect and no default exists thereunder with respect to any material term, condition, covenant, payment obligation or other obligations thereunder, whether prepetition or postpetition in nature, on the part of the Debtors, other than (a) any event of default existing as a result of the filing of the bankruptcy cases or the insolvency or financial condition of the Debtors, and/or (b) any event of default that can be cured by payment of the respective cure costs amounts listed in the attached Exhibit A (the "Cure Costs"), all of which events of default may and shall be cured at the Closing and in accordance with the terms of this Order.

30. Each of the Assigned Executory Agreements is an executory contract of the applicable Debtor under Section 365 of the Bankruptcy Code. All conditions and requirements under Sections 363 and 365 of the Bankruptcy Code for the assumption by such Debtor and assignment to HHH (or its assignees or designees) of each of the Assigned Executory Agreements have been satisfied.

31. Pursuant to the terms of the HHH Asset Purchase Agreement, undisputed Cure Costs, as fixed in the amounts listed in Exhibit A to this Order, will be paid by the Debtors (from the cash proceeds of the Sale), at the closing of the Sale, thereby curing all monetary defaults under the Assigned Executory Agreements. No party to any of the Assigned Executory Agreements has suffered any other actual pecuniary loss as a result of any default by the Debtors. The notice provided to the counterparties to the Assigned Executory Agreements (the

“Assigned Executory Agreement Counterparties”) is due, sufficient and proper to bind them to the amount of Cure Costs listed in the attached Exhibit A.

32. The Assigned Executory Agreement Counterparties are adequately assured of future performance by HHH (or its assignees or designees, as applicable) under the Assigned Executory Agreements. At current business levels, which have remained relatively constant even during the Debtors’ bankruptcy cases, the Purchased Assets generate sufficient cash flow to pay timely and otherwise perform all obligations under the Assigned Executory Agreements. Moreover, HHH has sufficient working capital to ensure future performance under the Assigned Executory Agreements.

33. The assignment of the Assigned Executory Agreements to HHH is subject to all provisions thereof, except as may be modified by consent of the parties or by the Court pursuant to applicable law. HHH’s liabilities and obligations under the Assigned Executory Agreements are limited as set forth in the HHH Asset Purchase Agreement. Assumption and assignment of the Assigned Executory Agreements as set forth herein is in the best interests of the Debtors, the Debtors’ estates and their creditors and are due to be approved under Section 365 of the Bankruptcy Code.

34. Except with respect to the collateral of the Debtors upon which WFE asserts first-priority liens, CIT asserts perfected first priority liens and security interests in all or substantially all of the Purchased Assets as security for the Debtors’ revolving and term loans owed by the Debtors to CIT as of the Filing Date and as adequate protection for the Debtors’ use of CIT’s cash collateral during the pendency of the Debtors’ cases. WFE asserts first priority, purchase money security interests in certain equipment and fixtures of the Debtors. Phifer and

Louisville Ladder assert reclamation rights with respect to certain inventory of the Debtors that the Reclamation Claimants assert is among the Purchased Assets. The Debtors have provided full and complete notice of the Sale to all parties claiming an interest in or lien on the Purchased Assets.

35. The Purchased Assets shall be sold pursuant to Section 363(f) of the Bankruptcy Code, free and clear of any and all mortgages, pledges, hypothecations, rights of others, claims, security interests, encumbrances, leases, subleases, licenses, occupancy agreements, adverse claims or interests, claims based on any theory of successor or transferee liability, easements, covenants, encroachments, burdens, title defects, title retention agreements, voting trust agreements, interests, equity, options, liens, trust indentures, rights of first refusal, charges or other restrictions or limitations of any nature whatsoever, whether matured or unmatured, contingent or non-contingent, senior or subordinated, including but not limited to such as may arise under any Contracts (as defined in the HHH Asset Purchase Agreement), and any "claims," "liens," or "security interests," as those terms are defined in the Bankruptcy Code, but excluding Permitted Encumbrances (as defined in the HHH Asset Purchase Agreement) (the foregoing collectively, the "Liens," and each, a "Lien").

36. With respect to all parties asserting a Lien in, to or against the Purchased Assets, the Sale complies with all the requirements of Section 363(f) of the Bankruptcy Code. Without limitation, with respect to each Lien, claim, encumbrance or other interest in the Purchased Assets, (a) applicable non-bankruptcy law permits the Sale free and clear of such Lien or interest, (b) the holder of such Lien or interest consents to the Sale, (c) 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 the Purchased Assets, (d) such Lien is in *bona fide* dispute, or (e) the holder of such Lien or interest could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

37. Specifically, *inter alia*, and as represented to the Court at the Sale Hearing, (a) CIT, WFE, Phifer and Louisville Ladder each consent to the Sale on the terms set forth in this Order and, with respect to WFE, the separate consent order being entered by the Court further delineating the basis of WFE's consent, and (b) applicable non-bankruptcy law permits the Sale free and clear of such Liens or interest. Pursuant to the Bidding Procedures Order, those (i) holders of Liens, (ii) Assigned Executory Agreement Counterparties, and (iii) Assigned Non-Competition Agreement Counterparties who did not timely object, or who withdrew their objections, to the Sale or the Motion are deemed to have consented to the Sale and the Motion pursuant to Section 363(f)(2) of the Bankruptcy Code.

38. The Debtors are the sole and lawful owners of the Purchased Assets immediately prior to the Closing. The transfer of the Purchased Assets to HHH (or its designees or assignees) will be a legal, valid, and effective transfer of the Purchased Assets, and will vest HHH (and its designees or assignees, as applicable) with all right, title, and interest of the Debtors and their estates to the Purchased Assets free and clear of all Liens, except as permitted under the express terms of the HHH Asset Purchase Agreement.

39. Exigent circumstances and sound business reasons exist for the Debtors' Sale of the Purchased Assets pursuant to the HHH Asset Purchase Agreement. Entry into the HHH Asset Purchase Agreement, consummation of the transactions contemplated thereby, the Sale of the Purchased Assets to HHH (and its assignees and designees) in accordance with the

HHH Asset Purchase Agreement, and the assumption and the assignment of the Assigned Executory Agreements to HHH (and its assignees and designees) constitute the exercise by the Debtors of sound business judgment and such acts are in the best interests of the Debtors, their estates, and all parties in interest. The Debtors have articulated compelling circumstances and sound and sufficient business reasons justifying the Sale of the Purchased Assets pursuant to Sections 105 and 363 of the Bankruptcy Code, including a sale outside, but in contemplation of, a Plan (as defined below). The Debtors do not propose the Motion as a substitute for a chapter 11 plan. Rather, by the Motion, the Debtors seek authority only to conclude the Sale to preserve the value of the Purchased Assets for the benefit of their estates in furtherance of the liquidating chapter 11 plan that the Debtors intend to file with the Court (the "Plan").

40. Business exigencies justify a prompt Sale on an ongoing basis. The Debtors have been operating at a net loss and have limited funding to maintain operations. Under the circumstances, the Sale is necessary to preserve the going concern value of the Debtors' assets for the benefit of the Debtors' creditors.

41. The Sale is preferable to a piecemeal liquidation of the Purchased Assets. A shutdown of the Debtors' operations and piecemeal liquidation would result in substantial wind-down costs. Given the current economic environment, a limited market exists for the Purchased Assets, and the marketing process associated with piecemeal liquidation likely would take months or years and yield a far lower return than a sale of the Purchased Assets as a going concern.

42. Subject to the terms of this Order and the HHH Asset Purchase Agreement, based on the foregoing, the transactions proposed in the Motion satisfy all

requirements of Sections 363(b), (f) and (m) and 365 of the Bankruptcy Code. The Motion is due to be granted, and the HHH Asset Purchase Agreement, and the transactions contemplated thereby are due to be approved, subject to the terms of this Order.

43. The Debtors have full corporate power and authority to consummate the HHH Asset Purchase Agreement, and to assume and assign to HHH (or each of its designees or assignees) each of the Assigned Executory Agreements, to assign the Assigned Non-Competition Agreements to HHH, to execute all documents necessary and/or advisable to effectuate such assumption and assignment, all of which have been validly and duly authorized by all necessary action of the Debtors.

44. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

45. Notwithstanding anything to the contrary stated herein or in the Motion, the provisions of the Motion and this Order are expressly subject to the terms and conditions of the HHH Asset Purchase Agreement, and the rights of each of the parties thereunder.

46. For the reasons stated in the Motion and this Order, cause exists to except the instant Order from the stay provisions of Rules.6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED, ADJUDGED and DECREED:

A. The Motion is GRANTED as provided herein.

B. All objections to the Motion not resolved by the terms of this Order, or not withdrawn, are OVERRULED and DENIED.

C. The Sale of the Purchased Assets to HHH (and its designees and assignees) is free and clear of all Liens of every kind or description, on, relating to, in respect of or against the Purchased Assets, except for the Permitted Encumbrances, upon the terms and conditions set forth in the HHH Asset Purchase Agreement, the other documents and instruments in connection therewith, and this Order, and is hereby APPROVED and CONFIRMED.

D. Subject to the terms and conditions of the HHH Asset Purchase Agreement, the closing of the Sale shall occur on or before October 5, 2009. Pursuant to Sections 105 and 363 of the Bankruptcy Code, upon the closing of the Sale, each of the Debtors is AUTHORIZED and DIRECTED to sell, transfer, convey and assign the Purchased Assets to HHH (and its designees and assignees as applicable) free and clear of all Liens of every kind or description, on, relating to, in respect of or against the Purchased Assets (including, without limitation, all Liens, claims, encumbrances and other interests of CIT, WFE, and the Reclamation Claimants), except for the Permitted Encumbrances.

E. Pursuant to Sections 105 and 365 of the Bankruptcy Code, each of the Debtors is AUTHORIZED and DIRECTED to assume and assign and, effective as of the Closing, shall be deemed to have assumed and assigned to HHH (or its assignees or designees as applicable) each of the Assigned Executory Agreements, free and clear of all Liens of every kind

or description, on or relating to, in respect of or against the Assigned Executory Agreements, subject to the terms of this Order and the HHH Asset Purchase Agreement.

F. Each of the Debtors is AUTHORIZED and DIRECTED to consummate the sale of the Purchased Assets to HHH (and its designees or assignees) and, pursuant to 11 U.S.C. § 105 and Bankruptcy Rule 6004(f)(2) and 6006, to execute any instrument or document necessary or appropriate to consummate the sale of the Purchased Assets to HHH (and its assignees and designees) and to otherwise implement the terms of this Order and the HHH Asset Purchase Agreement. Each of the officers of the Debtors is hereby AUTHORIZED and DIRECTED to execute, on behalf of the Debtors and any affiliates of the Debtors (as the term “affiliate” is defined in Section 101(2) of the Bankruptcy Code), any and all instruments and documents (including, without limitation, all agreements, assignments, consents, checks, authorizations, releases, deeds, bills of sale, resolutions, certificates, affidavits, schedules, lists, and other papers) necessary or appropriate to consummate the sale of the Purchased Assets to HHH (and its assignees and designees) and to otherwise implement the terms of this Order and the HHH Asset Purchase Agreement.

G. Subject to the terms of this Order and the HHH Asset Purchase Agreement, the Debtors are hereby AUTHORIZED and DIRECTED to carry out all provisions of the HHH Asset Purchase Agreement, and this Order, to execute and deliver at the Closing the Transition Services Agreement (as defined in the HHH Asset Purchase Agreement) and thereafter to perform their obligations thereunder, and to issue, execute, deliver, file and record, as appropriate, the HHH Asset Purchase Agreement, and such additional documents as may be reasonable and necessary to consummate the Sale of the Purchased Assets and to take any action

contemplated by the HHH Asset Purchase Agreement, the Transition Services Agreement or this Order; without limitation, the Debtors are authorized and directed to pay at Closing from the gross sale proceeds the Success Fee to CMAG.

H. At the Closing of the Sale, all of the Debtors' (and their respective bankruptcy estates') rights, title and interests in and to the Purchased Assets immediately shall vest in HHH (and its assignees and designees, as applicable) free and clear of all Liens, claims, encumbrances, and interests of every kind or description, on, relating to, in respect of or against the Purchased Assets (including, without limitation, all Liens, claims, encumbrances and other interests of CIT and also including any rights or claims based on any theory or principle of successor liability), except for the Permitted Encumbrances, pursuant to Sections 105 and 363(f) of the Bankruptcy Code and this Order is effective to so vest the Purchased Assets in HHH (and its designees and assigns as applicable) effective as of the Closing free and clear of all Liens. Any and all Liens, claims, encumbrances, and interests of every kind or description, on, relating to, in respect of or against any of the Debtors or any of the Purchased Assets (except for the Permitted Encumbrances) shall transfer and attach to the proceeds of the Sale in the order of their priority, to the same extent, and with the same validity, force and effect, as existed immediately prior to the Sale. Without limitation of the foregoing, except for the Permitted Encumbrances, neither HHH (nor its assignees or designees) nor the Purchased Assets shall be subject to any Liens, claims, Taxes (as said term is defined in the HHH Asset Purchase Agreement), interests, damages, costs, expenses, demands, encumbrances, successor liability claims, workers compensation claims, and other liabilities and obligations, of any kind or description, arising from or, relating to, the Debtors' ownership of the Purchased Assets or operation of the Business (as such term is defined in the HHH Asset Purchase Agreement) prior to the Closing, including,

without limitation, any claims or liens arising from services provided prior to the Closing, or any claims or liens arising from any litigation or claims asserted against any of the Debtors or the Purchased Assets.

I. Except for the Permitted Encumbrances, or as otherwise expressly provided in any written agreement directly between HHH and a third party, HHH (and its assignees and designees) shall have no liability for any claims, obligations, Liens or liabilities of the Debtors or against any Purchased Assets, whether arising prior to, on or after the Closing Date, including, without limitation, any claims, obligations, Liens or liabilities of the Debtors or against the Purchased Assets for any environmental claims, asbestos claims, tort claims, claims for Taxes, fines or pension claims or similar obligations. Consummation of the HHH Asset Purchase Agreement, and the transactions contemplated thereby and therein do not effect a de facto merger or consolidation of the Debtors with HHH (or its assignees and designees). Without limiting the generality of the foregoing, HHH (and its assignees and designees) shall not have any successor or transferee liability of any kind or character for any liability of the Debtors that HHH (or its assignees or designees) has not expressly assumed under the HHH Asset Purchase Agreement, including, without limitation, any liability, claim or obligation that is or may be asserted based upon any alter ego or successor-in-interest theory or allegation.

J. Upon the filing of this Order with the clerk of the court of the respective counties or the secretary of state for any state in which any Lien, claim, interest, charge or encumbrance shall have been filed on or in the Purchased Assets, this Order shall constitute a satisfaction and release of all such Liens, claims, interests, charges and encumbrances on the Purchased Assets, subject to the terms of this Order and the HHH Asset Purchase Agreement.

HHH is authorized to file this Order (or an abstract thereof) with any such filing or recording office as necessary or appropriate to evidence such satisfactions and releases, and this Order is deemed to be in recordable form sufficient to be placed in the filing or recording system maintained by any such filing or recording office. HHH is hereby also authorized to prepare and file UCC-3 termination statements, or amendments as appropriate, to effectuate the provisions of this Order.

K. HHH (and each of its assignees and designees), the Debtors and all other parties to the Sale have acted in good faith and are entitled to and are hereby granted the protections of Section 363(m) of the Bankruptcy Code. Accordingly, *inter alia*, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale of the Purchased Assets to HHH (and its assignees and designees) (including the assumption, assignment, and sale of any of the Assigned Executory Agreements), unless such authorization is duly stayed prior to Closing. HHH (and its assignees and designees) are each good faith purchasers for value within the meaning of Section 363(m) of the Bankruptcy Code. The Debtors and HHH (and its assignees and designees) have not engaged in any actions or conduct prohibited by Section 363(n) of the Bankruptcy Code.

L. Following the Closing, HHH shall sponsor and administer an insured group health policy issued by Blue Cross Blue Shield of Tennessee to provide health insurance to Sellers' employees who elect COBRA coverage, which insurance will comply with the requirements of COBRA and will be based on the underwriting experience associated with Sellers' health insurance plan, for a duration equal to the period for which COBRA coverage would otherwise be provided.

M. At Closing, the net proceeds from the Sale of the Purchased Assets shall be disbursed as follows: (1) cash in the amount of \$240,000.00 shall be paid to Bostwick in full payment and satisfaction of the Breakup Fee; (2) cash in the amount of \$28,643.40 shall be paid by the Debtors to the Assigned Executory Agreement Counterparties entitled to receive payments of Cure Costs as set forth in Exhibit A; (3) cash in the amount of \$152,379.00 shall be paid to CMAG in payment the Success Fee, subject to submission and approval of a final fee application for CMAG; (4) cash in the amount of \$400,000.00 shall be paid at Closing to WFE in consideration of its consent to the sale of WFE's collateral in the Sale (the "WFE Payment"); (5) cash in the amount of \$1,159,247 shall be deposited into a segregated account for use by the Debtors solely for the payment of any HHH Bid WARN Act Claims incurred by the Debtors; and (6) all remaining net proceeds from the Sale shall be deposited at Closing into a segregated account to be maintained by the Debtors from which no disbursements shall be made pending further order of this Court, with all Liens (other than the Liens of WFE which shall attach solely to the WFE Payment and not to any other proceeds of the Sale) to attach to such proceeds to the same extent and in the same priority as such Liens existed on the Purchased Assets immediately prior to the Closing of the Sale.

N. If the Escrow Amount is insufficient to pay to HHH all of the Adjustment Amounts (as such term is defined in the HHH Asset Purchase Agreement) to which it is entitled under Section 2.4 of the HHH Asset Purchase Agreement, then HHH is hereby allowed an administrative expense claim against the Debtors' estates in the amount of such deficiency pursuant to Section 503(b)(1) of the Bankruptcy Code.

O. The Court retains exclusive jurisdiction to interpret and enforce the provisions of this Order, the HHH Asset Purchase Agreement, the Transition Services Agreement and any related agreement to which any of the Debtors is a party, including, without limitation, the resolution of any disputes which may arise under such agreements.

P. The Debtors' assumption and assignment to HHH (or its assignees or designees) of each of the Assigned Executory Agreements pursuant to Section 365 of the Bankruptcy Code is authorized and approved. At Closing, the Debtors are authorized and directed to assume and assign to HHH (or its assignees or designees) each of the Assigned Executory Agreements, pursuant to Sections 105(a) and 365(f) of the Bankruptcy Code, effective as of the Closing.

Q. WFE announced in open court that it is withdrawing the WFE Objection, subject to its receipt at Closing of the WFE Payment from the proceeds of the Sale.

R. The Debtors are not assuming or assigning any interest in any executory agreements or unexpired leases with APCo, Laitner Brush, Louisville Ladder or MP Global; therefore, the APCo Objection, the Laitner Brush Objection, and the MP Global Objection are overruled as moot.

S. The Debtors are not assigning to HHH any of their interests in any non-piracy agreement, non-competition agreement, or similar agreement with Mark A. Kleparek, Keith E. Kilgore, Sol Malka, Frank Barnes, Robert A. Crooks, Dennis S. Bigler, Thomas J. Schifanella, Jr., Kevin Grice, Pat McCutcheon, Troy Odum, Rick Walker, Mike Mason, Clay

Alford, or Thomas A. Seifert; therefore, the Unassumed Non-Competition Objections are overruled as moot.

T. The assignment of the Debtors' interest in the Non-Competition Agreements with Danny Aldridge, Stan Winslett, Terry Bender, Arthur "Skip" Reid, Parker Langston, Chad Murray, Rory Fowler and Jamey Merritt is authorized under the Bankruptcy Code and applicable non-bankruptcy law pursuant to 11 U.S.C. § 363. Accordingly, the Unresolved Non-Competition Objections are overruled.

U. The assignment of the Non-Piracy Agreement executed by Robert Tolbert in favor of Moore-Handley dated February 13, 2004, and the Agreement Regarding Proprietary Rights and Restrictive Covenants executed by Robert Tolbert in favor of Moore-Handley dated December 1, 2006, is not permitted by applicable non-bankruptcy law. Accordingly, to the extent the Tolbert Non-Compete Objection objects to the assignment of these agreements, the Tolbert Non-Compete Objection is sustained. The Tolbert Non-Compete Objection is overruled with respect to any and all other objections and/or requests for relief contained therein. This finding is without prejudice to the rights of the Debtors to petition the Court for authority to assign any other agreement of Robert Tolbert to HHH and is without prejudice to the rights of the Debtors (or the Debtors' assignees) under any applicable statute or common law doctrine which governs the subject of the Non-Piracy Agreement executed by Robert Tolbert in favor of Moore-Handley dated February 13, 2004, and/or the Agreement Regarding Proprietary Rights and Restrictive Covenants executed by Robert Tolbert in favor of Moore-Handley dated December 1, 2006.

V. The Debtors are not assuming the executory contracts with Louisville Ladder, and Louisville Ladder announced at the Sale Hearing that it was withdrawing its objection to the Sale on the condition that the sale would not prejudice the rights of Louisville Ladder to have its reclamation claim judicially determined pursuant to the Reclamation Procedures previously approved by this Court.

W. Phifer announced at the Sale Hearing that it was withdrawing its objection to the Sale on the condition that the Sale would not prejudice the rights of Phifer to have its reclamation claim judicially determined pursuant to the Reclamation Procedures previously approved by this Court.

X. The Union Objection is overruled, as the transactions contemplated in and pursuant to the HHH Asset Purchase Agreement do not violate the provisions of 11 U.S.C. § 1113.

Y. Except as expressly set forth in the HHH Asset Purchase Agreement, with respect to the Assumed Liabilities and the other Permitted Encumbrances, all persons and entities holding Liens, claims, encumbrances, and other interests of any kind or nature whatsoever, including rights or claims based on any theory or principle of successor or transferee liability, against or in either the Debtors or the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets, the operation of the Purchased Assets prior to the Closing, are forever barred, estopped, and permanently enjoined from asserting against HHH, its successor and assigns, its property, or the

Purchased Assets, such persons' or entities' Liens, claims, encumbrances, and other interests, including rights or claims based on any theory or principle of successor or transferee liability.

Z. Without limiting the foregoing, upon assignment, each of the Assigned Executory Agreements shall be free and clear of all Liens and liabilities of the Debtors, whether asserted or unasserted and whether arising on or before the Closing.

AA. Each of the Assigned Executory Agreements shall be transferred to, and remain in full force and effect for the benefit of, and be enforceable by, HHH (and its assignee and designee, as applicable) in accordance with each of their respective terms, notwithstanding any provision in any of the Assigned Executory Agreements (including, without limitation, those of the type described in Sections 365(b)(2), 365(c) and 365(f)(1) and (3) of the Bankruptcy Code or any applicable non-bankruptcy law) that prohibits, restricts or conditions such assignment or transfer. Each non-debtor party to an Assigned Executory Agreement that did not object, or which withdrew its objection, to the Motion is deemed to have consented to the assumption and assignment to HHH (or its assignees or designees) of the Assigned Executory Agreements to which such entity is a party. Further, any provision in any agreement to which the Debtor is a party that purports to declare a breach or default as a result of a change of control in respect of the Debtors' business is hereby deemed unenforceable and all such agreements shall remain in full force and effect.

BB. The Cure Costs are hereby approved. The Debtors shall pay all Cure Costs with respect to each Assigned Executory Agreement at Closing in accordance with the HHH Asset Purchase Agreement. Subsequent to the Closing, no claims for cure with respect to any Assigned Executory Agreement may be asserted pursuant to Bankruptcy Code section

365(b)(1) or otherwise against the Debtors or their respective predecessors or successors in interest, other than against the Debtors in the amounts approved under this Order and as expressly set forth herein.

CC. Except as provided in the HHH Asset Purchase Agreement, no amount payable (including Cure Cost) with respect to a period prior to Closing shall be payable by the Debtors, and the Debtors shall not be obligated to cure any non-monetary defaults, or matters or events which would constitute defaults under any of the Assigned Executory Agreements with the passage of time, giving of notice, or both, which existed as of the Closing.

DD. Upon the Closing, all of the Debtors' rights, title and interest in and to all of the Assigned Non-Competition Agreements shall indefeasibly be transferred and assigned to and vest in HHH, provided that such assignment shall be subject to any defenses that the Assigned Non-Competition Agreement Counterparties may have to the enforceability of such agreements against them except any defense relating to the assignment of such Assigned Non-Competition Agreements by the Debtors to HHH. The Court makes no decision as to the enforceability of the Assigned Non-Competition Agreements under non-bankruptcy law.

EE. At Closing, HHH's \$1.0 million bid deposit shall be released to the Debtors, the full amount of which shall be credited toward the Purchase Price for the Purchased Assets under the HHH Asset Purchase Agreement. Promptly after the Closing of the Sale to HHH, the Bid Deposit of BB/MH shall be returned to BB/MH.

FF. This Order shall inure to the benefit of HHH and House-Hasson (and their respective assignees and designees), the Debtors, and their respective successors and assigns,

including, but not limited to, any chapter 11 or chapter 7 trustee that may be appointed in any of the Debtors' cases and shall be binding upon any trustee, party, entity or fiduciary that may be appointed in connection with these cases or any other or further cases involving any of the Debtors whether under chapter 7 or chapter 11 of the Bankruptcy Code. This Order, the Bidding Procedures Order, and the terms of the Asset Purchase Agreements are binding on each of the Debtors, all creditors of the Debtors, all Assigned Executory Agreement Counterparties, all Assigned Non-Competition Agreement Counterparties, all past and present employees of the Debtors, and all applicable taxing and regulatory authorities.

GG. The Direct Ship Agreement dated July 29, 2009, between Moore-Handley and Bostwick (the "Direct Shipment Agreement") is terminated effective September 30, 2009, in accordance with the terms of such agreement. If the Debtors, HHH, or House-Hasson shall receive payment on any Direct Shipment Agreement Receivable (as such term is defined in the Direct Shipment Agreement), then such recipient shall immediately forward such payment to Bostwick.

HH. Any payments or funds received by the Debtors after the Closing related to the Business or the Purchased Assets, except for payments by HHH to Moore-Handley pursuant to the Transition Services Agreement referenced in Section 7.11 of the HHH Asset Purchase Agreement, shall not be property of the Debtors' bankruptcy estates, and the Debtors shall immediately remit any such payments or funds to HHH (and/or its assigns and designees). Without limiting the foregoing, the Debtors are assigning, and CIT consents to the assignment of, all monies, checks, drafts and other payment instruments received from and after Closing in that Lockbox Account number 5643252 at Regions Bank.


II. If for any reason HHH fails to consummate the transactions contemplated by the HHH Asset Purchase Agreement, then, without further order of the Court, BB/MH will be required to consummate the Sale on the terms and subject to the conditions of the Backup Asset Purchase Agreement and BB/MH and the Backup Asset Purchase Agreement shall be entitled to all the protections afforded HHH and the HHH Asset Purchase Agreement, respectively, under the terms of this Order.

JJ. The Debtors are hereby authorized, in connection with the Closing of the Sale, to take any and all necessary or appropriate actions to terminate any and all of the Debtors' employee benefits plans, including, without limitation, 401(k) plans, health plans, dental plans, disability plans, and cafeteria plans, but excluding both of the Debtors' pension plans which will be the subject of further proceedings.

KK. Neither HHH nor House-Hasson shall be deemed to have become the employer of any employee of the Debtors by virtue of any provision of the HHH Asset Purchase Agreement, except for such of the Debtors' employees who are offered employment pursuant to Section 6.3 of the HHH Asset Purchase Agreement, and who accept such offer.

LL. The Court retains exclusive jurisdiction to interpret and enforce the provisions of this Order, the HHH Asset Purchase Agreement, the Transition Services Agreement, and any related agreement to which any of the Debtors is or becomes a party pursuant to the terms of this Order.

MM. For cause shown, this Order shall not be stayed under Bankruptcy Rules 6004(h) and 6006(d). This Order is immediately effective and enforceable upon entry, and the


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Shelby Cnty Judge of Probate, AL
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DONE this 2ND day of October, 2009.

/S/ THOMAS B. BENNETT
UNITED STATES BANKRUPTCY JUDGE



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 Shelby Cnty Judge of Probate, AL
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EXHIBIT A

Moore-Handley, Inc.
Contracts / Leases to be Assumed by HHH

Debtor Entity	Contract Party	Type of Contract	Cure Cost
Hardware House, Inc.	Amazon Fulfillment Services, Inc.	Amazon Fulfillment Services Agreement dated March 5, 2008	\$0.00
Moore-Handley, Inc.	Jimmy Watson, Inc., d/b/a Hardware House	Trademark License Agreement dated August 27, 2007	\$0.00
Moore-Handley, Inc.	James Dominick, d/b/a Dominick's Hardware House	Trademark License Agreement dated July 30, 2007	\$0.00
Moore-Handley, Inc.	Kevin Brooks and Future Designs Hardware, Inc.	License of Hardware House Marks dated December 4, 2006	\$0.00
Moore-Handley, Inc.	Kevin Brooks and Future Designs Hardware, Inc.	Exclusive Dealer Agreement dated December 4, 2006	\$0.00
Hardware House, Inc.	James Dominick d/b/a Dominick's Hardware House	Trademark License Agreement dated July 30, 2007	\$0.00
Hardware House, Inc.	Kevin Brooks Future Designs, Inc.	License of Hardware House Marks dated December 4, 2006	\$0.00
Hardware House, Inc.	John Hennen & Associates	Sales Representative Agreement dated September 1, 2004	\$1,912.50
Hardware House, Inc.	WPS Sales, LLC	Sales Representative Agreement dated October 20, 2008	\$0.00
Hardware House, Inc.	TEB Sales	Sales Representative Agreement dated May 18, 2007	\$0.00
Hardware House, Inc.	Blish-Mize, Co.	Hardware House Master Distributor Agreement dated December 21, 2005	\$15,788.39

Debtor Entity	Contract Party	Type of Contract	Cure Cost
Moore-Handley, Inc.	Valley Ford-Mercury/Ford Credit	Motor Vehicle Lease Agreement dated December 12, 2007	\$2,078.57
Moore-Handley, Inc.	Valley Ford-Mercury/Ford Credit	Motor Vehicle Lease Agreement dated September 12, 2008	\$2,273.94
Moore-Handley, Inc.	Royal Leasing, Inc.	Lease dated January 9, 2007	\$1,536.00
Moore-Handley, Inc.	Royal Leasing, Inc.	Lease dated March 12, 2009	\$2,685.00
Moore-Handley, Inc.	Saturn of Birmingham	Lease dated March 21, 2008	\$2,589.00