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and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
	:	**Chapter 11**
KB US HOLDINGS, INC., *et al.*,	:	**Case No. 20-22962**
	:	
Debtors. [1]	:	**(Joint Administration Pending)**

DECLARATION OF MARK HOOTNICK IN SUPPORT OF MOTION OF DEBTORS FOR (I) AUTHORITY TO (A) OBTAIN POSTPETITION FINANCING, (B) USE CASH COLLATERAL, (C) GRANT LIENS AND PROVIDE SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (D) GRANT ADEQUATE PROTECTION, (E) MODIFY THE AUTOMATIC STAY, AND (F) SCHEDULE A FINAL HEARING AND (II) RELATED RELIEF

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: KB US Holdings, Inc. (1000), KB Holding, Inc. (3082), AG Kings Holdings Inc. (8681), AG Holdings II Inc. (3828), Kings Super Markets, Inc. (6769), Balducci's Holdings LLC (1913), Balducci's Connecticut LLC (1945), Balducci's Maryland LLC (1926), Balducci's Virginia LLC (1949), and Balducci's New York LLC (1934). The location of the Debtors' corporate headquarters is 700 Lanidex Plaza Parsippany, NJ 07054.

I, Mark Hootnick, pursuant to section 1746 of title 28 of the United States Code, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. My name is Mark Hootnick. I am over the age of 18 and competent to testify.

2. I am a Managing Director in the Debt Advisory and Restructuring Practice at PJ Solomon, L.P. at ("**Solomon**"), the proposed investment banker to KB US Holdings, Inc. and its debtor affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**").

3. I submit this declaration (this "**Declaration**") in support of the *Debtors' Motion for Interim and Final Orders (A) Authorizing Debtors to Obtain Postpetition Financing and to Use Cash Collateral, (B) Granting Liens and Providing Superpriority Administrative Expense Claims, (C) Granting Adequate Protection, (D) Modifying Automatic Stay, (E) Scheduling a Final Hearing and (F) Granting Related Relief* (the "**Motion**").[2]

4. Except as otherwise indicated, all statements in this Declaration are based on (a) my personal knowledge of the Debtors' operations and finances, (b) my review of relevant documents, (c) information provided to me by Solomon employees working under my supervision, (d) information provided to me by, and discussions with, members of the Debtors' management team or their other advisors, and (e) my views based upon my experience as a restructuring professional. If called to testify, I could and would testify to each of the facts set forth herein on those bases.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or in the Interim Order attached as **Exhibit A** thereto.

Qualifications

5. As stated above, I am a Managing Director in the Debt Advisory and Restructuring Practice at Solomon, a nationally recognized, U.S.-based investment bank and one of the country's first independent investment banks. I have more than twenty-five (25) years of experience in restructuring, corporate finance, and mergers and acquisitions, during which I have advised debtors, creditors, investors, and acquirers across a diverse range of industries both domestically and internationally. My experience includes advising market participants in, among other industries, manufacturing, technology, telecommunications, distribution, grocery, real estate, and retail. Previously, I have advised various companies and constituents thereof, in the chapter 11 context and otherwise, including American Airlines, AMF Bowling Worldwide Inc., Blockbuster, General Motors Company, ICO Global Communications, Indiana Toll Road, LightSquared Communications, Olympia & York, and SunCom Wireless Holdings, Inc.

6. Prior to joining Solomon, I served in leadership positions at other investment banks that specialize in mergers, restructurings, and financings. With respect to my educational background, I earned a Juris Doctor from New York University School of Law and a Bachelor of Science in Finance from Lehigh University.

Solomon's Retention

7. Solomon has been employed by the Debtors since March 2019 and has advised the Debtors in connection with its restructuring initiatives and analysis of strategic alternatives. In addition, Solomon was active in the Debtors' preparation for these chapter 11 cases, including, but not limited to, designing and executing a process for selling the Debtors' businesses as a going concern or for consummating another strategic, value-maximizing transaction that would resolve the Debtors' operational and financial challenges. Solomon has

worked with the Debtors and other professional advisors to design the above mentioned process and has taken the lead in negotiations with potential strategic and financial buyers of the Debtors' business. The Debtors will seek authority to employ Solomon as their investment banker in these chapter 11 cases.

Debtors' Capital Structure and the Immediate Need for DIP Financing

8. The Debtors' current capital structure is explained in declaration of M. Benjamin Jones pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York, sworn to on August 23, 2020 (the "**First Day Declaration**"). To summarize, as noted in the First Day Declaration, the Debtors have approximately $114,238,935 in funded indebtedness and related obligations, which includes (i) approximately $3 million outstanding under a first-priority senior secured asset-based revolving credit facility and (ii) approximately $111,238,934.52 outstanding under a first-priority senior secured term loan (collectively, the "**Prepetition Debt**").

9. As stated in the First Day Declaration, in large part due to underperformance compared to business projections as a result of heightened leverage and industry competition and headwinds, since 2018, the Debtors have (i) had limited liquidity and excessive leverage; (ii) experienced multiple defaults under its Prepetition Credit Agreement; (iii) been unable to pay cash interest to its secured lenders; and (iv) been unable to invest in any significant capital or operational improvement project. Given the Debtors' business challenges and multiple loan defaults, in November 2018, the Debtors engaged Ankura Consulting Group, LLC, as financial

advisor and Proskauer Rose LLP, as its attorneys, to assist them in pursuing strategic alternatives so to maximize value for all stakeholders.

10. As discussed in the *Declaration of M. Benjamin Jones Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York* (the "**Jones Declaration**"), filed contemporaneously herewith, in March 2019, with the consent of its majority equity holder, GSSG Capital Corp., each of the Debtors appointed two (2) independent directors to their Board of Directors, retained Solomon, as investment banker, and commenced a marketing process for a going concern sale of its business, overseen by the independent directors and the Debtors' Chief Executive Officer.[3] The Debtors are commencing these chapter 11 cases to implement the Sale Strategy (as defined below) for the benefit of all stakeholders.

11. As described in further detail in the Jones Declaration and the *Declaration of Scott Moses in Support of Debtors' Motion for Entry of (I) Order (A) Authorizing Performance Under the Stalking Horse Purchase Agreement, (B) Approving Bidding Procedures for the Sale of Assets, (C) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (D) Scheduling Bid Deadline and an Auction, (E) Approving the Form and Manner of Notice Thereof, (F) Approving Contract Assumption and Assignment Procedures, and (G) Granting Related Relief; and (II) Order (A) Authorizing the Sale of Assets Free and Clear, (B) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Related Relief*, filed contemporaneously herewith, in an effort to address their deteriorating financial condition, the Debtors explored the sale of certain assets as part of either an in-court or out-of-court restructuring. This process culminated in the execution of a "stalking horse" bid agreement (the "**Stalking Horse**

[3] In November 2019, amidst continuing defaults under the Debtors' Prepetition Credit Agreement, the Prepetition Lenders (as defined below) exercised their voting proxy rights to reconstitute the Board of Directors for each Debtor. As before, the reconstituted Board is comprised of two independent directors and the Chief Executive Officer.

Bid"), which provides for the sale of 30 of the Debtors' stores in addition to a storage facility and corporate office for an aggregate purchase price of approximately $75 million. The Stalking Horse Bid is the cornerstone of the Debtors' strategic mergers and acquisition process, pursuant to which the Debtors will seek to consummate the going-concern sale of as many of their 35 stores as possible (the "**Sale Strategy**").

12. As detailed in the First Day Declaration, without additional financing, the Debtors will not have sufficient liquidity to implement the Sale Strategy in an orderly and value-maximizing manner. To fund these chapter 11 cases and, by extension, to implement the Sale Strategy, the Debtors engaged Solomon to assist them in obtaining debtor-in-possession ("**DIP**") financing on the best terms available in the market.

The DIP Marketing Process

13. Due to its historical liquidity constraints, the Debtors require immediate access to DIP financing to ensure (a) sufficient working capital to operate their business and to administer their estates; (b) an appropriate liquidity cushion for anticipated vendor contraction and tightening of trade terms, which began prior to the commencement of these chapter 11 cases; (c) the timely payment of administrative expenses to be incurred during these chapter 11 cases; and (d) transmission of a positive message to the grocery industry that these chapter 11 cases are sufficiently funded, which is critical to address the concerns of the Debtors' customers, employees, and vendors. Put simply, due to historical liquidity challenges, which are more fully described in the First Day Declaration, the Debtors require immediate access to debtor-in-possession financing and the authority to use Cash Collateral to continue to operate as a going concern.

14. In consultation with Solomon and their other advisors, the Debtors reviewed and analyzed their projected cash flows and prepared a preliminary budget outlining their

postpetition cash needs. The Debtors' management and professional advisors determined the requisite amount of DIP financing based on management's cash-flow forecast.

15. In my role as the Debtors' investment banker, I was actively involved in marketing and soliciting proposals for DIP financing. As part of the process of marketing the opportunity to provide DIP financing to the debtors, my team and I contacted approximately 8 market participants in an effort to solicit proposals in the days leading up to the Commencement Date. Despite these efforts, however, the Debtors did not receive any offers from other potential DIP lenders other than from the DIP Lenders.

16. Based on my professional experience and market feedback, I believe that the Debtors likely failed to receive alternative proposals for DIP financing because, among other things, the relatively small size and duration of the required funding, as compared with other opportunities to provide DIP financing, acts as a limit on the return that potential lenders can expect to realize. Additionally, it was an accelerated timeline leading up to the commencement of the Debtors' chapter 11 cases and potential lenders were likely unsettled by the uncertainty surrounding the viability of the Debtors' business as a going concern. Further, all potential lenders required priming liens as a condition to advancing DIP financing to the Debtors, and it is unlikely in my view that the Debtors' prepetition lenders would consent to such priming liens against their collateral. For each of these reasons, potential lenders were unwilling to submit proposals for alternative DIP financing.

17. The Debtors and their advisors received certain concessions from the DIP Lenders. Given the lack of viable financing alternatives and the concessions obtained by the Debtors, the proposed DIP Financing represents the best terms currently available to the Debtors in the marketplace. And, in my professional judgment, the proposed DIP Financing contains

customary and usual terms under the circumstances for financings of this type and should provide the Debtors with financing sufficient to execute the Sale Strategy.

18. As described in the Motion, the proposed DIP Financing contemplates a $20 million revolving credit facility with $10 million of new money revolving credit commitments available upon entry of the Interim Order and another $10 million of new money revolving commitments available upon entry of the Final Order, reflecting new money DIP Revolving Loans of up to $20 million in the aggregate, with a $5 million sublimit for the issuance and/or replacement of Letters of Credit. The DIP Financing also contemplates $80 million of Rollup Last Out Loans, which consist of deemed borrowings that, upon entry of the Final Order, will refinance amounts outstanding under the Prepetition Credit Agreement that are held by the DIP Lenders. Nevertheless, notwithstanding the Rollup Last Out Loans, the aggregate amount of senior secured debt will remain the same and all of the senior lenders will be eligible to, and are expected to, participate in the DIP Financing, including the Rollup Last Out Loans.

19. Further, as noted in the Motion, the applicable interest rate under the Rollup Last Out Loans is paid-in-kind, and is lower than the prepetition interest rate that would otherwise be applicable (and paid in cash), thereby benefiting the estate. The DIP Financing also contemplates various fees, including a 2.5% closing fee, a 1.00% unused line fee, and certain agency fees. No fees are payable on account of the Rollup Last Out Loans, and fees are only payable on account of the new money DIP Revolving Loans upon entry of the Interim Order and when such funds are first drawn. Regardless of the inclusion of the Rollup Last Out Loans or the various fees, however, because of the lack of alternative sources of financing and the lack of

prejudice to other creditors resulting from the Rollup Last Out Loans, the DIP Financing nonetheless represents the best terms available to the Debtors.

20. The current initial budget and cash flow projections (the "**DIP Budget**") reflect the Debtors' expected funding requirements over the identified period. Based on the DIP Budget and other information made available to me, the liquidity provided under the proposed DIP Financing should enable the Debtors to preserve their value as a going concern, providing the Debtors with sufficient liquidity to meet their ongoing day-to-day obligations, fund operational and administrative costs of these chapter 11 cases, and satisfy working capital requirements and other operational expenses.

21. Absent authority to enter into and access the DIP Financing, the Debtors will be unable to pursue the Sale Strategy and continue operating their businesses. Thus, the Debtors, in consultation with their advisors, including Solomon, have concluded that they require immediate access to the proceeds of the DIP Financing, and access to Cash Collateral, to finance their post-petition operations and continue operating as a going concern during the pendency of these chapter 11 cases and pursue the Sale Strategy outlined herein.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: August 23, 2020
New York, New York

/s/ *Mark Hootnick*
Mark Hootnick
Managing Director
PJ SOLOMON

Proposed Investment Banker
to the Debtors