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*Proposed Attorneys for Debtors  
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re**

**KB US Holdings, Inc., et al.,  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-22962**

**(Joint Administration Requested)**

**DEBTORS' MOTION FOR ENTRY OF ORDER (I) AUTHORIZING  
DEBTORS TO (A) FILE A CONSOLIDATED LIST OF CREDITORS  
AND (B) FILE A CONSOLIDATED LIST OF DEBTORS' 40 LARGEST  
UNSECURED CLAIMS AND (II) APPROVING FORM AND MANNER OF  
NOTIFYING CREDITORS OF COMMENCEMENT OF THESE CHAPTER 11 CASES**

<sup>1</sup> 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.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

KB US Holdings, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), respectfully represent as follows in support of this motion (the “**Motion**”):

### **Background**

1. On the date hereof (the “**Commencement Date**”), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

2. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

3. Additional information regarding the Debtors’ businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *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 the date hereof (the “**Jones Declaration**”), which has been filed with the Court contemporaneously herewith and is incorporated by reference herein.<sup>2</sup>

### **Jurisdiction**

4. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012

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<sup>2</sup> Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Jones Declaration.

(Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Relief Requested**

5. By this Motion, pursuant to sections 105(a), 342(a), and 521 of the Bankruptcy Code, Bankruptcy Rules 1007(a)(1) and (d) and 2002(a) and (f), and Rules 1007-1 and 5075-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), the Debtors seek entry of an order (i) authorizing them to (a) file a consolidated list of creditors in lieu of submitting separate mailing matrices for each Debtor (the “**Creditor Matrix**”) and (b) file a consolidated list of the Debtors’ forty (40) largest unsecured claims; (ii) authorizing the Debtors to redact certain personal identification information for individual creditors and interest holders; and (iii) approving the form and manner of notifying creditors of commencement of these chapter 11 cases.

6. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the “**Proposed Order**”).

### **Relief Requested Should Be Granted**

7. Section 521(a) of the Bankruptcy Code, Bankruptcy Rule 1007(a)(1), and Local Rule 1007-1(a) (collectively, the “**Notice Rules**”) require a debtor in a voluntary chapter 11 case to file a list containing the name and complete address of each creditor. In addition, Bankruptcy Rule 1007(d) requires a debtor to file a list containing the names, addresses, and claims of the creditors holding the forty (40) largest unsecured claims against the debtor. Bankruptcy Rule 2002(a)(1) also provides that the clerk (or other person directed by the court) must provide the debtor, the United States Trustee, all creditors, and any indenture trustee at least 21-days’ notice by mail of the meeting of creditors under section 341 of the Bankruptcy Code. Bankruptcy Rule 2002(f)(1) also provides that notice of “the order for relief” shall be sent by mail to all creditors.

8. There are ten (10) entities that are Debtors in these chapter 11 cases. As of the Commencement Date, the Debtors estimate that they have over \$200 million in liabilities and over 1,500 potential creditors and parties in interest (on a consolidated basis) in these chapter 11 cases. As such, requiring the Debtors to prepare individual matrices for each Debtor would be an exceptionally burdensome task and would greatly increase the risk and recurrence of error of information already on computer systems maintained by the Debtors or their agents.

9. The Debtors submit that permitting them to maintain one single consolidated list of creditors in lieu of filing a separate creditor matrix for each Debtor entity is warranted under the circumstances of these chapter 11 cases. Specifically, maintaining a single consolidated list of creditors will benefit the Debtors and their estates by allowing the Debtors to more efficiently provide required notices to parties in interest and reduce the potential for duplicate mailings. Many of the Debtors' creditors overlap and thus, to the extent that the Debtors are required to maintain separate mailing matrices, a substantial number of parties likely would receive multiple copies of the same notice. As such, the Debtors submit that the proposed maintenance of an electronic list of creditors under the auspices of Prime Clerk LLC ("**Prime Clerk**") as the Debtors' proposed claims and noticing agent ("**Claims and Noticing Agent**"), rather than preparing and filing separate creditor matrices for each Debtor, will not only maximize efficiency and accuracy, but also reduce costs, and is consistent with applicable Local Rules.

10. Concurrently with the filing of this Motion, and in accordance with Local Rule 5075-1, the Debtors are seeking to retain Prime Clerk as Claims and Noticing Agent in these chapter 11 cases.<sup>3</sup> If this application is granted, Prime Clerk will, among other things, assist with

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<sup>3</sup> *Debtors' Application Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. § 503(b)(1)(A), and Local Rule 5075-1 for Authority to Retain and Employ Prime Clerk LLC as Notice and Claims Agent Nunc Pro Tunc to the Commencement Date*, filed contemporaneously herewith.

the consolidation of the Debtors' computer records into a creditor database and complete the mailing of notices to the parties in such database. The Debtors, working with Prime Clerk as Claims and Noticing Agent, have already prepared a single, consolidated list of the Debtors' creditors in electronic format. To ensure that no parties in interest are prejudiced, the Debtors will make the consolidated list of creditors available in readable electronic format to any party in interest who so requests (or in non-electronic format at such requesting party's sole cost and expense). The Debtors therefor submit that the preparation and maintenance of a single consolidated creditor list is warranted under the facts and circumstances present in these chapter 11 cases.

11. Courts in this jurisdiction have approved relief similar to the relief requested in this Motion with respect to preparation of a consolidated, electronic list of a debtor's creditors. *See, e.g., In re Fairway Grp. Holdings Corp.*, Case No. 20-10161 (Bankr. S.D.N.Y. Feb. 3, 2020); *In re Tops Holding II Corporation*, Case No. 18-22279 (RDD) (Bankr. S.D.N.Y. Feb. 26, 2018); *In re Cenveo, Inc.*, Case No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018); *In re Sabine Oil & Gas Corp.*, Case No. 15-11835 (SCC) (Bankr. S.D.N.Y. July 16, 2015); *In re NII Holdings, Inc.*, Case No. 14-12611 (SCC) (Bankr. S.D.N.Y. Sept. 16, 2014); *In re Hawker Beechcraft, Inc.*, Case No. 12-11873 (SMB) (Bankr. S.D.N.Y. May 4, 2012); *In re United Retail Grp., Inc.*, Case No. 12-10405 (SMB) (Bankr. S.D.N.Y. Feb. 2, 2012); *In re Eastman Kodak Co.*, Case No. 12-10202 (ALG) (Bankr. S.D.N.Y. Jan 9, 2012).

12. The Debtors propose that Prime Clerk provide notice of the commencement of these chapter 11 cases substantially in the form annexed hereto as **Exhibit 1** to the Proposed Order (the "**Notice of Commencement**").

13. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105. Section 1107(a) of the Bankruptcy Code “contains an implied duty of the debtor-in-possession” to “protect and preserve the estate, including an operating business’ going-concern value,” on behalf of a debtor’s creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232-33 (Bankr. S.D.N.Y. 1998) (“[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.”).

#### Notice

14. Notice of this Motion has been provided to (i) the Office of the United States Trustee for Region 2, 201 Varick Street, Suite 1006, New York, NY 10014 (Attn: Susan Arbeit, Esq. and Richard C. Morrissey, Esq.); (ii) the Debtors’ forty (40) largest unsecured creditors on a consolidated basis; (iii) counsel to the Prepetition Secured Lenders and proposed DIP Lenders, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611 (Attn: Peter P. Knight, Esq. and Jeramy D. Webb, Esq.); (iv) the Internal Revenue Service; and (v) the United States Attorney’s Office for the Southern District of New York (collectively, the “**Notice Parties**”). The Debtors respectfully submit that no further notice is required.

15. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

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

Dated: August 23, 2020  
New York, New York

*/s/ Vincent Indelicato*

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*Proposed Attorneys for Debtors  
and Debtors in Possession*

**Exhibit A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re**

**KB US Holdings, Inc., et al.,  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-22962**

**(Jointly Administered)**

**ORDER (I) AUTHORIZING DEBTORS TO  
(A) FILE A CONSOLIDATED LIST OF CREDITORS AND  
(B) FILE A CONSOLIDATED LIST OF DEBTORS' 40 LARGEST  
UNSECURED CLAIMS AND (II) APPROVING THE FORM AND MANNER OF  
NOTIFYING CREDITORS OF COMMENCEMENT OF THESE CHAPTER 11 CASES**

Upon the motion (the “**Motion**”)<sup>2</sup> of KB US Holdings, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 342(a), and 521 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 1007(a)(1) and (d) and 2002(a) and (f) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 1007-1 and 5075-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for the entry of an order (the “**Order**”) (i) authorizing the Debtors to (a) file a consolidated list of creditors in lieu of submitting separate mailing matrices for each Debtor (the “**Creditor Matrix**”) and (b) file a consolidated list of the Debtors’ forty (40) largest unsecured claims; and (ii) approving the form and manner of notifying creditors of commencement of the Debtors’ chapter 11 cases; all as more

<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion (the “**Hearing**”); and upon the Jones Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT**

1. The Motion is granted to the extent set forth herein.
2. In lieu of submitting a separate mailing matrix for each Debtor, the Debtors shall make available a single, consolidated Creditor Matrix of all of the Debtors’ creditors in electronic form to any entity who so requests and in non-electronic form at such requesting entity’s sole cost and expense.
3. The Debtors are authorized to file a consolidated list of the forty (40) largest unsecured claims in these chapter 11 cases.

4. The Notice of Commencement of these chapter 11 cases, substantially in the form attached to this Order as **Exhibit 1**, is hereby approved, and Prime Clerk LLC, as the Debtors' proposed claims and noticing agent, shall promptly provide such notice in addition to all other mailings directed by the Bankruptcy Court, the United States Trustee for Region 2, or as required by section 342(a) of the Bankruptcy Code and Bankruptcy Rules 2002(a) and (f).

5. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

6. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: \_\_\_\_\_, 2020  
White Plains, New York

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Notice of Commencement**

<b>Information to identify the case:</b>			
Debtor	<u>KB US Holdings, Inc., et al.</u>	EIN	<u>8 1 - 3 3 1 1 0 0 0</u>
	Name		
United States Bankruptcy Court for the:	<u>Southern</u>	District of	<u>New York</u>
		(State)	
Case number:	<u>20-22962</u>	Date case filed for chapter 11	_____ OR MM /DD / YYYY
		Date case filed in chapter _____	_____ OR MM /DD / YYYY
		Date case converted to chapter 11	_____ OR MM /DD / YYYY

Official Form 309F1 (For Corporations or Partnerships)

## Notice of Chapter 11 Bankruptcy Case

02/20

For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors and debtors, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

**Do not file this notice with any proof of claim or other filing in the case.**

### 1. Debtor's full name (and Jointly Administered Cases):

Debtor	Case Number	Tax ID Number	Date Filed	District
KB US Holdings, Inc.	20-22962	81-3311000	8/23/2020	S.D.N.Y.
KB Holding Inc.	20-22963	38-4003082	8/23/2020	S.D.N.Y.
AG Kings Holdings Inc.	20-22964	20-4648681	8/23/2020	S.D.N.Y.
AG Holdings II Inc.	20-22965	52-1653828	8/23/2020	S.D.N.Y.
Kings Super Markets, Inc.	20-22966	22-1686769	8/23/2020	S.D.N.Y.
Balducci's Holdings LLC	20-22967	80-0361913	8/23/2020	S.D.N.Y.
Balducci's Connecticut LLC	20-22968	80-0361945	8/23/2020	S.D.N.Y.
Balducci's Maryland LLC	20-22969	80-0361926	8/23/2020	S.D.N.Y.
Balducci's Virginia LLC	20-22970	80-0361949	8/23/2020	S.D.N.Y.
Balducci's New York LLC	20-22961	80-0361934	8/23/2020	S.D.N.Y.

### 2. All other names used in the last 8 years

Kings Food Markets	Kings	Kings – Where Inspiration Strikes
Kings Catering	Kings Super Markets	Balducci's Gourmet to Go
Balducci's Food Lover's Market	Balducci's	Hayday Markets
Balducci's Food Lover's Market Catering	Balducci's Express	Sutton Place Gourmet

**3. Address**

700 Lanidex Plaza  
Parsippany, NJ 07054

**4. Debtor's attorney**  
Name and address

**Proskauer Rose LLP**  
Eleven Times Square  
New York, NY 10036  
Tel: (212) 969-3000  
Attn: Vincent Indelicato  
Timothy Q. Karcher

**5. Bankruptcy clerk's office**

Documents in this case may be filed at this address.

United States Bankruptcy Court  
Southern District of New York

Hours open

8:00 a.m. to 5:00 p.m.

You may inspect all records filed in this case at this office or online at [www.pacer.gov](http://www.pacer.gov).

300 Quarropas Street, Room 147  
White Plains, NY 10601

Contact phone

(914) 467-7250

**6. Meeting of creditors**

The debtor's representative must attend the meeting to be questioned under oath.

\_\_\_\_\_ at \_\_\_\_\_  
Date Time

Location:

Creditors may attend, but are not required to do so.

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

**7. Proof of claim deadline**

**Deadline for filing proof of claim:**

Not yet set. When a deadline is set, the court will send you another notice.

A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office.

Your claim will be allowed in the amount scheduled unless:

- your claim is designated as *disputed*, *contingent*, or *unliquidated*;
- you file a proof of claim in a different amount; or
- you receive another notice.

If your claim is not scheduled or if your claim is designated as *disputed*, *contingent*, or *unliquidated*, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.

You may review the schedules at the bankruptcy clerk's office or online at [www.pacer.gov](http://www.pacer.gov).

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.

**8. Exception to discharge deadline**

The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.

If § 523(c) applies to your claim and you seek to have it excepted from discharge, you must start a judicial proceeding by filing a complaint by the deadline stated below.

**Deadline for filing the complaint:**

\_\_\_\_\_

**9. Creditors with a foreign address**

If you are a creditor receiving notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

**10. Filing a Chapter 11 bankruptcy case**

Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.

**11. Discharge of debts**

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge and § 523(c) applies to your claim, you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.