

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NUMBER HOLDINGS, INC. *et al.*,<sup>1</sup>

Debtors.

) Chapter 11

) Case No. 24-10719 (JKS)

) (Jointly Administered)

) **Re: D.I. 1043**

**NOTICE OF FILING OF REVISED ORDER (I) IN AID OF THE SALE ORDER; (II)  
APPROVING THE ALTERNATIVE PURCHASE AGREEMENTS; AND (III)  
GRANTING RELATED RELIEF**

**PLEASE TAKE FURTHER NOTICE** that on May 24, 2024, the Court entered the *Order (I) Authorizing the Debtors' Entry Into Asset Purchase Agreements, (II) Authorizing the Sale of the Purchased Assets Free and Clear of All Encumbrances, (III) Approving the Assumption and Assignment of Certain Unexpired Leases and Executory Contracts, and (IV) Granting Related Relief* (D.I. 707) (the "Sale Order") identifying the Rosewood Group LLC as the Purchaser for certain of the Debtors' Assets.<sup>2</sup>

**PLEASE TAKE FURTHER NOTICE** that on July 19, 2024, the Debtors filed their *Motion for Entry of an Order (I) in Aid of Sale Order; (II) Approving the Alternative Purchase Agreements; and (III) Granting Related Relief* (D.I. 1043) (the "Debtors' Motion"), among other things, directing Chicago Title and Trust Company to release the Rosewood Group LLC's ("Rosewood") good faith deposit (the "Deposit") from escrow to the Debtors. Attached to the Motion as Exhibit A was a form of proposed order (the "Proposed Order").

**PLEASE TAKE FURTHER NOTICE** that on July 26, 2024, Rosewood filed the *Rosewood Group LLC's Objection to the Debtors' Motion for Entry of an Order (I) in Aid of Sale Order; (II) Approving the Alternative Purchase Agreements; and (III) Granting Related Relief* (D.I. 1069) ("Rosewood's Objection") as well as a separate *Motion of Rosewood Group LLC for Entry of Order Enforcing Bidding Procedures Order, Modifying Sale Order, and Directing Return of Good Faith Deposit* (D.I. 1068) ("Rosewood's Motion").

<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: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors' mailing address is 10105 E Via Linda, Ste 103 PMB 1207, Scottsdale, AZ 85258.

<sup>2</sup> Capitalized terms used but not defined herein are used as defined in the Sale Order.

**PLEASE TAKE FURTHER NOTICE** that on August 2, 2024, the Debtors filed the Debtors' (I) *Objection to Motion of Rosewood Group LLC for Entry of Order Enforcing Bidding Procedures Order, Modifying Sale Order, and Directing Return of Good Faith Deposit* and (II) *Reply to Rosewood Group LLC's Objections to the Debtors' Motion for Entry of an Order in Aid of Sale Order* (D.I. 1122).

**PLEASE TAKE FURTHER NOTICE** that the Debtors and Rosewood have reached an agreement in principle to resolve Rosewood's Motion and Rosewood's Objection to the Debtors' Motion.

**PLEASE TAKE FURTHER NOTICE** the Debtors also received certain informal comments from *pro se* claimants regarding the Debtors' Motion.

**PLEASE TAKE FURTHER NOTICE** that attached hereto as **Exhibit A** is a revised version of the proposed form of sale order attached to the Debtors' Motion (the "**Revised Order**"), which remains subject to change.

**PLEASE TAKE FURTHER NOTICE** that attached hereto as **Exhibit B** is a redline comparing the Revised Order against the Proposed Order.

**PLEASE TAKE FURTHER NOTICE** that the Debtors will present the Revised Order at the hearing scheduled for August 9, 2024, at 11:00 a.m. (ET).

*(Remainder of page intentionally left blank)*

Dated: August 9, 2024  
Wilmington, Delaware

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

/s/ Jonathan M. Weyand

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**Exhibit A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NUMBER HOLDINGS, INC. *et al.*,<sup>1</sup>

Debtors.

) Chapter 11

) Case No. 24-10719 (JKS)

) (Jointly Administered)

) **Re: D.I. 1043**

**ORDER (I) IN AID OF THE SALE ORDER; (II) APPROVING THE ALTERNATIVE  
PURCHASE AGREEMENTS; AND (III) GRANTING RELATED RELIEF**

Upon consideration of the *Debtors' Motion for Entry of an Order (I) in Aid of Sale Order; (II) Approving the Alternative Purchase Agreements; and (III) Granting Related Relief* (the "Motion")<sup>2</sup> [Docket No. 1043], all as more fully set forth in the Motion; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Motion and of the opportunity to be heard at the hearing thereon were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and the *Declaration of Stephen Madura in Support of the Motion* [Docket No. 1125] (the "Hilco Declaration") and having heard the statements and argument in

<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: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors' mailing address is 10105 E Via Linda, Ste 103 PMB 1207, Scottsdale, AZ 85258.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion. Additionally, reference to "Alternative Purchasers" throughout this Order shall mean Russ Group, Inc. and Summitrose Investments, LP or an affiliate thereof ("Summitrose"). Moreover, any defined terms in the Motion that make reference to Wood Investments Companies, Inc. ("Wood") and are used herein, should be read throughout this Order with reference to Summitrose (not Wood).

support of the relief requested at a hearing, if any, before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at any Hearing establish just cause for granting the requested relief; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

**IT IS FOUND AND DETERMINED THAT:**

A. ***Findings and Conclusions.*** The findings of fact and conclusions of law 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. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be deemed so, and vice versa.

B. ***Jurisdiction, Venue, and Core Proceeding.*** The Court has jurisdiction over the Motion and over the property of the Debtors, including, without limitation, the transactions contemplated by each Alternative APA, pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 Cases and the Motion in this District and Court is proper under 28 U.S.C. §§ 1408 and 1409.

C. ***Statutory Bases.*** The statutory bases for the relief requested in the Motion are sections 105, 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, 6004, 6006, 9007 and 9014 and Local Rules 2002-1, 6004-1 and 9006-1.

D. ***Final Order.*** This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made

applicable by Bankruptcy Rule 7054, the Court expressly finds there is no just reason for delay in the implementation of this Order and expressly directs entry of judgment as set forth herein.

E. ***Sufficiency of Notice.*** As evidenced by the affidavits and/or certificates of service filed with the Court [D.I. 1140] adequate notice and reasonable opportunity to object and/or be heard regarding the Motion and the Alternative Sales contemplated by the Alternative APAs has been provided in accordance with sections 102(1), 363(b) and 365 of the Bankruptcy Code, the applicable Bankruptcy Rules, the applicable Local Rules and the procedural due process requirements of the United States Constitution. No other notice of the Motion, the Alternative Sales contemplated by the Alternative APAs, or entry of this Order is necessary or shall be required.

F. ***Actual Notice.*** Actual written notice of the Motion, the Alternative Sales, and all transactions contemplated therein or in connection therewith, and all deadlines related thereto has been given to all interested persons and entities, including, without limitation: (i) the DIP Agent, the DIP Lender, the FILO Agent, the ABL Facility Agent, Wilmington Trust, National Association, as Trustee and Notes Collateral Agent pursuant to 2026 Notes Indenture, the *Ad Hoc* Group of 2026 Noteholders, and RCB Equities #1, LLC, as lender pursuant to the Propco Promissory Note, (collectively, the “Secured Parties”), and each of their counsel; (ii) counsel to the Official Committee of Unsecured Creditors (the “Committee”); (iii) the Office of The United States Trustee (the “UST”); (iv) the counterparty to each unexpired lease and executory contract to be assumed and assigned or transferred, as applicable, pursuant to this Order, and each of their counsel (if known); (v) all persons known or reasonably believed to have asserted an interest in the Rosewood Properties; (vi) the Attorney General in the States where the Rosewood Properties are located; (vii) all federal, state, and local taxing authorities in the States where the Rosewood

Properties are located; (viii) all parties who have asserted or could assert liens against the Rosewood Properties; (ix) all parties who are known to have performed work or services at the respective locations of the Purchased Assets within the past six months; (x) Rosewood; (xi) Wood Investment Companies, Inc., (xii) Russ Group, Inc.; (xiii) Escrow Agent and (xiv) any other party that has filed a request for notices with this Court (collectively, the “Notice Parties”).

G. ***Reserved.***

H. ***Extensive Efforts by Debtors.*** The Debtors have worked with their counsel, their professional advisors, and other advisors, as well as, as applicable, the Consultation Parties, to implement viable sales that would allow them to maximize the value of the Rosewood Properties. Notwithstanding the existence of any backup bids with respect to the Rosewood Properties, the Debtors have complied with Bidding Procedures in connection with the re-marketing of the Rosewood Properties and such efforts were a valid exercise of the Debtors’ fiduciary duties and business judgment aimed at maximizing recoveries to the Debtors’ estates. The Alternative Sales for the Rosewood Properties with the various counterparties set forth on Schedule 1 attached hereto are the result of the Debtors’ extensive efforts in seeking to maximize recoveries to the Debtors’ estates, for the benefit of all of the Debtors’ creditors.

I. ***Business Judgment.*** The Debtors have demonstrated good, sufficient, and sound business purposes and justifications for, and compelling circumstances to promptly consummate, the Alternative Sales contemplated by each Alternative APA and related documents pursuant to sections 105, 363, and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization, and such action is an appropriate exercise of the Debtors’ business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, but are not limited to, the fact that: (i) there is substantial risk of depreciation of the value of the Rosewood



Properties if each Alternative Sale is not consummated promptly; (ii) the Alternative Sales contemplated by each of the Alternative APAs presents the best opportunity to maximize the value of the Rosewood Properties; and (iii) unless each Alternative Sale is concluded expeditiously as provided for in this Order and pursuant to each Alternative APA, potential creditor recoveries may be substantially diminished.

J. ***Adequate Marketing; Highest or Best Offer.*** As demonstrated by the testimony and other evidence proffered or adduced at the Hearing, (a) the Debtors have adequately marketed the Rosewood Properties and conducted the remarketing processes since the Auction in good faith and in a fair and open manner; (b) the re-marketing processes were non-collusive and provided a full, fair, reasonable, and adequate opportunity, in light of the circumstances, for any interested party to conduct due diligence and make an offer to purchase the Rosewood Properties, and submit higher and better offers for the Rosewood Properties than the Alternative Purchasers; (c) the consideration provided by each Alternative Purchaser in each respective Alternative APA constitutes the highest and best offer for the respective Rosewood Property; (d) the consideration is fair and reasonable consideration for each Rosewood Property and constitutes reasonably equivalent value under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia; (e) each Alternative Sale will provide a greater recovery to the Debtors' creditors and estates with respect to the Rosewood Property than would be provided by any other available alternative; (f) taking into consideration all relevant factors and circumstances, no other entity has offered to purchase either Rosewood Property for greater economic value to the Debtors or their estates than each Alternative Purchaser; and (g) the Debtors' determination that each Alternative APA constitutes the highest or best offer for the applicable Rosewood Property, maximizes value for the Debtors' estates, and constitutes a valid

and sound exercise of the Debtors' business judgment. There is no legal or equitable reason to delay Closing of the Sales contemplated by the Alternative APAs.

K. ***Rosewood Properties of the Estate.*** The Rosewood Properties are property of the Debtors' estates and title thereto is vested in the Debtors' estates.

L. ***Arm's-Length Sale.*** Each Alternative APA, Alternative Sale, and any transactions contemplated therein and associated therewith were negotiated, proposed, and entered into by the Debtors and the Alternative Purchasers without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtors, their insiders and affiliates, the Secured Parties, and their affiliates, nor any Alternative Purchaser have engaged in any conduct that would cause or permit the Alternative APAs, the Alternatives Sales, or any part thereof to be avoided under section 363(n) of the Bankruptcy Code.

M. ***Good Faith Alternative Purchaser.*** The Alternative Purchasers have proceeded in good faith in all respects, are good faith purchasers under section 363(m) of the Bankruptcy Code and, as such, are entitled to all of the protections afforded thereby, including in the event this Order or any portion thereof is reversed or modified on appeal. In particular, (i) each Alternative Purchaser recognized that the Debtors were free to deal with any other party interested in purchasing the Rosewood Properties; (ii) neither Alternative Purchaser in any way induced or caused the chapter 11 filings by the Debtors; (iii) neither Alternative Purchaser has violated section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, managers, officers, or controlling stockholders exist between an Alternative Purchaser, on the one hand, and any of the Debtors, on the other hand; and (v) all payments to be made by an Alternative Purchaser in connection with the Alternative Sales have been disclosed.

N. ***Corporate Authority.*** The Debtors (i) have full corporate power and authority to execute each Alternative APA and all other documents contemplated thereby, and the Alternative Sales of the Rosewood Properties have been duly and validly authorized by all necessary corporate action of the Debtors, (ii) have all of the corporate power and authority necessary to consummate the transactions contemplated by each Alternative APA, (iii) have taken all corporate action necessary to authorize and approve each Alternative APA and the consummation by the Debtors of the transactions contemplated thereby, and (iv) need no consents or approvals, other than those expressly provided for in an Alternative APA, subject to the waiver of such consents or approvals to the extent provided in the Alternative APA and as may be permitted under applicable law.

O. ***Alternative Purchaser is Not an Insider.*** Neither the Alternative Purchasers nor any of their respective affiliates, officers, directors, partners or any of their respective successors or assigns is an “insider” or “affiliate” of any of the Debtors, as those terms are defined in sections 101(31) and 101(2) of the Bankruptcy Code.

P. ***Binding and Valid Transfer.*** The transfer of the Rosewood Properties to the respective Alternative Purchasers will be a legal, valid, and effective sale and transfer of the Rosewood Properties and will vest the Alternative Purchasers with all right, title, and interest of the Debtors to the Rosewood Properties free and clear of all Encumbrances, and any liabilities of the Debtors, except as otherwise expressly set forth in an Alternative APA or in this Order. All liens, including any liens granted by any order approving debtor-in-possession financing, and any liens granted in favor of any Secured Party, as applicable shall be released solely as against the Rosewood Properties upon receipt by the Debtors of the purchase price, which amount once paid shall be indefeasible and not subject to disgorgement for any reason. For avoidance of doubt, all liens, including without limitation, any liens of the Secured Parties, shall attach, with the same

priority and validity, to the proceeds (both cash and non-cash) attributable to the Rosewood Properties pursuant to the Alternative Sale (if any).

**Q. Satisfaction of Standards of Section 363(f).** The Debtors may sell the Rosewood Properties free and clear of all Encumbrances<sup>3</sup> of any kind or nature whatsoever, because, in each

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<sup>3</sup> As used herein, “Encumbrance” and “Encumbrances” include all of the following, in each case, to the extent against or with respect to the Debtors, or in, on, or against, or with respect to any of the Purchased Assets: liens (including as defined in section 101(37) of the Bankruptcy Code, and whether consensual, statutory, possessory, judicial, or otherwise), claims (as defined in section 101(5) of the Bankruptcy Code) (“Claims”), debts (as defined in section 101(12) of the Bankruptcy Code), encumbrances, obligations, liabilities, demands, guarantees, actions, suits, defenses, deposits, credits, allowances, options, rights, restrictions, limitations, contractual commitments, mechanics liens, materialmen’s liens or interests of any kind or nature whatsoever, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to, on, or subsequent to, the commencement of these Chapter 11 Cases, and in each case, whether imposed by agreement, understanding, law, equity, or otherwise, including, but not limited to: (i) mortgages, security deeds, deeds of trust, pledges, charges, security interests, levies, hypothecations, encumbrances, easements, servitudes, leases, subleases, licenses, rights-of-way, encroachments, restrictive covenants, restrictions on transferability, voting, sale, transfer or other similar restrictions, rights of setoff (except for setoffs validly exercised before the Petition Date, or preserved in a timely filed proof of claim or motion filed with the Court), rights of use or possession, conditional sale arrangements, deferred purchase price obligations, profit sharing interest, or any similar rights; (ii) all Claims, including, without limitation, all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of recovery, setoff (except for setoffs validly exercised before the Petition Date, or preserved in a timely filed proof of claim or motion filed with the Court), indemnity or contribution, obligations, demands, restrictions, indemnification claims, or liabilities relating to any act or omission of the Debtors or any other Person, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise; (iii) all debts, liabilities, obligations, contractual rights and claims, including labor, employment, and pension claims; (iv) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors’ or the Successful Bidder(s)’ interest in the Purchased Assets, or any similar rights; (v) any rights under labor or employment agreements; (vi) any rights under pension, multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of the Employment Retirement Income Security Act of 1974 (as amended, “ERISA”)), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plans of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (vii) any other employee claims related to worker’s compensation, occupation disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employment Act of 1967 and the Age Discrimination in Employment Act, each as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code of any similar state law, (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (l) the WARN Act (29 U.S.C. §§ 2101, et seq.) or any state or other

case, one or more of the standards set forth in sections 363(f)(1)-(5) of the Bankruptcy Code have been satisfied. Those holders of Encumbrances who did not object, or who withdrew their objections, to the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Holders of Encumbrances on the Rosewood Properties are adequately protected by having their Encumbrances attach to the proceeds (both cash and non-cash) of the Alternative Sales of the Rosewood Properties attributable to such Encumbrances, subject to the terms of such Encumbrances, with the same validity, force, and effect, and in the same order of priority, that such Encumbrances had against the Rosewood Properties immediately prior to Closing, subject to any claims and defenses that the Debtors may possess with respect thereto.

**R. Consideration for Transfer of Rosewood Properties Free and Clear.** Neither Alternative Purchaser would have entered into the applicable Alternative APA if the transfer of the Rosewood Properties were not free and clear of all Encumbrances except as otherwise set forth in the applicable Alternative APA and this Order, or if in the future any Alternative Purchaser would or could be liable for any such Encumbrances. The total consideration to be provided under each Alternative APA reflects each Alternative Purchaser's reliance on this Order to provide, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, that, upon the Closing, such Alternative Purchaser has title to, interest in and possession of the respective Rosewood Properties free and clear of all Encumbrances subject to the terms hereof.

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laws of similar effect; (viii) any bulk sales or similar law; (ix) any tax statutes or ordinances or other laws of similar effect, including, without limitation, the Internal Revenue Code of 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating to the operation of the Purchased Assets before the closing of a Sale; (x) any unexpired and executory contract or unexpired lease to which the Debtors are a party that is not assigned; (xi) any other excluded liabilities under the Purchase Agreement; and (xii) Encumbrances arising under or in connection with any acts, or failures to act, of the Debtors or any of their predecessors, affiliates, or subsidiaries, including, but not limited to, Encumbrances arising under any doctrines of successor liability (to the greatest extent permitted by applicable law), or transferee or vicarious liability, violation of the Securities Act, the Exchange Act, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting breach of fiduciary duty, or any similar theories under applicable law or otherwise.

S. **No *Sub Rosa* Plan.** The Alternative Sales, the Alternative APAs, and the other transactions contemplated thereby neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictate a liquidating chapter 11 plan for the Debtors, and therefore do not constitute a *sub rosa* chapter 11 plan. Nothing in this Order is approving any disclosure statement, plan, or a finding of fact or conclusion of law in connection therewith. Further, nothing in this Order is approving any distribution that would be inconsistent with the Bankruptcy Code's priority scheme, including the timing and/or amount of money to be paid creditors in a future plan (if any).

T. **Necessity of Order.** The Alternative Purchasers would not have entered into the Alternative APAs and would not consummate the Alternative Sales contemplated therein without all of the relief provided for in this Order (including, but not limited to, that the sale and transfer of the Rosewood Properties to the Alternative Purchasers be free and clear of all Encumbrances). The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the Alternative APAs, including, without limitation the Alternative Sales outside of, a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested is not granted. The consummation of the Alternative Sales pursuant to this Order and each Alternative APA is necessary for the Debtors to maximize the value of their estates for the benefit of all creditors.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. **Findings of Fact and Conclusions of Law.** The above-referenced additional findings of fact and conclusions of law are hereby incorporated by reference as though fully set forth herein and shall constitute findings of fact and conclusions of law pursuant to Bankruptcy

Rule 7052, made applicable herein by Bankruptcy Rule 9014. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be deemed so, and *vice versa*.

2. **Motion Granted.** The Motion is granted as set forth herein (this “Order”).

3. **Reserved.**

4. **Reserved.**

5. **Objections Are Overruled.** All objections, reservations of rights regarding, or other responses to the Motion with respect to the Alternative Sale for the Rosewood Properties being approved pursuant to this Order, or the relief requested therein, an Alternative APA, all other ancillary agreements, the Alternative Sale, the entry of this Order or to the relief granted herein that have not been withdrawn, waived, settled, or not otherwise resolved pursuant to the terms hereof, if any, hereby are denied and overruled on the merits with prejudice. All persons and entities that failed to timely object to the Motion are deemed to have consented to the relief granted herein for all purposes.

6. **Approval of the Transactions Contemplated by the Alternative APAs.** Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized to perform their obligations under, and comply with the terms of, the Alternative APAs and consummate the Alternative Sale and the related transactions pursuant to, and in accordance with, the terms and conditions of the Alternative APAs and this Order. The Debtors are authorized to execute and deliver, and empowered to perform under, consummate, and implement, each Alternative APA, the Transaction Documents and the Alternative Sales contemplated therein, together with all additional instruments and documents that the Debtors or the Alternative Purchasers deem necessary or appropriate to implement the Alternative APA and effectuate the Alternative Sale contemplated therein, and to take all further actions as may reasonably be required

by the Alternative Purchasers for the purpose of assigning, transferring, granting, conveying, and conferring to the Alternative Purchasers the Rosewood Properties free and clear of any and all Encumbrances as may be necessary or appropriate to their performance of their obligations under the Alternative APA. The Alternative Purchasers shall not be required to seek or obtain relief from the stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Alternative APA or related documents. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the provisions of this Order. All furniture, fixtures, equipment and inventory remaining in the Rosewood Properties on or after the Closing Date shall be deemed transferred to the applicable Alternative Purchaser (without further order of the Court or documentation from the Debtors) free and clear of liens, claims and Encumbrances as the parties having liens on such furniture, fixtures, equipment and inventory have consented to the abandonment or transfer thereof.

7. **Notice.** Notice of the Motion, the Alternative Sales and all transactions contemplated therein or in connection therewith, including the Alternative Sales, all deadlines related thereto, and the relief granted in this Order was fair, sufficient, proper, and equitable under the circumstances and complied in all respects with sections 102(1) and 363 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Bid Procedures Order, the Bidding Procedures, and the procedural due process requirements of the United States Constitution.

8. **Binding Effect of Order.** This Order shall be binding in all respects upon (i) all known and unknown creditors of, and holders of equity security interests in, the Debtors, including any holders of Encumbrances; (ii) the Alternative Purchasers; (iii) the Debtors; (iv) the Rosewood Properties; (v) the Committee; (vi) any trustee(s) appointed in the Debtors' Chapter 11 Cases or upon a conversion to cases under chapter 7 of the Bankruptcy Code; and (vii) all successors and



assigns of each of the foregoing, and this Order shall not be subject to amendment or modification and the APAs shall not be subject to rejection.

9. **Injunction.** All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Rosewood Properties to the Alternative Purchasers in accordance with an applicable Alternative APA and this Order. Following the Closing, all persons (including, but not limited to, the Debtors, creditors, investors, current and former employees and shareholders, administrative agencies, governmental units, secretaries of state, federal, state, and local officials, including those maintaining any authority relating to any environmental, health and safety laws, and the successors and assigns of each of the foregoing) holding Encumbrances in the Rosewood Properties or against the Debtors in respect of the Rosewood Properties of any kind or nature whatsoever shall be, and hereby are, forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing any Encumbrances of any kind or nature whatsoever against the applicable Alternative Purchaser or any affiliate of such Alternative Purchaser or any of its respective property, successors and assigns, or the Rosewood Properties, as an alleged successor or on any other grounds pursuant to the transactions contemplated herein, subject to the Assumed Liabilities. No person shall assert, and the applicable Alternative Purchaser and the Rosewood Properties shall not be subject to, any defaults, breaches, counterclaims, offsets, defenses (whether contractual or otherwise, including, without limitation, any right of recoupment), liabilities, claims, Encumbrances and interests, or basis of any kind or nature whatsoever to delay, defer, or impair any right of the Alternative Purchaser under, or with respect to, any Rosewood Properties, with respect to any act or omission that occurred prior to the Closing or with respect to any other

agreement or any obligation of the Debtors other than with respect to an Assumed Liability under an applicable Alternative APA.

10. **General Assignment.** Upon each Closing, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of the Debtors' interests in the Rosewood Properties and a bill of sale transferring good and marketable title in the Rosewood Properties to the Alternative Purchaser free and clear of all Encumbrances. Each and every federal, state, and local governmental agency, quasi-agency, or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the Alternative Sales contemplated under an applicable Alternative APA. Any party which did not object to the Alternative Sales within the time set forth in the notice thereof is deemed to consent to the Alternative Sale and the satisfaction of the requirements of Section 365 of the Bankruptcy Code.

11. **Transfer Free and Clear.** Upon each Closing, pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Rosewood Properties, including any assigned contracts, shall be transferred to the applicable Alternative Purchaser in accordance with the applicable APA, and such transfer shall be free and clear of all Encumbrances of any person, including, without limitation, all such Encumbrances specifically enumerated in this Order, whether arising by agreement, by statute, or otherwise and whether occurring or arising before, on, or after the Petition Date, whether known or unknown, occurring or arising prior to such transfer, with all such Encumbrances attaching to the proceeds (both cash and non-cash) of the Alternative Sale of the Rosewood Properties attributable to such Encumbrances subject to the terms of such Encumbrance with the same validity, force, and effect and in the same priority, that

such Encumbrances had against the Rosewood Properties immediately prior to Closing, subject to any claims and defenses that Debtors or the Debtors may possess with respect thereto.

12. **Valid Transfer.** The transfer of the Rosewood Properties to the Alternative Purchasers pursuant to the Alternative APAs constitutes a legal, valid, and effective transfer of the Rosewood Properties and shall vest the Alternative Purchasers with all right, title, and interest of the Debtors in and to the Rosewood Properties free and clear of all Encumbrances of any kind or nature whatsoever.

13. **Exculpation and Release.** Neither an Alternative Purchaser nor any of its affiliates, successors, and assigns, nor any of its professionals, shall have, or incur any liability to, or be subject to any action by, the Debtors or any of their predecessors, successors, or assigns, arising out of the negotiation, investigation, preparation, execution, or delivery of an Alternative APA and the entry into and consummation of the Alternative Sale, except as expressly provided in the applicable Alternative APA and this Order. Neither the Debtors nor any of their affiliates, successors, and assigns, nor any of their professionals, shall have, or incur any liability to, or be subject to any action by, any Alternative Purchaser or any of its predecessors, successors, or assigns, arising out of the negotiation, investigation, preparation, execution, or delivery of the Alternative APAs and the entry into and consummation of the Alternative Sales, except as expressly provided in the Alternative APAs and this Order.

14. **Direction to Release Interests.** Upon each Closing, each of the Debtors' creditors and any other holder of an Encumbrance is authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release its Encumbrance in the Rosewood Properties, if any, as such Encumbrance may have been recorded or may otherwise exist. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or

other documents or agreements evidencing an Encumbrance in all or any portion of the Rosewood Properties being sold pursuant to the Alternative Sale and an Alternative APA shall not have delivered to the Debtors prior to the Closing, (or such other time as reasonable under the circumstances and agreed in writing among the Alternative Purchaser and Debtors), in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Encumbrances, which such person or entity has with respect to all or any portion of the Rosewood Properties being sold pursuant to the Alternative Sale and the Alternative APAs, then (i) the Debtors are authorized to execute and file such statements, instruments, releases, and other documents on behalf of such person or entity with respect to all or any portion of the Rosewood Properties being sold pursuant to the Alternative Sales and the Alternative APAs, and (ii) the Alternative Purchasers are authorized to file, register, or otherwise record a certified copy of this Order, which shall constitute conclusive evidence of the release of all Encumbrances of any kind or nature whatsoever in the Rosewood Properties being sold pursuant to the Alternative Sale and the Alternative APAs. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Alternative APAs, including, without limitation, recordation of this Order. This Order shall be binding upon and shall govern the acts of all persons including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or

instruments, or who maybe required to report or insure any title or state of title in or to any of such assets or other property interests.

15. **Standing.** Each Alternative APA shall be in full force and effect, regardless of any Debtor's lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

16. **Post-Closing Actions and Transactions.** The Debtors and the applicable Alternative Purchaser, and each of their respective officers, employees, and agents, will be authorized and empowered to take all actions and execute and deliver any and all documents and instruments that either the Debtors or the Alternative Purchaser deem necessary or appropriate to implement and effectuate the terms of the Alternative APAs, the Alternative Sale contemplated therein and this Order.

17. **Sale is Self-Executing.** The Sale is self-executing, and neither the Debtors nor the Alternative Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments to effectuate, consummate, and implement the provisions of this Order.

18. **No Successor Liability.** Neither an Alternative Purchaser, its present or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or any of the foregoing's respective affiliates, agents, officials, personnel, representatives, or advisors, shall have any liability for any Encumbrance that arose or occurred prior to the Closing, or otherwise may be asserted against the Debtors or is related to the Rosewood Properties prior to the Closing. The Alternative Purchasers are not and shall not be deemed "successors" to the Debtors or their estates; the Alternative Purchasers have not, *de facto* or otherwise, merged with or into the Debtors; the Alternative Purchasers do not have any common law or successor

liability in relation to any matter, including without limitation, employment plans; the Alternative Purchasers are not liable for any liability or Encumbrance against the Debtors or any of the Debtors' predecessors or affiliates (other than those transferred to the Alternative Purchaser pursuant to the Alternative Sale); and the Alternative Purchasers are not alter egos or mere continuations or substantial continuations of the Debtors or the enterprise of the Debtors under any theory of law or equity as a result of any action taken in connection with the Alternative APA, Transaction Documents, the Alternative Sale, or any transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Rosewood Properties. Without limiting the foregoing, the Alternative Purchasers shall not have any successor, transferee, derivative, or vicarious liabilities of any kind or character for any claims, including, without limitation, under any theory of successor or transferee liability, *de facto* merger or continuity, environmental, tax, labor and employment, products, or antitrust liability, whether known or unknown as of the Closing Date, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated.

19. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding, against any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, or its successors or permitted assigns, or any of the foregoing's respective affiliates, agents, officials, personnel, representatives, or advisors, or their respective assets, including, without limitation, the Rosewood Properties, with respect to any claim against the Debtors, including, without limitation, the following actions: (a) commencing or continuing any action or other proceeding pending or threatened against the Debtors as against any Alternative Purchaser,

its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Debtors as against any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (c) creating, perfecting, or enforcing any lien, claim, interest, or encumbrance against the Debtors as against any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (d) asserting any setoff, right of subrogation, or recoupment of any kind for any obligation of any of the Debtors as against any obligation due any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (e) commencing or continuing any action, in any manner or place, that does not comply, or is inconsistent with, the provisions of this Order, or the agreements or actions contemplated or taken in respect thereof, or (f) revoking, terminating, or failing or refusing to renew any license, permit, or authorization to operate any of the Rosewood Properties or conduct any of the businesses operated with the Rosewood Properties; provided, however, that nothing in this Order shall prevent a counterparty to an assigned contract from seeking to enforce an Alternative Purchaser's obligations under an Alternative APA as it relates to such counterparty, subject to any claims and defenses such Alternative Purchaser may have with respect thereto.

20. Except as may be expressly provided for in the Alternative APAs or this Order, the Alternative Purchasers shall not have any obligation or responsibility for any liability of any of the Debtors or their estates arising under or related to the Rosewood Properties or otherwise. Without limiting the generality of the foregoing, and except as may be expressly provided for in the Alternative APA or this Order, an Alternative Purchaser shall not be liable for any liens, Claims, Encumbrances, or other interests of any kind or nature against any of the Debtors or their estates or any of their predecessors or affiliates, and the Alternative Purchasers shall have no successor, transferee, or vicarious liabilities of any kind or character, including, without limitation, liabilities based on any theory of antitrust, environmental, tax, successor, or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, asserted or unasserted, liquidated or unliquidated, with respect to any of the Debtors or their estates or any obligations of any of the Debtors or their estates arising prior to the Closing Date.

21. Without limiting the generality of the foregoing, none of any Alternative Purchaser, its affiliates, its past, present or contemplated members, partners, officers, directors or shareholders, or the Rosewood Properties, shall have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any liens, Claims, Encumbrances, or other interests relating to any U.S. federal, state, or local income tax liabilities, including, without limitation, any such tax liabilities that are attributable to the recapture of an excess loss account under Treasury Regulation Section 1.1502-19 (or any similar provision of state or local tax law), that the Debtors or any of them are or may be obligated for or incur in connection with consummation of the transactions contemplated by an Alternative APA, including, without limitation, the Alternative Sale.



22. This Order (a) shall be effective as a determination that, on or prior to the Closing Date, except as otherwise provided in an applicable APA, all liens, claims, encumbrances, and other interests of any kind or nature whatsoever existing as to the Debtors and their estates with respect to the Rosewood Properties have been unconditionally released and terminated and the Rosewood Properties shall have been transferred to each Alternative Purchaser free and clear of all liens, Claims, interests, and Encumbrances, and that the transfers and conveyances described in this Order have been effected, and (b) shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Rosewood Properties.

23. Each and every federal, state, and local governmental agency or department is authorized to accept any and all documents and instruments necessary or appropriate to consummate the transactions contemplated by the Alternative APA, including, without limitation, the Alternative Sale.

24. **Fair Consideration.** The consideration provided by each Alternative Purchaser for the respective Rosewood Property under the applicable Alternative APA shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia. The Sale may not be avoided under section 363(n) of the Bankruptcy Code. The Alternative APA was not entered into, and the Alternative Sale is not being consummated, for the purpose of

hindering, delaying, or defrauding creditors of the Debtors or other Debtors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable law. Neither the Debtors nor an applicable Alternative Purchaser have entered into any Alternative APA or any agreement contemplated thereby or are consummating the Alternative Sales with any fraudulent or otherwise improper purpose, including, without limitation, to evade any pension liabilities. No other person or entity or group of persons or entities has offered to purchase the Rosewood Properties for an amount that would provide greater value to the Debtors and their estates than the value provided by the applicable Alternative Purchaser. This Court's approval of each Alternative APA is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

25. **Good Faith Purchaser.** The transactions contemplated by each Alternative APA are undertaken by the Alternative Purchasers without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorization provided in this Order to consummate the transactions shall not affect the validity of the transactions nor the transfer of the Rosewood Properties owned by the Debtors to the Alternative Purchasers free and clear of all Encumbrances pursuant to an Alternative APA, unless the authorization or the Alternative Sale is stayed pending appeal. Each Alternative Purchaser is a purchaser in good faith of the Rosewood Properties and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code. In particular, (i) each Alternative Purchaser recognized that the Debtors were free to deal with any other party interested in purchasing the Rosewood Properties; (ii) each Alternative Purchaser in no way induced or caused the chapter 11 filings by the Debtors; (iii) each Alternative Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors,

managers, officers or controlling stockholders exist between any Alternative Purchaser, on the one hand, and any of the Debtors, on the other hand; (v) each Alternative Purchaser complied with the Bidding Procedures and all provisions of the Bid Procedures Order; and (vi) all payments to be made, and all other material agreements or arrangements entered into or to be entered into by any Alternative Purchaser in connection with the Alternative Sale have been disclosed. The Debtors and the Alternative Purchasers will be acting in good faith if they proceed to consummate the Alternative Sales at any time after entry of this Order.

26. **No Bulk Law Application.** No bulk sales law or similar law shall apply in any way to the transactions contemplated by the Alternative Sale, the Alternative APAs, the Motion, and this Order.

27. **Inconsistencies with Prior Orders, Pleadings or Agreements.** To the extent this Order is inconsistent with any prior order or filing with respect to the Motion in these Chapter 11 Cases, the terms of this Order shall govern and any prior orders shall be deemed amended or otherwise modified to the extent required to permit consummation of the Alternative Sales. To the extent there is any inconsistency between the terms of this Order and the terms of an Alternative APA (including all ancillary documents executed in connection therewith), the terms of this Order shall govern.

28. **Failure to Specify Provisions.** The failure to specifically include any particular provision of an Alternative APA or other related documents in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that each Alternative APA and all other related documents be authorized and approved in their entirety pursuant to this Order.

29. **Non-Material Modifications.** An Alternative APA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto and in accordance with the terms thereof, without further order of this Court, provided that any such modification, amendment, or supplement does not have, in the Debtors' business judgment and based on consultation with the Consultation Parties any material adverse effect on the Debtors' estates.

30. Notwithstanding anything to the contrary set forth in this Order, each Alternative APA, the Transaction Documents or any ancillary agreement or related agreement, document or other instrument, any amendments, modifications, supplements to or waivers of any obligations or rights of the parties thereto that could adversely impact or affect the rights of the Secured Parties shall require the prior written consent of such Secured Parties.

31. **No Stay of Order.** Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), this Order shall not be stayed for fourteen (14) days after its entry and shall be effective immediately upon entry, and the Debtors and the Alternative Purchaser are authorized to close the Alternative Sales immediately upon entry of this Order. Time is of the essence in closing the Alternative Sales referenced herein, and the Debtors and the Alternative Purchasers intend to close the Alternative Sales as soon as practicable. This Order is a final order and the period in which an appeal must be filed shall commence upon the entry of this Order. Any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay, or risk its appeal being foreclosed as moot.

32. **No Modification by Subsequent Orders or Plan Provisions.** Nothing contained in any chapter 11 plan confirmed in the Debtors' chapter 11 cases, any order confirming any such plan, or in any other order entered in these chapter 11 cases (including any order entered after any

conversion of any of these chapter 11 cases to a case under chapter 7 of the Bankruptcy Code) or any related proceeding subsequent to entry of this Order shall modify, alter, conflict with, or derogate from, the provisions of the Alternative APAs or this Order.

33. **Retention of Jurisdiction.** This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b)(2), to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Alternative APAs, all amendments thereto, and any waivers and consents thereunder, including, but not limited to, retaining jurisdiction to (i) compel delivery of the Rosewood Properties to the Alternative Purchasers; (ii) interpret, implement, and enforce the provisions of this Order and the Alternative APAs; (iii) protect the Alternative Purchasers, any of the Alternative Purchasers' affiliates, or any agent of the foregoing, against any Encumbrances against the Debtors or other Debtors or the Rosewood Properties of any kind or nature whatsoever; and (iv) enter any order under sections 363 and 365 of the Bankruptcy Code.

34. **Time Periods.** All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

35. **Non-severability.** The provisions of this Order are non-severable and mutually dependent.

**Schedule 1**

**Asset Purchase Agreements**

<b>Store</b>	<b>Address</b>	<b>Alternative Purchaser</b>
327	26542 Towne Centre Dr.	Summitrose Investments, LP
82	606 E Holt Ave	Russ Group, Inc.

**Exhibit B**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NUMBER HOLDINGS, INC. *et al.*,<sup>1</sup>

Debtors.

) Chapter 11

) Case No. 24-10719 (JKS)

) (Jointly Administered)

) **Re: D.I. 1043**

**ORDER (I) IN AID OF THE SALE ORDER;<sup>2</sup> (II) APPROVING THE ALTERNATIVE  
PURCHASE ~~AGREEMENT~~, AGREEMENTS; AND (III) GRANTING RELATED  
RELIEF**

Upon ~~the motion (the “Motion”)~~<sup>1</sup> of the above-captioned debtors and debtors in possession (the “Debtors”) for entry of an order: (i) in aid of the Sale Order, (ii) approving the Alternative APAs, and (iii) granting related relief consideration of the Debtors’ Motion for Entry of an Order (I) in Aid of Sale Order; (II) Approving the Alternative Purchase Agreements; and (III) Granting Related Relief (the “Motion”)<sup>2</sup> [Docket No. 1043], all as more fully set forth in the Motion; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue in this district is proper

<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: (i) Number Holdings, Inc. (1463); (ii) 99 Cents Only Stores LLC (1605); (iii) 99 Cents Only Stores Texas, Inc. (1229); (iv) 99 Cents PropCo LLC (7843); (v) 99 Cents HoldCo LLC (3987); and (vi) Bargain Wholesale LLC (8030). The Debtors’ mailing address is 10105 E Via Linda, Ste 103 PMB 1207, Scottsdale, AZ 85258.

<sup>4</sup> ~~Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.~~

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion. Additionally, reference to “Alternative Purchasers” throughout this Order shall mean Russ Group, Inc. and Summitrose Investments, LP or an affiliate thereof (“Summitrose”). Moreover, any defined terms in the Motion that make reference to Wood Investments Companies, Inc. (“Wood”) and are used herein, should be read throughout this Order with reference to Summitrose (not Wood).



pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Motion and of the opportunity to be heard at the hearing thereon were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and the [Declaration of Stephen Madura in Support of the Motion \[Docket No. 1125\]](#) (the [“Hilco Declaration”](#)) and having heard the statements and argument in support of the relief requested at a hearing, if any, before this Court (the [“Hearing”](#)); and this Court having determined that the legal and factual bases set forth in the Motion and at any Hearing establish just cause for granting the requested relief; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

**IT IS FOUND AND DETERMINED THAT:**

A. ***Findings and Conclusions.*** The findings of fact and conclusions of law 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. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be deemed so, and vice versa.

B. ***Jurisdiction, Venue, and Core Proceeding.*** The Court has jurisdiction over the Motion and over the property of the Debtors, including, without limitation, the transactions contemplated by each Alternative APA, pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 Cases and the Motion in this District and Court is proper under 28 U.S.C. §§ 1408 and 1409.

C. ***Statutory Bases.*** The statutory bases for the relief requested in the Motion are sections 105, 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, 6004, 6006, 9007 and 9014 and Local Rules 2002-1, 6004-1 and 9006-1.

D. ***Final Order.*** This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds there is no just reason for delay in the implementation of this Order and expressly directs entry of judgment as set forth herein.

E. ***Sufficiency of Notice.*** As evidenced by the affidavits and/or certificates of service filed with the Court [~~Dkt~~D.~~Nos~~I. ~~1140~~] adequate notice and reasonable opportunity to object and/or be heard regarding the Motion and the Alternative Sales contemplated by the Alternative APAs has been provided in accordance with sections 102(1), 363(b) and 365 of the Bankruptcy Code, the applicable Bankruptcy Rules, the applicable Local Rules and the procedural due process requirements of the United States Constitution. No other notice of the Motion, the Alternative Sales contemplated by the Alternative APAs, or entry of this Order is necessary or shall be required.

F. ***Actual Notice.*** Actual written notice of the Motion, the Alternative Sales, and all transactions contemplated therein or in connection therewith, and all deadlines related thereto has been given to all interested persons and entities, including, without limitation: (i) the DIP Agent, the DIP Lender, the FILO Agent, the ABL Facility Agent, Wilmington Trust, National Association, as Trustee and Notes Collateral Agent pursuant to 2026 Notes Indenture, the *Ad Hoc* Group of 2026 Noteholders, and RCB Equities #1, LLC, as lender pursuant to the Propco Promissory Note, (collectively, the “Secured Parties”), and each of their counsel; (ii) counsel to the Official Committee of Unsecured Creditors (the “Committee”); (iii) the Office of The United States Trustee (the “UST”); (iv) the counterparty to each unexpired lease and executory contract to be assumed and assigned or transferred, as applicable, pursuant to this Order, and each of their counsel (if known); (v) all persons known or reasonably believed to have asserted an interest in the Rosewood Properties; (vi) the Attorney General in the States where the Rosewood Properties are located; (vii) all federal, state, and local taxing authorities in the States where the Rosewood Properties are located; (viii) all parties who have asserted or could assert liens against the Rosewood Properties; (ix) all parties who are known to have performed work or services at the respective locations of the Purchased Assets within the past six months; (x) Rosewood; (xi) Wood Investment Companies, Inc., (xii) Russ Group, Inc.; (xiii) Escrow Agent and (xiv) any other party that has filed a request for notices with this Court (collectively, the “Notice Parties”).

~~G. ***Rosewood Breach.*** Rosewood breached the APA and the Debtors terminated the APA pursuant to Section 12.2 thereof and the Debtors are entitled to retain the Deposit in accordance with the APA.~~

G.     ***Reserved.***

H. ***Extensive Efforts by Debtors.*** The Debtors have worked with their counsel, their professional advisors, and other advisors, as well as, as applicable, the Consultation Parties, to implement viable sales that would allow them to maximize the value of the Rosewood Properties. Notwithstanding the existence of any backup bids with respect to the Rosewood Properties, the Debtors have complied with Bidding Procedures in connection with the re-marketing of the Rosewood Properties and such efforts were a valid exercise of the Debtors' fiduciary duties and business judgment aimed at maximizing recoveries to the Debtors' estates. The Alternative Sales for the Rosewood Properties with the various counterparties set forth on Schedule 1 attached hereto are the result of the Debtors' extensive efforts in seeking to maximize recoveries to the Debtors' estates, for the benefit of all of the Debtors' creditors.

I. ***Business Judgment.*** The Debtors have demonstrated good, sufficient, and sound business purposes and justifications for, and compelling circumstances to promptly consummate, the Alternative Sales contemplated by each Alternative APA and related documents pursuant to sections 105, 363, and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization, and such action is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, but are not limited to, the fact that: (i) there is substantial risk of depreciation of the value of the Rosewood Properties if each Alternative Sale is not consummated promptly; (ii) the Alternative Sales contemplated by each of the Alternative APAs presents the best opportunity to maximize the value of the Rosewood Properties; and (iii) unless each Alternative Sale is concluded expeditiously as provided for in this Order and pursuant to each Alternative APA, potential creditor recoveries may be substantially diminished.

J. ***Adequate Marketing; Highest or Best Offer.*** As demonstrated by the testimony and other evidence proffered or adduced at the Hearing, (a) the Debtors have adequately marketed the Rosewood Properties and conducted the remarketing processes since the Auction in good faith and in a fair and open manner; (b) the re-marketing processes were non-collusive and provided a full, fair, reasonable, and adequate opportunity, in light of the circumstances, for any interested party to conduct due diligence and make an offer to purchase the Rosewood Properties, and submit higher and better offers for the Rosewood Properties than the Alternative Purchasers; (c) the consideration provided by each Alternative Purchaser in each respective Alternative APA constitutes the highest and best offer for the respective Rosewood Property; (d) the consideration is fair and reasonable consideration for each Rosewood Property and constitutes reasonably equivalent value under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia; (e) each Alternative Sale will provide a greater recovery to the Debtors' creditors and estates with respect to the Rosewood Property than would be provided by any other available alternative; (f) taking into consideration all relevant factors and circumstances, no other entity has offered to purchase either Rosewood Property for greater economic value to the Debtors or their estates than each Alternative Purchaser; and (g) the Debtors' determination that each Alternative APA constitutes the highest or best offer for the applicable Rosewood Property, maximizes value for the Debtors' estates, and constitutes a valid and sound exercise of the Debtors' business judgment. There is no legal or equitable reason to delay Closing of the Sales contemplated by the Alternative APAs.

K. ***Rosewood Properties of the Estate.*** The Rosewood ~~Assets~~Properties are property of the Debtors' estates and title thereto is vested in the Debtors' estates.

L. ***Arm's-Length Sale.*** Each Alternative APA, Alternative Sale, and any transactions contemplated therein and associated therewith were negotiated, proposed, and entered into by the Debtors and the Alternative Purchasers without collusion, in good faith, and from arm's-length bargaining positions. Neither the Debtors, their insiders and affiliates, the Secured Parties, and their affiliates, nor any Alternative Purchaser have engaged in any conduct that would cause or permit the Alternative APAs, the Alternatives Sales, or any part thereof to be avoided under section 363(n) of the Bankruptcy Code.

M. ***Good Faith Alternative Purchaser.*** The Alternative Purchasers have proceeded in good faith in all respects, are ~~a~~-good faith purchasers under section 363(m) of the Bankruptcy Code and, as such, ~~is~~are entitled to all of the protections afforded thereby, including in the event this Order or any portion thereof is reversed or modified on appeal. In particular, ~~each~~-(i) each Alternative Purchaser recognized that the Debtors were free to deal with any other party interested in purchasing the Rosewood ~~Assets~~Properties; (ii) ~~each~~neither Alternative Purchaser in ~~no~~any way induced or caused the chapter 11 filings by the Debtors; (iii) neither Alternative Purchaser has ~~not~~-violated section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, managers, officers, or controlling stockholders exist between an Alternative Purchaser, on the one hand, and any of the Debtors, on the other hand; and (v) all payments to be made by an Alternative Purchaser in connection with the Alternative Sales have been disclosed.

N. ***Corporate Authority.*** The Debtors (i) have full corporate power and authority to execute each Alternative APA and all other documents contemplated thereby, and the Alternative Sales of the Rosewood ~~Assets~~has Properties have been duly and validly authorized by all necessary corporate action of the Debtors, (ii) have all of the corporate power and authority

necessary to consummate the transactions contemplated by each Alternative APA, (iii) have taken all corporate action necessary to authorize and approve each Alternative APA and the consummation by the Debtors of the transactions contemplated thereby, and (iv) need no consents or approvals, other than those expressly provided for in an Alternative APA, subject to the waiver of such consents or approvals to the extent provided in the Alternative APA and as may be permitted under applicable law.

O. ***Alternative Purchaser is Not an Insider.*** Neither the Alternative Purchasers nor any of their respective affiliates, officers, directors, partners or any of their respective successors or assigns is an "insider" or "affiliate" of any of the Debtors, as those terms are defined in sections 101(31) and 101(2) of the Bankruptcy Code.

P. **Binding and Valid Transfer.** The transfer of the Rosewood Properties to the respective Alternative Purchasers will be a legal, valid, and effective sale and transfer of the Rosewood Properties and will vest the Alternative Purchasers with all right, title, and interest of the Debtors to the Rosewood Properties free and clear of all Encumbrances, and any liabilities of the Debtors, except as otherwise expressly set forth in an Alternative APA or in this Order. All liens, including any liens granted by any order approving debtor-in-possession financing, and any liens granted in favor of any Secured Party, as applicable shall be released solely as against the Rosewood Properties upon receipt by the Debtors of the purchase price, which amount once paid shall be indefeasible and not subject to disgorgement for any reason. For avoidance of doubt, all liens, including without limitation, any liens of the Secured Parties, shall attach, with the same priority and validity, to the proceeds (both cash and non-cash) attributable to the Rosewood Properties pursuant to the Alternative Sale (if any).



**Q. Satisfaction of Standards of Section 363(f).** The Debtors may sell the Rosewood Properties free and clear of all Encumbrances<sup>3</sup> of any kind or nature whatsoever,

<sup>3</sup> As used herein, “Encumbrance” and “Encumbrances” include all of the following, in each case, to the extent against or with respect to the Debtors, or in, on, or against, or with respect to any of the Purchased Assets: liens (including as defined in section 101(37) of the Bankruptcy Code, and whether consensual, statutory, possessory, judicial, or otherwise), claims (as defined in section 101(5) of the Bankruptcy Code) (“Claims”), debts (as defined in section 101(12) of the Bankruptcy Code), encumbrances, obligations, liabilities, demands, guarantees, actions, suits, defenses, deposits, credits, allowances, options, rights, restrictions, limitations, contractual commitments, mechanics liens, materialmen’s liens or interests of any kind or nature whatsoever, whether known or unknown, choate or inchoate, filed or unfilled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to, on, or subsequent to, the commencement of these Chapter 11 Cases, and in each case, whether imposed by agreement, understanding, law, equity, or otherwise, including, but not limited to: (i) mortgages, security deeds, deeds of trust, pledges, charges, security interests, levies, hypothecations, encumbrances, easements, servitudes, leases, subleases, licenses, rights-of-way, encroachments, restrictive covenants, restrictions on transferability, voting, sale, transfer or other similar restrictions, rights of setoff (except for setoffs validly exercised before the Petition Date, or preserved in a timely filed proof of claim or motion filed with the Court), rights of use or possession, conditional sale arrangements, deferred purchase price obligations, profit sharing interest, or any similar rights; (ii) all Claims, including, without limitation, all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of recovery, setoff (except for setoffs validly exercised before the Petition Date, or preserved in a timely filed proof of claim or motion filed with the Court), indemnity or contribution, obligations, demands, restrictions, indemnification claims, or liabilities relating to any act or omission of the Debtors or any other Person, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise; (iii) all debts, liabilities, obligations, contractual rights and claims, including labor, employment, and pension claims; (iv) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors’ or the Successful Bidder(s)’ interest in the Purchased Assets, or any similar rights; (v) any rights under labor or employment agreements; (vi) any rights under pension, multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of the Employment Retirement Income Security Act of 1974 (as amended, “ERISA”)), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plans of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (vii) any other employee claims related to worker’s compensation, occupation disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employment Act of 1967 and the Age Discrimination in Employment Act, each as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code of any similar state law, (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (l) the WARN Act (29 U.S.C. §§ 2101, et seq.) or any state or other laws of similar effect; (viii) any bulk sales or similar law; (ix) any tax statutes or ordinances or other laws of similar effect, including, without limitation, the Internal Revenue Code of 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating to the operation of the Purchased Assets before the

because, in each case, one or more of the standards set forth in ~~section~~sections 363(f)(1)-(5) of the Bankruptcy Code have been satisfied. Those holders of Encumbrances who did not object, or who withdrew their objections, to the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Holders of Encumbrances on the Rosewood Properties are adequately protected by having their Encumbrances attach to the proceeds (both cash and non-cash) of the Alternative Sales of the Rosewood Properties attributable to such Encumbrances, subject to the terms of such Encumbrances, with the same validity, force, and effect, and in the same order of priority, that such Encumbrances had against the Rosewood Properties immediately prior to Closing, subject to any claims and defenses that the Debtors may possess with respect thereto.

**R. Consideration for Transfer of Rosewood Properties Free and Clear.**

~~Each~~Neither Alternative Purchaser would ~~not~~ have entered into the applicable Alternative APA if the transfer of the Rosewood Properties were not free and clear of all Encumbrances except as otherwise set forth in the applicable Alternative APA and this Order, or if in the future any Alternative Purchaser would or could be liable for any such Encumbrances. The total consideration to be provided under each Alternative APA reflects each Alternative Purchaser's reliance on this Order to provide, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code,

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closing of a Sale; (x) any unexpired and executory contract or unexpired lease to which the Debtors are a party that is not assigned; (xi) any other excluded liabilities under the Purchase Agreement; and (xii) Encumbrances arising under or in connection with any acts, or failures to act, of the Debtors or any of their predecessors, affiliates, or subsidiaries, including, but not limited to, Encumbrances arising under any doctrines of successor liability (to the greatest extent permitted by applicable law), or transferee or vicarious liability, violation of the Securities Act, the Exchange Act, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting breach of fiduciary duty, or any similar theories under applicable law or otherwise.

that, upon the Closing, such Alternative Purchaser has title to, interest in and possession of the respective Rosewood Properties free and clear of all Encumbrances subject to the terms hereof.

S. **No *Sub Rosa* Plan.** The Alternative Sales, the Alternative APAs, and the other transactions contemplated thereby neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictate a liquidating chapter 11 plan for the Debtors, and therefore do not constitute a *sub rosa* chapter 11 plan. Nothing in this Order is approving any disclosure statement, plan, or a finding of fact or conclusion of law in connection therewith. Further, nothing in this Order is approving any distribution that would be inconsistent with the Bankruptcy Code's priority scheme, including the timing and/or amount of money to be paid creditors in a future plan (if any).

T. **Necessity of Order.** The Alternative Purchasers would not have entered into the Alternative APAs and would not consummate the Alternative Sales contemplated therein without all of the relief provided for in this Order (including, but not limited to, that the sale and transfer of the Rosewood Properties to the Alternative Purchasers be free and clear of all Encumbrances). The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the Alternative APAs, including, without limitation the Alternative Sales outside of, a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested is not granted. The consummation of the Alternative Sales pursuant to this Order and each Alternative APA is necessary for the Debtors to maximize the value of their estates for the benefit of all creditors.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. **Findings of Fact and Conclusions of Law.** The above-referenced additional findings of fact and conclusions of law are hereby incorporated by reference as though fully set forth herein and shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable herein by Bankruptcy Rule 9014. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be deemed so, and *vice versa*.

2. **Motion Granted.** The Motion is granted as set forth herein (this “Order”).

~~3. **Release of Deposit to Debtors by Escrow Agent.** The Escrow Agent is directed to release the Deposit to the Debtors in accordance with the APA.~~

3. **Reserved.**

4. **Reserved.**

5. **Objections Are Overruled.** All objections, reservations of rights regarding, or other responses to the Motion with respect to the Alternative Sale for the Rosewood Properties being approved pursuant to this Order, or the relief requested therein, an Alternative APA, all other ancillary agreements, the Alternative Sale, the entry of this Order or to the relief granted herein that have not been withdrawn, waived, settled, or not otherwise resolved pursuant to the terms hereof, if any, hereby are denied and overruled on the merits with prejudice. All persons and entities that failed to timely object to the Motion are deemed to have consented to the relief granted herein for all purposes.

6. **Approval of the Transactions Contemplated by the Alternative APAs.** Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized to perform their obligations under, and comply with the terms of, the Alternative APAs and consummate the Alternative Sale and the related transactions pursuant to, and in accordance

with, the terms and conditions of the Alternative APAs and this Order. The Debtors are authorized to execute and deliver, and empowered to perform under, consummate, and implement, each Alternative APA, the Transaction Documents and the Alternative Sales contemplated therein, together with all additional instruments and documents that the Debtors or the Alternative Purchasers deem necessary or appropriate to implement the Alternative APA and effectuate the Alternative Sale contemplated therein, and to take all further actions as may reasonably be required by the Alternative Purchasers for the purpose of assigning, transferring, granting, conveying, and conferring to the Alternative Purchasers the Rosewood Properties free and clear of any and all Encumbrances as may be necessary or appropriate to their performance of their obligations under the Alternative APA. The Alternative Purchasers shall not be required to seek or obtain relief from the stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Alternative APA or related documents. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the provisions of this Order. All furniture, fixtures, equipment and inventory remaining in the Rosewood Properties on or after the Closing Date shall be deemed transferred to the applicable Alternative Purchaser (without further order of the Court or documentation from the Debtors) free and clear of liens, claims and Encumbrances as the parties having liens on such furniture, fixtures, equipment and inventory have consented to the abandonment or transfer thereof.

7. **Notice.** Notice of the Motion, the Alternative Sales and all transactions contemplated therein or in connection therewith, including the Alternative Sales, all deadlines related thereto, and the relief granted in this Order was fair, sufficient, proper, and equitable under the circumstances and complied in all respects with sections 102(1) and 363 of the

Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Bid Procedures Order, the Bidding Procedures, and the procedural due process requirements of the United States Constitution.

8. **Binding Effect of Order.** This Order shall be binding in all respects upon (i) all known and unknown creditors of, and holders of equity security interests in, the Debtors, including any holders of Encumbrances; (ii) the Alternative Purchasers; (iii) the Debtors; (iv) the Rosewood Properties; (v) the Committee; (vi) any trustee(s) appointed in the Debtors' Chapter 11 Cases or upon a conversion to cases under chapter 7 of the Bankruptcy Code; and (vii) all successors and assigns of each of the foregoing, and this Order shall not be subject to amendment or modification and the APAs shall not be subject to rejection.

9. **Injunction.** All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Rosewood Properties to the Alternative Purchasers in accordance with an applicable Alternative APA and this Order. Following the Closing, all persons (including, but not limited to, the Debtors, creditors, investors, current and former employees and shareholders, administrative agencies, governmental units, secretaries of state, federal, state, and local officials, including those maintaining any authority relating to any environmental, health and safety laws, and the successors and assigns of each of the foregoing) holding Encumbrances in the Rosewood Properties or against the Debtors in respect of the Rosewood Properties of any kind or nature whatsoever shall be, and hereby are, forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing any Encumbrances of any kind or nature whatsoever against the applicable Alternative Purchaser or any affiliate of such Alternative Purchaser or any of its respective property, successors and assigns, or the Rosewood Properties, as an alleged successor or on any other grounds pursuant to the transactions

contemplated herein, subject to the Assumed Liabilities. No person shall assert, and the applicable Alternative Purchaser and the Rosewood Properties shall not be subject to, any defaults, breaches, counterclaims, offsets, defenses (whether contractual or otherwise, including, without limitation, any right of recoupment), liabilities, claims, Encumbrances and interests, or basis of any kind or nature whatsoever to delay, defer, or impair any right of the Alternative Purchaser under, or with respect to, any Rosewood Properties, with respect to any act or omission that occurred prior to the Closing or with respect to any other agreement or any obligation of the Debtors other than with respect to an Assumed Liability under an applicable Alternative APA.

10. **General Assignment.** Upon each Closing, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of the Debtors' interests in the Rosewood Properties and a bill of sale transferring good and marketable title in the Rosewood Properties to the Alternative Purchaser free and clear of all Encumbrances. Each and every federal, state, and local governmental agency, quasi-agency, or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the Alternative Sales contemplated under an applicable Alternative APA. Any party which did not object to the Alternative Sales within the time set forth in the notice thereof is deemed to consent to the Alternative Sale and the satisfaction of the requirements of Section 365 of the Bankruptcy Code.

11. **Transfer Free and Clear.** Upon each Closing, pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Rosewood Properties, including any assigned contracts, shall be transferred to the applicable Alternative Purchaser in accordance with the applicable APA, and such transfer shall be free and clear of all Encumbrances of any

person, including, without limitation, all such Encumbrances specifically enumerated in this Order, whether arising by agreement, by statute, or otherwise and whether occurring or arising before, on, or after the Petition Date, whether known or unknown, occurring or arising prior to such transfer, with all such Encumbrances attaching to the proceeds (both cash and non-cash) of the Alternative Sale of the Rosewood Properties attributable to such Encumbrances subject to the terms of such Encumbrance with the same validity, force, and effect and in the same priority, that such Encumbrances had against the Rosewood Properties immediately prior to Closing, subject to any claims and defenses that Debtors or the Debtors may possess with respect thereto.

12. **Valid Transfer.** The transfer of the Rosewood Properties to the Alternative Purchasers pursuant to the Alternative APAs constitutes a legal, valid, and effective transfer of the Rosewood Properties and shall vest the Alternative Purchasers with all right, title, and interest of the Debtors in and to the Rosewood Properties free and clear of all Encumbrances of any kind or nature whatsoever.

13. **Exculpation and Release.** Neither an Alternative Purchaser nor any of its affiliates, successors, and assigns, nor any of its professionals, shall have, or incur any liability to, or be subject to any action by, the Debtors or any of their predecessors, successors, or assigns, arising out of the negotiation, investigation, preparation, execution, or delivery of an Alternative APA and the entry into and consummation of the Alternative Sale, except as expressly provided in the applicable Alternative APA and this Order. Neither the Debtors nor any of their affiliates, successors, and assigns, nor any of their professionals, shall have, or incur any liability to, or be subject to any action by, any Alternative Purchaser or any of its predecessors, successors, or assigns, arising out of the negotiation, investigation, preparation, execution, or delivery of the



Alternative APAs and the entry into and consummation of the Alternative Sales, except as expressly provided in the Alternative APAs and this Order.

14. **Direction to Release Interests.** Upon each Closing, each of the Debtors' creditors and any other holder of an Encumbrance is authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release its Encumbrance in the Rosewood Properties, if any, as such Encumbrance may have been recorded or may otherwise exist. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing an Encumbrance in all or any portion of the Rosewood Properties being sold pursuant to the Alternative Sale and an Alternative APA shall not have delivered to the Debtors prior to the Closing, (or such other time as reasonable under the circumstances and agreed in writing among the Alternative Purchaser and Debtors), in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Encumbrances, which such person or entity has with respect to all or any portion of the Rosewood Properties being sold pursuant to the Alternative Sale and the Alternative APAs, then (i) the Debtors are authorized to execute and file such statements, instruments, releases, and other documents on behalf of such person or entity with respect to all or any portion of the Rosewood Properties being sold pursuant to the Alternative Sales and the Alternative APAs, and (ii) the Alternative Purchasers are authorized to file, register, or otherwise record a certified copy of this Order, which shall constitute conclusive evidence of the release of all Encumbrances of any kind or nature whatsoever in the Rosewood Properties being sold pursuant to the Alternative Sale and the Alternative APAs. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the

transactions contemplated by the Alternative APAs, including, without limitation, recordation of this Order. This Order shall be binding upon and shall govern the acts of all persons including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of such assets or other property interests.

15. **Standing.** Each Alternative APA shall be in full force and effect, regardless of any Debtor's lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

16. **Post-Closing Actions and Transactions.** The Debtors and the applicable Alternative Purchaser, and each of their respective officers, employees, and agents, will be authorized and empowered to take all actions and execute and deliver any and all documents and instruments that either the Debtors or the Alternative Purchaser deem necessary or appropriate to implement and effectuate the terms of the Alternative APAs, the Alternative Sale contemplated therein and this Order.

17. **Sale is Self-Executing.** The Sale is self-executing, and neither the Debtors nor the Alternative Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments to effectuate, consummate, and implement the provisions of this Order.

18. **No Successor Liability.** Neither an Alternative Purchaser, its present or contemplated members, partners, officers, directors or shareholders, its successors or permitted

assigns, or any of the foregoing's respective affiliates, agents, officials, personnel, representatives, or advisors, shall have any liability for any Encumbrance that arose or occurred prior to the Closing, or otherwise may be asserted against the Debtors or is related to the Rosewood Properties prior to the Closing. The Alternative Purchasers are not and shall not be deemed "successors" to the Debtors or their estates; the Alternative Purchasers have not, *de facto* or otherwise, merged with or into the Debtors; the Alternative Purchasers do not have any common law or successor liability in relation to any matter, including without limitation, employment plans; the Alternative Purchasers are not liable for any liability or Encumbrance against the Debtors or any of the Debtors' predecessors or affiliates (other than those transferred to the Alternative Purchaser pursuant to the Alternative Sale); and the Alternative Purchasers are not alter egos or mere continuations or substantial continuations of the Debtors or the enterprise of the Debtors under any theory of law or equity as a result of any action taken in connection with the Alternative APA, Transaction Documents, the Alternative Sale, or any transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Rosewood Properties. Without limiting the foregoing, the Alternative Purchasers shall not have any successor, transferee, derivative, or vicarious liabilities of any kind or character for any claims, including, without limitation, under any theory of successor or transferee liability, *de facto* merger or continuity, environmental, tax, labor and employment, products, or antitrust liability, whether known or unknown as of the Closing Date, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated.

19. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding, against any

Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, or its successors or permitted assigns, or any of the foregoing's respective affiliates, agents, officials, personnel, representatives, or advisors, or their respective assets, including, without limitation, the Rosewood Properties, with respect to any claim against the Debtors, including, without limitation, the following actions: (a) commencing or continuing any action or other proceeding pending or threatened against the Debtors as against any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Debtors as against any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (c) creating, perfecting, or enforcing any lien, claim, interest, or encumbrance against the Debtors as against any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (d) asserting any setoff, right of subrogation, or recoupment of any kind for any obligation of any of the Debtors as against any obligation due any Alternative Purchaser, its past, present, or contemplated members, partners, officers, directors or shareholders, its successors or permitted assigns, or their respective assets, including, without limitation, the Rosewood Properties, (e) commencing or continuing any action, in any manner or place, that does not comply, or is inconsistent with, the provisions of this Order, or the agreements or actions contemplated or taken in respect thereof, or (f) revoking, terminating, or failing or refusing to renew any license,

permit, or authorization to operate any of the Rosewood Properties or conduct any of the businesses operated with the Rosewood Properties; provided, however, that nothing in this Order shall prevent a counterparty to an assigned contract from seeking to enforce an Alternative Purchaser's obligations under an Alternative APA as it relates to such counterparty, subject to any claims and defenses such Alternative Purchaser may have with respect thereto.

20. Except as may be expressly provided for in the Alternative APAs or this Order, the Alternative Purchasers shall not have any obligation or responsibility for any liability of any of the Debtors or their estates arising under or related to the Rosewood Properties or otherwise. Without limiting the generality of the foregoing, and except as may be expressly provided for in the Alternative APA or this Order, an Alternative Purchaser shall not be liable for any liens, Claims, Encumbrances, or other interests of any kind or nature against any of the Debtors or their estates or any of their predecessors or affiliates, and the Alternative Purchasers shall have no successor, transferee, or vicarious liabilities of any kind or character, including, without limitation, liabilities based on any theory of antitrust, environmental, tax, successor, or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, asserted or unasserted, liquidated or unliquidated, with respect to any of the Debtors or their estates or any obligations of any of the Debtors or their estates arising prior to the Closing Date.

21. Without limiting the generality of the foregoing, none of any Alternative Purchaser, its affiliates, its past, present or contemplated members, partners, officers, directors or shareholders, or the Rosewood Properties, shall have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any liens, Claims, Encumbrances, or other interests relating to

any U.S. federal, state, or local income tax liabilities, including, without limitation, any such tax liabilities that are attributable to the recapture of an excess loss account under Treasury Regulation Section 1.1502-19 (or any similar provision of state or local tax law), that the Debtors or any of them are or may be obligated for or incur in connection with consummation of the transactions contemplated by an Alternative APA, including, without limitation, the Alternative Sale.

22. This Order (a) shall be effective as a determination that, on or prior to the Closing Date, except as otherwise provided in an applicable APA, all liens, claims, encumbrances, and other interests of any kind or nature whatsoever existing as to the Debtors and their estates with respect to the Rosewood Properties have been unconditionally released and terminated and the Rosewood Properties shall have been transferred to each Alternative Purchaser free and clear of all liens, Claims, interests, and Encumbrances, and that the transfers and conveyances described in this Order have been effected, and (b) shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Rosewood Properties.

23. Each and every federal, state, and local governmental agency or department is authorized to accept any and all documents and instruments necessary or appropriate to

consummate the transactions contemplated by the Alternative APA, including, without limitation, the Alternative Sale.

24. **Fair Consideration.** The consideration provided by each Alternative Purchaser for the respective Rosewood Property under the applicable Alternative APA shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia. The Sale may not be avoided under section 363(n) of the Bankruptcy Code. The Alternative APA was not entered into, and the Alternative Sale is not being consummated, for the purpose of hindering, delaying, or defrauding creditors of the Debtors or other Debtors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable law. Neither the Debtors nor an applicable Alternative Purchaser have entered into any Alternative APA or any agreement contemplated thereby or are consummating the Alternative Sales with any fraudulent or otherwise improper purpose, including, without limitation, to evade any pension liabilities. No other person or entity or group of persons or entities has offered to purchase the Rosewood Properties for an amount that would provide greater value to the Debtors and their estates than the value provided by the applicable Alternative Purchaser. This Court's approval of each Alternative APA is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

25. **Good Faith Purchaser.** The transactions contemplated by each Alternative APA are undertaken by the Alternative Purchasers without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorization provided in this Order to consummate the transactions shall not affect the validity of the transactions nor the transfer of the Rosewood Properties owned by the Debtors

to the Alternative Purchasers free and clear of all Encumbrances pursuant to an Alternative APA, unless the authorization or the Alternative Sale is stayed pending appeal. Each Alternative Purchaser is a purchaser in good faith of the Rosewood Properties and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code. In particular, (i) each Alternative Purchaser recognized that the Debtors were free to deal with any other party interested in purchasing the Rosewood Properties; (ii) each Alternative Purchaser in no way induced or caused the chapter 11 filings by the Debtors; (iii) each Alternative Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, managers, officers or controlling stockholders exist between any Alternative Purchaser, on the one hand, and any of the Debtors, on the other hand; (v) each Alternative Purchaser complied with the Bidding Procedures and all provisions of the Bid Procedures Order; and (vi) all payments to be made, and all other material agreements or arrangements entered into or to be entered into by any Alternative Purchaser in connection with the Alternative Sale have been disclosed. The Debtors and the Alternative Purchasers will be acting in good faith if they proceed to consummate the Alternative Sales at any time after entry of this Order.

26. **No Bulk Law Application.** No bulk sales law or similar law shall apply in any way to the transactions contemplated by the Alternative Sale, the Alternative APAs, the Motion, and this Order.

27. **Inconsistencies with Prior Orders, Pleadings or Agreements.** To the extent this Order is inconsistent with any prior order or filing with respect to the Motion in these Chapter 11 Cases, the terms of this Order shall govern and any prior orders shall be deemed amended or otherwise modified to the extent required to permit consummation of the Alternative Sales. To the extent there is any inconsistency between the terms of this Order and the terms of



an Alternative APA (including all ancillary documents executed in connection therewith), the terms of this Order shall govern.

28. **Failure to Specify Provisions.** The failure to specifically include any particular provision of an Alternative APA or other related documents in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that each Alternative APA and all other related documents be authorized and approved in their entirety pursuant to this Order.

29. **Non-Material Modifications.** An Alternative APA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto and in accordance with the terms thereof, without further order of this Court, provided that any such modification, amendment, or supplement does not have, in the Debtors' business judgment and based on consultation with the Consultation Parties any material adverse effect on the Debtors' estates.

30. Notwithstanding anything to the contrary set forth in this Order, each Alternative APA, the Transaction Documents or any ancillary agreement or related agreement, document or other instrument, any amendments, modifications, supplements to or waivers of any obligations or rights of the parties thereto that could adversely impact or affect the rights of the Secured Parties shall require the prior written consent of such Secured Parties.

31. **No Stay of Order.** Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), this Order shall not be stayed for fourteen (14) days after its entry and shall be effective immediately upon entry, and the Debtors and the Alternative Purchaser are authorized to close the Alternative Sales immediately upon entry of this Order. Time is of the essence in closing the Alternative Sales referenced herein, and the Debtors and the Alternative Purchasers

intend to close the Alternative Sales as soon as practicable. This Order is a final order and the period in which an appeal must be filed shall commence upon the entry of this Order. Any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay, or risk its appeal being foreclosed as moot.

32. **No Modification by Subsequent Orders or Plan Provisions.** Nothing contained in any chapter 11 plan confirmed in the Debtors' chapter 11 cases, any order confirming any such plan, or in any other order entered in these chapter 11 cases (including any order entered after any conversion of any of these chapter 11 cases to a case under chapter 7 of the Bankruptcy Code) or any related proceeding subsequent to entry of this Order shall modify, alter, conflict with, or derogate from, the provisions of the Alternative APAs or this Order.

33. **Retention of Jurisdiction.** This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b)(2), to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Alternative APAs, all amendments thereto, and any waivers and consents thereunder, including, but not limited to, retaining jurisdiction to (i) compel delivery of the Rosewood Properties to the Alternative Purchasers; (ii) interpret, implement, and enforce the provisions of this Order and the Alternative APAs; (iii) protect the Alternative Purchasers, any of the Alternative Purchasers' affiliates, or any agent of the foregoing, against any Encumbrances against the Debtors or other Debtors or the Rosewood Properties of any kind or nature whatsoever; and (iv) enter any order under sections 363 and 365 of the Bankruptcy Code.

34. **Time Periods.** All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

35. **Non-severability.** The provisions of this Order are non-severable and mutually dependent.

**Schedule 1**

**Asset Purchase Agreements**

<b>Store</b>	<b>Address</b>	<b>Alternative Purchaser</b>
327	26542 Towne Centre Dr.	<del>Wood Investment Companies, Inc.</del> <a href="#"><u>Summitrose Investments, LP</u></a>
82	606 E Holt Ave	Russ Group, Inc.