

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

In re:

Z GALLERIE, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-10488 (LSS)
)
) (Joint Administration Requested)
)

**DECLARATION OF MARK WEINSTEN,
INTERIM PRESIDENT AND CHIEF EXECUTIVE OFFICER OF Z GALLERIE, LLC,
IN SUPPORT OF DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY MOTIONS**

I, Mark Weinsten, hereby declare under penalty of perjury:

1. I am the Interim President and Chief Executive Officer of Z Gallerie, LLC, a corporation organized under the laws of Delaware and one of the above-captioned debtors and debtors in possession (collectively, the “Debtors” or “Z Gallerie”).

2. I am a Managing Director at Berkeley Research Group, LLC (“BRG”) and have served as Interim President and Chief Executive Officer of Z Gallerie since October 2018. I have over twenty-five years of experience providing management services to distressed companies, including the development and implementation of revenue enhancement, liquidity improvement, and cost-reduction programs. I am generally familiar with the Debtors’ day-to-day operations, business and financial affairs, and books and records. I submit this declaration to assist the Court and parties in interest in understanding the circumstances compelling the commencement of these chapter 11 cases and in support of the Debtors’ chapter 11 petitions and certain motions and applications filed today.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are Z Gallerie, LLC (3816) and Z Gallerie Holding Company, LLC (5949). The location of the Debtors’ service address is: 1855 West 139th Street, Gardena, CA 90249.

3. Except as otherwise indicated, all facts in this declaration are based upon my personal knowledge, my discussions with the Debtors' management team and advisors, my review of relevant documents and information concerning the Debtors' operations, financial affairs, and restructuring initiatives, or my opinions based upon my experience and knowledge. I am over the age of 18 and authorized to submit this declaration on behalf of the Debtors. If called upon to testify, I could and would testify competently to the facts set forth in this declaration.

Preliminary Statement

4. Z Gallerie was the dream of three siblings (the Zeidens) who started a small single-location poster and accessory store in 1979, using their parent's garage as a framing workshop. From those humble beginnings, Z Gallerie has grown into a leading specialty retailer focused on fashion and art-conscious home décor with 76 stores across the United States. Z Gallerie's bright, upscale stores attract a loyal customer base that appreciates the company's curated, unique style and customizable experience focused on fashion- and art-inspired home décor and home furnishings. Customers can also browse inventory, develop their own style profile, and shop at www.zgallerie.com.

5. Examples of Z Gallerie's product offerings and stores can be seen below:





6. Following a transaction in 2014 in which the Zeidens sold majority control of Z Gallerie to Brentwood Associates (“Brentwood”), Z Gallerie’s overall performance has declined significantly. The reasons for these declines are mostly self-imposed: (i) a store footprint expansion did not meet performance targets, (ii) the addition of the Atlanta distribution center disrupted operations and increased costs, and (iii) the failure to timely invest enough capital in their e-commerce platform limited its growth. These missteps were exacerbated by macroeconomic trends in the brick and mortar retail industry and lower housing starts. As a result, net revenue and EBITDA declined during fiscal year 2018. With Z Gallerie’s current cash balances of less than \$2 million, and no availability under its secured credit facilities, the commencement of these chapter 11 cases became necessary to ensure access to capital going forward.

7. Because Z Gallerie’s declining performance was predominantly the result of operational missteps, management is confident in its ability to turn the company around and has already begun to see benefits associated with these efforts. Due in large part to initiatives undertaken to optimize the business and position the company for future success, the business has seen marked improvements in recent months. From the sales perspective, February same store comparable sales are up 5% year-over-year, 2018 holiday ecommerce traffic was up 13% over 2017, and the average transaction amount is up significantly in the last two months. From an

operations perspective, saleable inventory is up 11%, lead time is down 20%, and orders not shipped due to processing issues are down 40% (all as compared to recent historic averages). Taken together, the outlook is bright and Z Gallerie is not “just another retailer” facing market headwinds.

8. To create this improvement and continue it, the Debtors have taken—or plan to take—in these chapter 11 cases, the following steps:

- a. launched a substantial enhancement to the eCommerce platform and website, including making a significantly increased investment in direct ecommerce marketing, increased customer personalization, online payment plans, and “heat maps” to identify current trends;
- b. revamped operations in the Atlanta distribution center over the last 6 months to streamline processing and reduce expenses, contributing to the substantial improvement in operational performance;
- c. launched social media marketing campaigns to retarget and engage existing customers and build brand loyalty with a new generation of customers;
- d. implemented in-store employee training and marketing programs to better communicate the brand’s strong value proposition to customers;
- e. planning to close 17 underperforming stores that heavily impact the bottom-line;² and
- f. engaged real estate advisors³ to manage lease portfolio negotiations.

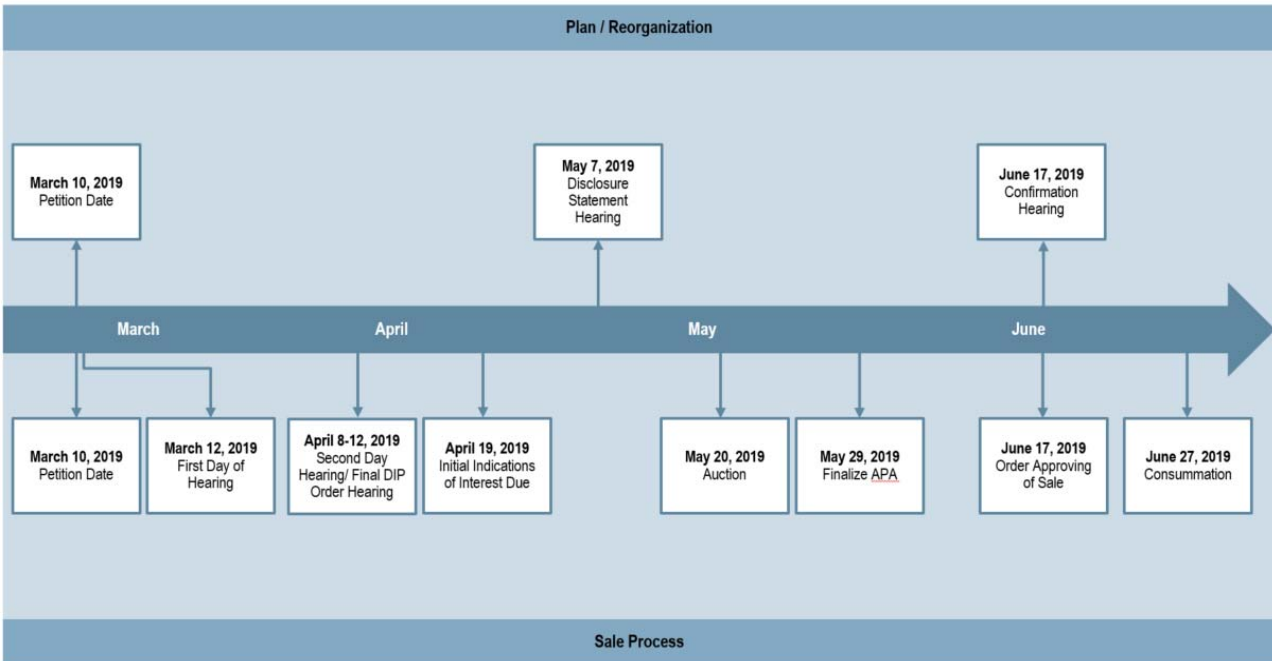
9. To facilitate and continue this turnaround process and return to profitability, the Debtors successfully negotiated a \$28 million debtor-in-possession financing facility from KeyBank National Association (“KeyBank”), its Prepetition Revolver Lender. The facility

² As more fully described in the *Debtors’ Motion Seeking Entry of Interim and Final Orders (I) Authorizing Debtors to Reject Certain Unexpired Leases of Nonresidential Real Property, (II) Approving Procedures for Store Closing Sales, (III) Authorizing Customary Bonuses to Employees of Closing Stores, and (IV) Granting Related Relief*, filed contemporaneously herewith. The Debtors are still determining if they intend to close all 17 stores or only a subset thereof.

³ Prior to the Petition Date, Z Gallerie utilized A&G Realty Partners, LLC (“A&G”) to negotiate leases. Unless and until the scope of their representation changes, the Debtors believe A&G is an ordinary course professional that does not need to be separately retained in these chapter 11 cases.

includes \$8 million in new money, \$5 million of which will become available pursuant to the interim order (the “DIP Facility”). The DIP Facility is the result of collaborative and intense negotiations over the last week among Z Gallerie and both of its secured lender groups. The DIP Facility represents the best available option under the circumstances. And, after intense negotiations, the DIP Facility is fully consensual among the company’s lenders.

10. More importantly, through the financing discussions, the Debtors explained and convinced their secured lenders of the importance of moving forward with full lender support for a process centered around a chapter 11 plan of reorganization. This strategy has been designed to minimize the Debtors’ stay in chapter 11 and, at the same time, maximize the value of these estates. Accordingly, along with the first day pleadings, the Debtors filed a chapter 11 plan (the “Plan”) and bidding procedures (the “Bidding Procedures”), which collectively allow the Debtors to efficiently facilitate a going-concern reorganization. This process will move forward along a single path, with the sale of the Debtors’ assets occurring under the Plan following a marketing process. The Plan contemplates either a sale to a third party or a debt for equity exchange to facilitate the ultimate exit from chapter 11.



11. The key to a successful outcome for Z Gallerie is speed and cooperation among all creditor constituents to avoid the fate of dozens of retailers who have unsuccessfully attempted to reorganize before it. Convincing third parties of the turnaround story in a short period of time—and convincing them to work with the Debtors towards the value maximizing outcome preferred by the Debtors—will determine whether Z Gallerie survives.

12. To familiarize the Court with the Debtors, their business, the circumstances leading to these chapter 11 cases, and the relief the Debtors are seeking in those certain motions and applications filed contemporaneously herewith, I have organized this declaration as follows:

- **Part I** provides a general overview of the Debtors' corporate history and operations;
- **Part II** provides an overview of the Debtors' prepetition capital structure;
- **Part III** describes the circumstances leading to these chapter 11 cases;
- **Part IV** describes the Debtors' proposed debtor-in-possession financing, marketing process, and chapter 11 plan; and

- **Part V** sets forth the evidentiary basis for the relief requested in each of the first day pleadings.

I. The Z Gallerie Brand.

13. Z Gallerie was founded by three siblings—Joe, Carole, and Mike Zeiden—in 1979 in Sherman Oaks, California. Originally run as a poster shop where the siblings would sell posters by day and frame art at night in their parents’ garage, the siblings’ love for art ultimately became a driving force behind Z Gallerie’s overall design aesthetic. By 1983, Z Gallerie had expanded its offerings to include home furnishings and home décor. Currently, Z Gallerie operates 76 stores in conjunction with an online eCommerce platform, generating over \$200 million in combined sales in 2018.

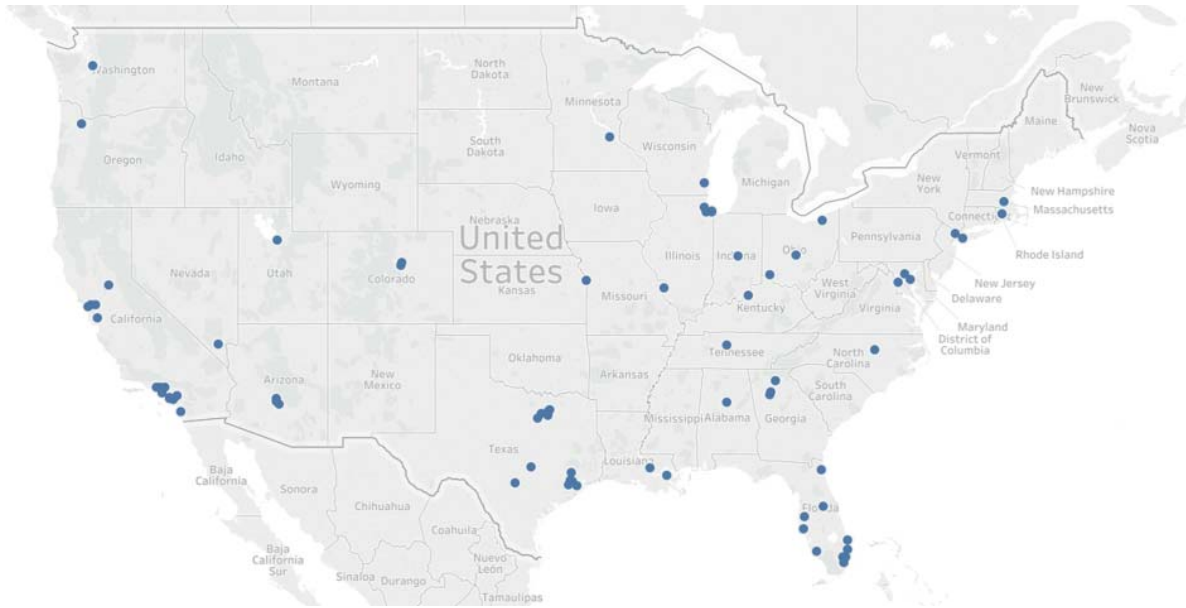
14. Since its founding, Z Gallerie has focused on making home décor fashion-focused, art-infused, and accessible for its local customer base. Z Gallerie delivers “fashion for the home,” translating the latest fashion into home furnishings with an eye towards combining current trends and their complementary classics. Customers are invited to take a “Style Personality Quiz” to uncover their personal approach to style, through which Z Gallerie curates an aesthetically unique and individualized experience for each customer. Store locations feature an ever-changing collection of stylish designs, showcasing the countless customizable options customers can create for their own homes. Z Gallerie’s products are competitively priced as compared to comparable home décor companies such as Wayfair, Overstock, Pottery Barn, and Crate and Barrel.

A. Z Gallerie’s Business Operations.

1. Z Gallerie’s Geographical and Digital Presence.

15. *Brick-and-Mortar Presence.* Z Gallerie operates 76 stores across 28 states nationwide. Its 74 retail stores and two outlet stores are located in lifestyle centers, shopping malls, and street level shops. Z Gallerie also operates two distribution centers, one in California and one

in Georgia (the “Distribution Centers”). The following map depicts the footprint of Z Gallerie’s domestic retail locations as of the Petition Date:



16. ***The E-Commerce Platform.*** In addition to its physical footprint, Z Gallerie maintains a significant online presence. Customers can seek out the latest home décor trends, explore customizable options for a vast array of different furniture and décor styles, and take a Style Personality Quiz to better guide their shopping journey on the Z Gallerie website. Customers may also purchase merchandise via the Debtors’ eCommerce platform. Following recent updates, Z Gallerie maintains a user-friendly and well-curated eCommerce online platform that ensures a seamless customer experience. In 2018, eCommerce accounted for over 20% of all sales.

2. Z Gallerie’s Merchandise and Key Customer Base.

17. Z Gallerie offers a differentiated, highly-curated selection of accessibly-priced, on-trend furniture, artwork, lighting, tabletop, décor and accessories. Merchandise is offered in many customizable options, ranging from innovative silhouettes, luxurious fabrics, rich textures, and lively accents, appealing to all tastes and design goals. Furthermore, while only comprising

1% of sales, Z Gallerie's seasonal offerings are an important, high-margin category that keeps it highly relevant throughout the year.

18. Z Gallerie employs a highly experienced sourcing and merchandising team, utilizing historical performance models to drive tailored offerings to customers' expectations. Specifically, the most popular items are featured prominently in the catalog and website, enabling predictable demand.

19. Consumers continue to rely on Z Gallerie for sophisticated, high-quality home décor and furniture at a competitive price point. Inventory prices are benchmarked by Z Gallerie's merchants based on prevailing market trends. Z Gallerie offers a competitive quality to price advantage over other select specialty retailers and department stores. Much of the furniture and home accessories sold by the company are similar in style to premium, expensive home décor brands, but are offered at a lower price point that is more accessible to the average consumer.

B. Critical Components of the Debtors' Cost Structure.

1. Supply Chain.

20. The Debtors maintain an integrated supply chain aimed at ensuring the uninterrupted flow of fresh merchandise to their brick-and-mortar locations. Generally, the Debtors contract with various domestic and international vendors across eight countries to design and source the merchandise. In limited circumstances, the Debtors contract with foreign manufacturers directly. When product is ready to be delivered at international ports, the Debtors use UPS Supply Chain Solutions to handle all facets of transport to the Debtors' warehouses in Los Angeles and Atlanta. Domestic vendors contract with third-party delivery companies to transport the merchandise to the Debtors' distribution centers. Once goods are to be delivered to a store or fulfill a customer order, the Debtors hire third-party common carriers to complete delivery from the distribution centers.

2. Employee Compensation and Benefits.

21. The Debtors employ slightly over 1,000 employees across their retail and corporate operations (collectively, the “Employees”). The Debtors anticipate that their monthly gross Employee Compensation, including wages, salaries, and related compensation, is approximately \$3.9 million. The Debtors offer their Employees the ability to participate in a number of insurance and benefits programs that are standard and competitive in the industry. These programs are described in detail in the Debtors’ wages motion, filed contemporaneously herewith.

3. Real Estate Obligations.

22. The Debtors lease all of their store locations. The Debtors estimate that the aggregate occupancy costs for the Debtors’ go-forward freestanding stores after implementing closings in these cases, will be approximately \$29 million in fiscal year 2019, excluding tenant amortization. The Debtors anticipate 59 go-forward locations following the first round of store closures (described in greater detail below). The remaining store presence is comprised of 55 stores, two outlets, and two distribution center.

II. Events Leading to these Chapter 11 Cases.

A. Operational Challenges and Expansion.

23. A confluence of operational and strategic factors contributed to the Debtors’ need to commence these chapter 11 cases. These factors are mostly self-imposed and include, among other things: (i) a store footprint expansion that did not meet expectations, (ii) the addition of the Atlanta distribution center that disrupted operations and increased costs, and (iii) the Debtor’s failure to timely invest enough capital in their e-commerce platform. The macroeconomic trends impacting the retail industry generally were contributing factors, but not the main factors, behind the Debtors performance shortfalls. The Debtors did not timely respond to meet these challenges, and suffered diminished performance as a result. Over time, these factors have tightened the

Debtors' liquidity position and complicated their relationship with their landlords and vendors. The Debtors now have insufficient liquidity to meet their operating obligations.

24. Nonetheless, the Debtors have started making changes to improve operational performance. As discussed above, the Debtors conducted employee training to teach their employees to better position the brand for customers. Same store comparable sales were up in February and the average ticket price is trending upward. In addition, the company has rectified challenges it faced in the Atlanta distribution center and operational benchmarks are all trending in the right direction.

25. Over the last year, the Debtors have also endeavored to improve their online presence. Web traffic is up as the company has built out a stronger internal ecommerce team and focused on social media and innovative promotional and product programs. The Debtors also invested to enhance eCommerce capabilities and are implementing a more true omnichannel strategy to leverage the ecommerce platform and store footprint, such as giving customers the opportunity to buy on line and pick up in store. These initiatives took the form of (i) website optimization, including heatmap analysis (informing how customers utilize their platform), expected to lift revenue \$3.8 million in fiscal year 2019; (ii) mobile reconfiguration, providing new functionality increasing mobile conversion 10% year-over-year; (iii) increased effectiveness of email capture of point of sale, up 101% year-over-year; and (iv) brought content design and production in-house to better leverage creative initiatives across print and digital. Year over year growth in the online channel has seen a significant increase, and now accounts for approximately 25% of overall revenue.

B. Supply Chain and Borrowing Base Challenges.

26. As the Debtors' liquidity has tightened, supply chain vendors have begun to place pressure on the supply chain cost structure. Some of the Debtors' revenue is stuck at port in

California, with vendors unwilling to release the product absent payment in full. This in turn worsens the Debtors' ability to generate revenue from sales, creating a negative feedback loop decreasing liquidity. Without the flow of fresh inventory, the Debtors' retail business will effectively starve. Additionally, as described above, the Debtors have no available liquidity under their Prepetition Credit Facilities to resolve these challenges. The flow of fresh inventory is the lifeblood of retail sales, and ensuring the uninterrupted flow of inventory to the Debtors' customers is of the utmost importance.

C. 2014 Sale and Board of Managers.

27. In October 2014, Brentwood purchased a 70% stake in Z Gallerie through Brentwood Associates Private Equity V LP (the "2014 Sale"). The Zeidens retained a 30% equity interest in the company. As part of the transaction, Brentwood maintains two seats on the Board of Managers (the "Board") and the Zeidens retain one seat on the Board.⁴ Prior to the chapter 11 filing, Mike Zeiden resigned from the Board. The Debtors have also appointed two disinterested directors.

1. The Need for Imminent Liquidity.

(a) Out-of-Court Negotiations.

28. As the Debtors recognized that they would soon run out of adequate cash to fund operations, they engaged their Prepetition Lenders regarding the terms of loans that would provide incremental liquidity without a chapter 11 filing. The Debtors had no unencumbered assets, so any liquidity would have needed to be unsecured (absent consent of the senior lenders). Despite

⁴ While the Debtors have no reason to believe that they maintain any viable claims against either Brentwood or the Zeidans on account of the 2014 Sale or any activity since the 2014 Sale, the Debtors' Delaware co-counsel, Klehr Harrison Harvey Branzburg LLP, is conducting an investigation into any potential claims or causes of action at the direction of the independent directors.

the Debtors' best efforts, no source of liquidity emerged that would lend outside of the chapter 11 context. The Debtors are currently unable to fund their operations.

2. Concurrent Marketing Efforts.

29. The Debtors retained Lazard to facilitate, among other things, a sale process for their assets. In early March 2019, Lazard distributed a "teaser" to potential strategic and financial buyers. Lazard has already received interest from some parties who are in the process of negotiating confidentiality agreements with the Debtors. As set out in the Bidding Procedures Motion filed contemporaneously herewith, Lazard is running a marketing process that will, the Debtors hope, result in a competitive auction for the purchase of the Debtors' assets. The Debtors expect to facilitate this sale through the chapter 11 Plan filed today.

D. Operational Right-Sizing Initiatives.

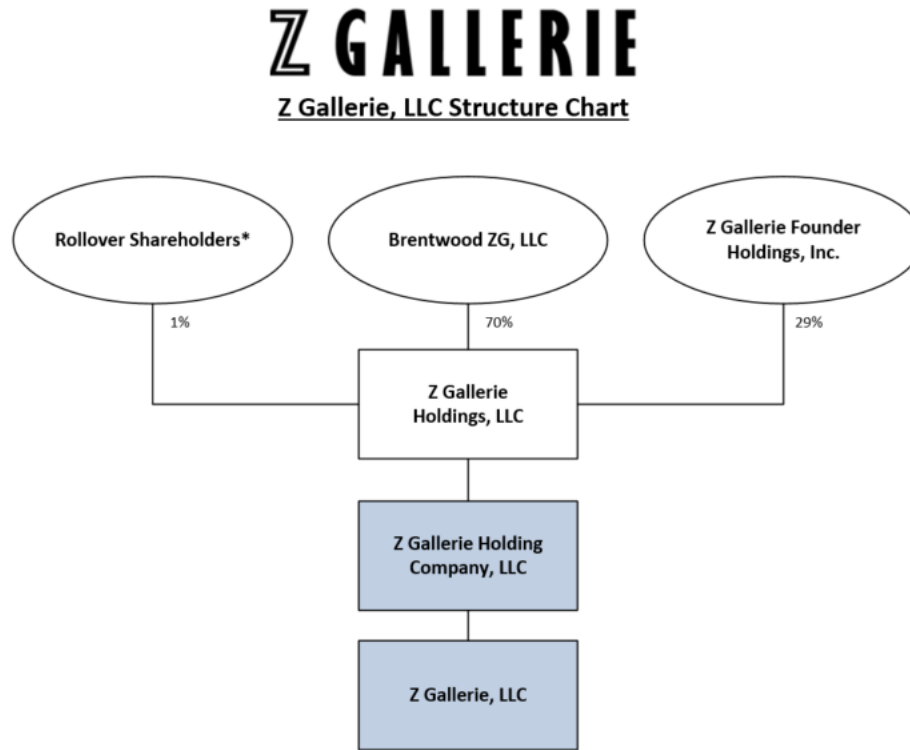
1. Real Estate Optimization.

30. A&G was retained by the Debtors in October 2018 for the purpose of negotiating with the Debtors' landlords with the aim of rent reduction and overall savings. A&G commenced initial outreach with the landlords in November 2018. Ultimately, A&G's goal was to initiate communication with landlords, exit underperforming stores on a consensual basis, and more appropriately align occupancy with Z Gallerie's current revenue base. Negotiations are ongoing, and the Debtors have already realized substantial annualized savings.

31. As a result of A&G's store performance evaluations and lease negotiations, the Debtors decided to close 17 stores at the onset of the chapter 11 cases (the "Closing Stores"). The Debtors have concluded that the cost of maintaining the Closing Stores outweighs any revenues that the Closing Stores currently generate or are likely to generate in the future. The Debtors, in their business judgement, believe that in any restructuring outcome, closing the 17 stores will provide the most value.

III. The Debtors' Prepetition Corporate and Capital Structure.

32. The below chart depicts the Debtors' current corporate structure:



33. As of the Petition Date, the Debtors' capital structure consists of outstanding funded-debt obligations in the aggregate principal amount of approximately \$138 million. The following table summarizes the Debtors' outstanding funded-debt obligations as of the Petition Date:

Funded Debt	Maturity	Interest Rates	Principal Amount Outstanding as of the Petition Date
Senior Secured Revolving Loans	October 8, 2020	Libor + 4.25%	\$19,368,708.30
		2% Revolving PIK Interest	
Senior Secured Term Loans	October 8, 2021	Libor + 6.50%	\$91,427,540.43
		2% PIK Option Rate	
Senior Unsecured Notes	March 15, 2020	15% per annum	\$10,639,588.40
Senior Unsecured Refinancing Notes	January 7, 2022	15% per annum	\$17,220,783.57
TOTAL			\$138,656,620.70

A. Debt Obligations.

34. The Senior Secured Credit Agreement obligations are secured by substantially all assets of Z Gallerie, LLC and Z Gallerie Holding Company, LLC (collectively, the “Credit Parties”), including, without limitation, a first priority lien on the Credit Parties’ accounts (including receivables), inventory, deposit and securities accounts (subject to certain exceptions), cash and cash equivalents, owned real property with a fair market value equal to or greater than \$3,000,000, intellectual property, and all equity interests of the Debtors and their subsidiaries (collectively, the “Collateral”).

35. Additionally, the Credit Parties have entered into deposit account control agreements in favor of KeyBank (the “Agent”) with respect to their bank accounts. Thus, substantially all of the Credit Parties’ cash is subject to a perfected security interest in favor of the Agent. As of the Petition Date, the term loan facility is fully drawn and there is no availability under the revolving facility.

36. The Senior Unsecured Refinancing Notes comprise a different series of notes from the Senior Unsecured Notes but have identical terms (other than the maturity date of such Senior Unsecured Refinancing Note) and the same treatment and are *pari passu* with the Senior Unsecured Notes.

IV. The Proposed DIP Financing, Marketing Process, and Chapter 11 Plan.

37. To fund the administration of these chapter 11 cases, the Debtors’ Prepetition Revolving Lender (together with any other parties that may become a party to the DIP Credit Agreement, the “DIP Lenders”) has agreed to fund the DIP Financing. The DIP Lenders have agreed to continue to lend money on terms nearly identical to those under the Debtors’ Prepetition Credit Facility. The DIP Lenders have agreed to provide a \$28 million debtor-in-possession

financing facility, including up to \$8 million in new money. The DIP lenders will fund \$25 million upon entry of an Interim DIP Order (\$5 million of which is new money) with an additional \$3 million in new money upon entry of a Final DIP Order. The balance of the Prepetition Revolver Loan million will convert to postpetition debtor-in-possession loans.

38. The Proposed DIP Financing is critical to the Debtors' ability to operate smoothly postpetition, including by providing sufficient liquidity to fund the administrative cost of these chapter 11 cases and, importantly, to permit the Debtors to continue to operate. Based on my knowledge and extensive discussions with the Debtors' management team and advisors, including a team from BRG acting under my supervision, I believe that the Proposed DIP Financing gives the Debtors sufficient liquidity to stabilize their operations and fund the administration of these chapter 11 cases as the Debtors seek to implement the restructuring contemplated by the Plan. Finally, based on extensive discussions with the Debtors' advisors, I understand that the Proposed DIP Financing is on the most favorable terms available in light of the circumstances of these chapter 11 cases.

39. The Debtors' current Plan includes a toggle feature, such that recovery to the Prepetition Secured Creditors will come, in the event of a sale of the Debtors' assets to a third-party, in the form of proceeds of the sale of the Debtors' Assets or, if there is no sale to a third-party, in the form of equity in the Reorganized Debtors, on terms to be determined. The Bidding Procedures and Plan provide for substantial flexibility with respect to the structure of any transaction. The Bidding Procedures are designed to—and the Debtors believe the Bidding Procedures will actually operate to—maximize the likelihood of an overbid for the benefit of enterprise-wide stakeholders.

40. Preserving value for the benefit of the Debtors' estates depends in large part on the Debtors proceeding swiftly to confirmation of the Plan and minimizing the effects of the Debtors' chapter 11 cases on the value of the Debtors' "brand"—a critical component of the value of the Debtors' businesses. Due to the fact that customer sentiment shifts rapidly and stakeholders (including key suppliers and landlords) often turn swiftly against retail debtors, such debtors often do not fare well in bankruptcy—in many instances electing to liquidate as opposed to reorganize. The Debtors intend to swiftly proceed with a fair and efficient process to preserve and maximize the value of that achievement for all stakeholders and emerge from chapter 11 within the next 120 days.

V. Evidentiary Support for First Day Motions.

41. Contemporaneously, the Debtors have filed a number of first day pleadings seeking relief that the Debtors believe is necessary to enable them to efficiently administer their estates with minimal disruption and loss of value during these chapter 11 cases. The Debtors request that the relief requested in each of the first day motions be granted as critical elements in ensuring the maximization of value of the Debtors' estates. I believe that the relief requested in the first day motions is necessary to allow the Debtors to operate with minimal disruption during the pendency of these chapter 11 cases. I have reviewed each of the first day motions discussed below and the facts set forth in each first day motion are true and correct to the best of my knowledge and belief with appropriate reliance on corporate officers and advisors. A description of the relief requested in and the facts supporting each of the first day motions is set forth in **Exhibit A** attached hereto and incorporated herein by reference.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true correct.

Dated: March 11, 2019
Wilmington, Delaware



Name: Mark Weinsten
Title: Interim President and
Chief Executive Officer

EXHIBIT A

Evidentiary Support for First Day Motions

Evidentiary Support for First Day Motions⁵

VI. Debtors' Motion Seeking Entry of an Order (I) Directing Joint Administration of Their Related Chapter 11 Cases and (II) Granting Related Relief (the "Joint Administration Motion").

1. Pursuant to the Joint Administration Motion, the Debtors request entry of an order (a) directing procedural consolidation and joint administration of their related chapter 11 cases and (b) granting related relief. Given the integrated nature of the Debtors' operations, joint administration of these chapter 11 cases will provide significant administrative convenience and cost savings to the Debtors without harming the substantive rights of any party in interest.

2. Many of the motions, hearings, and orders in these chapter 11 cases will affect each and every Debtor entity. For example, virtually all of the relief sought by the Debtors in the First Day Motions is sought on behalf of all of the Debtors. The entry of an order directing joint administration of these chapter 11 cases will reduce fees and costs by avoiding duplicative filings and objections. Joint administration of these chapter 11 cases, for procedural purposes only, under a single docket, will also ease the administrative burdens on the Court by allowing the Debtors' cases to be administered as a single joint proceeding, instead of multiple independent chapter 11 cases. Accordingly, I respectfully submit that the Joint Administration Motion should be approved.

VII. Debtors' Motion Seeking Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs and (II) Granting Related Relief (the "SOFA/Schedules Extension Motion").

3. Pursuant to the SOFA/Schedules Extension Motion, the Debtors request entry of an order (a) extending the deadline by which the Debtors must file the schedules of assets and

⁵ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the applicable First Day Motion.

liabilities, schedules of current income and expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the “Schedules and Statements”) by thirty days in addition to the extension provided by Local Rule 1007-1(b), for a total of fifty-eight days from March 10, 2019, to and including May 8, 2019,⁶ without prejudice to the Debtors’ ability to request additional extensions for cause shown, and (b) granting related relief. The Debtors estimate that they have far more than 200 creditors on a consolidated basis. The breadth of the Debtors’ business operations requires the Debtors to maintain voluminous books and records and complex accounting systems. Given the size, complexity, and geographic diversity of the company’s business operations, and the number of creditors, I submit that the large amount of information that must be assembled to prepare the Schedules and Statements and enormous expenditure of time and effort required to complete the Schedules and Statements would be unnecessarily burdensome to the Debtors during the period of time following the Petition Date.

4. I believe that the relief requested in the SOFA/Schedules Extension Motion is in the best interests of the Debtors’ estates, their creditors, and all other parties in interest and will enable the Debtors to continue to operate their businesses in chapter 11 without disruption. Accordingly, on behalf of the Debtors, I respectfully submit that the SOFA/Schedules Extension Motion should be approved.

⁶ For the avoidance of doubt, the extension requested herein will not affect in any way the Debtors’ ability to comply with the milestones set forth in the respective agreements governing the DIP Facilities.

VIII. Debtors' Motion Seeking Entry of an Order (I) Authorizing the Debtors to File A Consolidated List of Creditors in Lieu of Submitting A Separate Mailing Matrix for Each Debtor, (II) Authorizing the Debtors to Redact Certain Personal Identification Information for Individual Creditors, and (III) Granting Related Relief (the "Creditor Matrix Motion").

5. Pursuant to the Creditor Matrix Motion, the Debtors seek entry of an order: (a) authorizing the Debtors to maintain a consolidated list of creditors in lieu of submitting a separate mailing matrix for each Debtor; (b) authorizing the Debtors to redact certain personal identification information for individual creditors; and (c) granting related relief.

6. Although I understand that a list of creditors usually is filed on a debtor-by-debtor basis, in a complex chapter 11 bankruptcy case involving more than one debtor, the debtors may file a consolidated creditor matrix "in the interest of justice." Requiring the Debtors to segregate and convert their computerized records to a Debtor-specific creditor matrix format would be an unnecessarily burdensome task and result in duplicate mailings.⁷

7. Additionally, I believe that it is appropriate to authorize the Debtors to redact from the Creditor Matrix the home addresses of individual creditors—including the Debtors' employees—and interest holders because such information could be used to perpetrate identity theft. The Debtors propose to provide an unredacted version of the Creditor Matrix to the Office of the United States Trustee for the District of Delaware, any official committee of unsecured creditors appointed in these chapter 11 cases, any party in interest upon reasonable request, and the Court. The Debtors will distribute to their current employees any notices that are delivered to an employee at the Debtors' corporate headquarters.

⁷ The Debtors submit that if any of these chapter 11 cases converts to a case under chapter 7 of the Bankruptcy Code, the applicable Debtor will file its own creditor mailing matrix.

8. Accordingly, I respectfully submit that the Court should approve the Creditor Matrix Motion.

IX. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (II) Granting Related Relief (the "Cash Management Motion").

9. Pursuant to the Cash Management Motion, the Debtors seek entry of interim and final orders: (a) authorizing the Debtors to (i) continue to operate their Cash Management System; (ii) honor certain prepetition obligations related thereto; (iii) maintain existing Business Forms in the ordinary course of business; and (b) granting related relief.

10. The Debtors' Cash Management System is similar to the centralized cash management systems used by other comparably sized companies to manage cash flow. The Debtors use their Cash Management System in the ordinary course to transfer and distribute funds and to facilitate cash monitoring, forecasting, and reporting. The Debtors' treasury department maintains daily oversight over the Cash Management System and implements cash management controls for entering, processing, and releasing funds. Additionally, the Debtors' corporate accounting, treasury, and internal audit departments regularly reconcile the Debtors' books and records to ensure that all transfers are accounted for properly.

11. Because of the disruption that would result if the Debtors were forced to close their existing bank accounts, I believe that it is critical that the existing Cash Management System remain in place. I believe that the relief requested in the Cash Management Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to continue to operate their business in chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the Cash Management Motion should be approved.

X. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing, but Not Directing, the Debtors to (A) Pay Prepetition Employee Wages, Salaries, Other Compensation, Reimbursable Employee Expenses, and Non-Insider Employee Incentive Programs, and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief (the "Wages Motion").

12. Pursuant to the Wages Motion, the Debtors seek entry of interim and final orders (a) authorizing, but not directing, the Debtors to (i) pay prepetition wages, salaries, other compensation, withholding obligations, payroll processing fees, reimbursable employee expenses, non-insider employee incentive programs and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto, in an aggregate amount not to exceed \$2,019,150 pursuant to the Interim Order and \$2,439,150 pursuant to the Final Order; and (b) granting related relief.

13. The Debtors employ approximately 1,023 Employees, including approximately 715 full-time Employees and 308 part-time Employees. The Employees perform a variety of functions critical to the preservation of value and the administration of the Debtors' estates. In many instances, the Employees include personnel who are intimately familiar with the Debtors' businesses, processes, and systems, and who cannot be easily replaced. In addition to the Employees, the Debtors also periodically retain temporary workers (the "Temporary Staff") to fulfill certain duties on a short- and long-term basis.

14. The majority of Employees and Temporary Staff rely on the Employee Compensation and Benefits Programs to pay their daily living expenses. Thus, Employees and Temporary Staff will face significant financial consequences if the Debtors are not permitted to continue the Employee Compensation and Benefits Programs in the ordinary course of business. The Debtors seek to minimize the personal hardship the Employees and Temporary Staff would suffer if employee obligations are not paid when due or as expected. Consequently, I believe the relief requested is necessary and appropriate.

15. The Debtors are seeking authority to pay and honor certain prepetition claims relating to the Employee Compensation and Benefits, including, among other things, wages, salaries, other compensation, withholding obligations, payroll processing fees, reimbursable expenses, non-insider employee incentive programs health insurance, life and accidental death and dismemberment insurance, workers' compensation benefits, short- and long-term disability coverage, auxiliary benefits, retirement plans, paid time off, severance, and other benefits that the Debtors have historically directly or indirectly provided to the Employees in the ordinary course of business and as further described in the Wages Motion.

16. Pursuant to the Wages Motion, the Debtors also seek authority to continue their incentive programs and to honor their obligations to non-insider Employees under the pre-existing bonus programs, described more fully in the Wages Motion. The Debtors believe the Non-Insiders Employee Incentive Programs drive Employees' performance, align Employees' interests with those of the Debtors generally, and promote the overall efficiency of the Debtors' operations. I understand that "insiders" (as the term is defined in section 101(31) of the Bankruptcy Code) of the Debtors are excluded from the relief requested in the Wages Motion with respect to any bonus programs or severance payments.

17. I believe the Employees provide the Debtors with services necessary to conduct the Debtors' business, and absent the payment of the Employee Compensation and Benefits Programs owed to the Employees, the Debtors will likely experience Employee turnover and instability at this critical time. I believe that without these payments, the Employees may become demoralized and unproductive because of the potential significant financial strain and other hardships the Employees may face. Employees may then elect to seek alternative employment opportunities. I believe enterprise value may be materially impaired to the detriment of all stakeholders in such

a scenario. I, therefore, believe that payment of the prepetition obligations with respect to the Employee Compensation and Benefits Programs is a necessary and critical element of the Debtors' efforts to preserve value and will give the Debtors the greatest likelihood of retention of their Employees as the Debtors seek to operate their business in these chapter 11 cases.

18. Therefore, I believe that the relief requested in the Wages Motion inures to the benefit of all parties in interest. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Wages Motion.

XI. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors, Foreign Vendors, Shippers, and Import and Export Claimants, and Granting Related Relief (the "Comprehensive Vendors Motion").

19. Pursuant to the Comprehensive Vendors Motion, the Debtors seek entry of interim and final orders: (I) authorizing the Debtors to pay, in their sole discretion and in the ordinary course of business, prepetition claims held by (a) Critical Vendor, and Foreign Vendor Claimants in an amount not to exceed \$1.5 million on an interim basis and \$2 million on a final basis; (b) Logistics Claimants in an amount not to exceed \$375,000 million on an interim basis and \$500,000 million on a final basis; (c) section 503(b)(9) Claimants in an amount not to exceed \$375,000 on an interim basis and \$500,000 on a final basis; and (II) granting administrative priority status for Outstanding Orders. The Debtors' ability to deliver merchandise to consumers in a timely manner is critically important to their overall financial performance and depends on their prompt receipt of a wide range of both goods and services that are necessary in the home furnishing retail industry. The seamless interaction with various third-party vendors, suppliers, service providers, and contractors (collectively, the "Vendors") is necessary for the Debtors' continued operations. Many of these Vendors offer unique or highly customized products or services not available from many other suppliers, holding substantial leverage over the goods and services they

provide. One of the Debtors' key value propositions is providing customers unique merchandise with distinctive style. Replacement vendors, even where available, would likely result in substantially higher costs for the Debtors and would require significant time to fulfill orders—time the Debtors do not have.

20. ***Critical and Foreign Vendors:*** Recognizing that payment of all prepetition claims of such third-party vendors outside of a plan of reorganization would be extraordinary relief, the Debtors, with the assistance of their advisors, reviewed their books and records, consulted operations management and purchasing personnel, reviewed contracts and supply agreements, and analyzed applicable laws, regulations, and historical practices. The Debtors only intend to make payments contemplated herein to the extent that Debtors believe a Vendor's failure to do business with the Debtors would materially harm their businesses, shrink their market share, reduce their enterprise value, or impair going-concern viability. The Debtors submit that the requested relief will allow the Debtors to preserve stakeholder value by paying certain prepetition claims of certain counterparties where critical to unlock incremental liquidity for the Debtors' business. Accordingly, the Debtors seek authority, but not direction, to pay and discharge, on a case-by-case basis, the Critical Vendor Claims and Foreign Vendor Claims in an aggregate amount up to \$1.5 million on an interim basis and up to \$2.0 million on a final basis, subject to their agreement to certain payment procedures that would condition payment on receipt by the Debtors of favorable trade terms.

21. ***Logistics Claims:*** The Debtors' business depends on the uninterrupted flow of inventory and other goods through its supply chain and distribution network, including the purchase, importation, storage, and shipment of the Debtors' merchandise. Accordingly, the Debtors seek relief regarding the claims of third parties who may have the ability to assert liens on

the Debtors' and their customers' property if the Debtors fail to pay for goods or services rendered (the "Logistics Claims").

22. The services provided by the Logistics Claimants are essential to the Debtors' day-to-day operations in that they are necessary for the Debtors to transport merchandise from the factories to the Distribution Centers to individual stores and/or customers. At any given time, there are numerous shipments en route to and from various locations across the country and internationally. Therefore, certain Logistics Claimants currently possess goods in transit that are vital to the Debtors' operations.

23. Further, if the Logistics Claims are not paid, the older or the service providers they may refuse to perform additional services for the Debtors. In such event, the Debtors would incur significant additional expenses, such as premium replacement shipping and warehousing costs. Further, many of the Debtors' goods such as home furnishings, furniture and fixtures are large, cumbersome and fragile. The Debtors' customer base often expects assistance or delivery of their Merchandise and failure to provide this may result in customer dissatisfaction and drive down sales.

24. Accordingly, because the Debtors are dependent on these Logistics Claimants, it is essential that the commencement of these cases not give any Shippers reason or excuse to cease performing their obligations. Accordingly, the Debtors seek authority, but not direction, to pay and discharge, on a case by case basis, prepetition claims held the Logistics Claimants in an aggregate amount up to \$375,000 on an interim basis and up to \$500,000 on a final basis.

25. ***Section 503(b)(9) Claimants:*** Operating in the ordinary course of business, the Debtors have claims on account of goods received by the Debtors within 20 days prior to the Petition Date (the "Section 503(b)(9) Claims"). Many of the Debtors' relationships with the

creditors holding such claims (collectively, the “Section 503(b)(9) Claimants”) are not governed by long-term contracts. Rather, the Debtors often obtain supplies on an order-by-order basis. As a result, a Section 503(b)(9) Claimant may refuse to supply new orders without payment of its prepetition claims. The Debtors also believe certain Section 503(b)(9) Claimants could reduce the Debtors’ existing trade credit—or demand payment in cash on delivery—further exacerbating the Debtors’ limited liquidity. While typically the Section 503(b)(9) Claimants would be required to file a motion or wait until a plan has been approved to receive payment of their administrative claim, the Debtors believe that given (a) the ultimate administrative priority nature of these claims and (b) the vital role that many, if not all, of these vendors will likely have in the Debtors’ successful restructuring, it is in the best interest of their estates to pay these claims at the commencement of the chapter 11 cases.

26. The Debtors intend to apply their business judgment and discretion on a case-by-case basis with respect to actual 503(b)(9) claims paid under the requested authority. In particular, in analyzing whether payments should be issued to any individual Section 503(b)(9) Claimant, the Debtors will focus on prioritizing the claims of Section 503(b)(9) Claimants that (a) provide unique and specialized goods that are otherwise not readily available; (b) provide goods that the Debtors are unable to procure without incurring significant migration costs, operational delays, or compromising quality; (c) do not have long-term written supply contracts such that the vendor could be compelled to continue providing goods or services in a timely and cost-efficient manner without unduly disrupting the Debtors’ operations postpetition; or (d) provide goods that are impossible to replace.

27. The Debtors seek authority to pay, in their sole discretion and based on their business judgment, up to \$375,000 to the Section 503(b)(9) Claimants on account of their

prepetition claims on an interim basis, and up to a maximum aggregate amount of \$500,000 to Section 503(b)(9) Claimants subject to their agreement to certain payment procedures that would condition payment on receipt by the Debtors of favorable trade terms

28. ***Outstanding Orders:*** In the ordinary course of the Debtors' business, numerous suppliers and service providers provide the Debtors with goods and services that are integral to the Debtors' ongoing business operations. This includes Vendors who fulfill customized and large furniture orders and produce particular product only when an order is placed. As of the Petition Date, the Debtors had outstanding prepetition purchase orders (collectively, the "Outstanding Orders") with many suppliers (collectively, the "Suppliers") for such goods and services.

29. As a result of the commencement of the chapter 11 cases, the Debtors believe that the Suppliers may perceive a risk that they will be treated as prepetition general unsecured creditors for the cost of any shipments made or services provided after the Petition Date pursuant to the Outstanding Orders. Further, some Suppliers may not fulfill outstanding orders of custom furniture. As a result, the Suppliers may refuse to ship such goods to the Debtors or provide such services to the Debtors unless the Debtors issue substitute postpetition purchase orders or provide other assurances of payment. Issuing substitute purchase orders on a postpetition basis would be disruptive, administratively burdensome, time-consuming, and counterproductive to the Debtors' restructuring.

30. Accordingly, to prevent any disruption to the Debtors' business operations, and given that goods delivered after the Petition Date are afforded administrative expense priority under section 503(b) of the Bankruptcy Code, the Debtors seek an order: (a) granting administrative expense priority under section 503(b) of the Bankruptcy Code to all undisputed

obligations of the Debtors arising from the acceptance of goods or services subject to Outstanding Orders; and (b) authorizing the Debtors to satisfy such obligations in the ordinary course of business.

31. I believe that the relief requested in the Comprehensive Vendors Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to continue to operate their business in chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Comprehensive Vendors Motion.

XII. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to Reject Certain Unexpired Leases of Nonresidential Real Property, (II) Approving Procedures for Store Closing Sales, (III) Authorizing Customary Bonuses to Employees of Closing Stores, and (IV) Granting Related Relief (the "Store Closing Motion").

32. Pursuant to the Store Closing Motion, the Debtors seek entry of interim and final orders authorizing, but not directing, the Debtors, pursuant to a final order, to reject certain unexpired leases (including any guarantees thereof and any amendments or modifications thereto or assignments or subleases thereof, collectively, the "Leases") of nonresidential real property; (b) authorizing and approving, on an interim and final basis store closing or similar themed sales (the "Sales") in accordance with the terms of the store closing sale procedures (the "Store Closing Procedures"); and (c) authorizing customary bonuses to non-insider Closing Store employees who remain employed for the duration of the store closing process (the "Store Closing Bonuses," and, collectively, the "Closing Stores").

33. Recognizing the need to right-size the Debtors' store base while simultaneously creating much-needed liquidity, the Debtors' management team and advisors conducted an extensive store-by-store performance analysis covering all existing stores, evaluating, among other factors, historical and recent store profitability, historical and recent sales trends, occupancy costs, the geographic market in which each store is located, the type of storefront in which each store is

located, and the specific operational circumstances related to each store's performance. The Debtors' management team and advisors ultimately determined that it is appropriate to close and wind down (the "Store Closings") 17 brick-and-mortar store locations. By rejecting the Leases, the Debtors anticipate significant annual rent and cost savings. The Debtors, in their business judgement, believe that in any restructuring outcome, closing the 17 stores will maximize value for the stakeholders. The Debtors have concluded that the cost of maintaining the Closing Stores outweighs any revenues that the Closing Stores currently generate or are likely to generate in the future.

34. As the chapter 11 cases progress, the Debtors may determine, based on future financial performance, a redeveloped business plan, or other factors, to close additional stores if they believe in their business judgement that doing so would maximize the value of the estate. In addition, lease negotiations are ongoing with a small number of remaining landlords, and the Debtors' ability to negotiate more favorable lease terms and rent reductions may drive the determination of whether or not to close additional stores.

35. To effectuate the Store Closings, the Debtors seek approval of the streamlined procedures (*i.e.*, the Store Closing Procedures) to sell the Stores' goods, inventory, FF&E, and other store assets (together, the "Store Closure Assets"). The Debtors have determined, in the exercise of their business judgment and in consultation with their advisors, that the Store Closing Procedures will provide the best, most efficient, and most organized means of selling the Store Closure Assets to maximize the value of the Debtors' estates.

36. I believe that the Store Closings and the Sales provide the best and most efficient means of selling the Store Closure Assets to maximize the value to their estates. Delay in approving the continuance of the Store Closings would diminish the recovery tied to monetization

of the Store Closure Assets for a number of reasons. Thus, the Debtors will realize an immediate benefit in terms of financial liquidity upon the sales of the Store Closure Assets and the termination of operations at the Closing Stores. Further, the swift and orderly authorization of the Sales will allow the Debtors to timely reject the applicable store leases, and, therefore, avoid the accrual of unnecessary administrative expenses for rent payment. Delaying the Store Closings may cause the Debtors to pay postpetition rent at many of these stores, at a possible cost to the estate of up to \$3 million per month.

37. Furthermore, I believe that providing the Store Closing Bonuses will allow the Debtors to successfully complete the Sales. In the ordinary course of business, the Debtors utilized closing bonuses during store closing sales. The amounts paid to employees on account of the Store Closing Bonuses will be consistent with historical practice and made in consultation with the Debtors' advisors. The Debtors believe the bonuses are necessary to retain employees and incentivize higher recoveries during the Store Closing Sales. If the Debtors were to close every Closing Store the aggregate amount of Store Closing Bonuses paid will be not more than \$350,000, assuming one hundred percent (100%) of the performance targets were met during the Closing Sales at every Closing Store. Providing such non-insider bonus benefits is critical to ensuring that key employees that will be affected by the reduction in the Debtors' work force due to the Store Closings will continue to provide critical services to the Debtors during the Store Closing process.

38. Therefore, I respectfully submit that the Court should approve the Store Closing Motion.

XIII. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto and (II) Granting Related Relief (the "Customer Programs Motion").

1. Pursuant to the Customer Programs Motion, the Debtors seek entry of interim and final orders (a) authorizing the Debtors to maintain and administer their customer-related programs (collectively, the "Customer Programs") as described in the motion and honor certain prepetition obligations related thereto and (b) granting related relief.

2. The Debtors have historically provided certain incentives, coupons, discounts, and accommodations to their customers to attract and maintain positive customer relationships. The Customer Programs promote customer satisfaction and inure to the goodwill of the Debtors' business and the value of their brand. Accordingly, maintaining the goodwill of their customers is critical to the Debtors' ongoing operations in these chapter 11 cases, and is necessary to maximize value for the benefit of all of the Debtors' stakeholders.

3. Importantly, I understand that the Debtors estimate that substantially all of their prepetition obligations under the Customer Programs, including those for pre-payments, adjustments, discounts, or other similar obligations, *do not* entail the expenditure of cash.

4. I understand that in the ordinary course of business, the Debtors collect active customer emails that are used in connection with the Prepayment Program.

5. I believe that continuing to administer the Customer Programs without interruption during the pendency of the chapter 11 cases will help preserve the Debtors' valuable customer relationships and goodwill, which will inure to the benefit of all of the Debtors' creditors and benefit their estates. In contrast, if the Debtors are unable to continue the Customer Programs postpetition or pay amounts due and owing to customers, the Debtors risk alienating certain customers (who might then initiate business relationships with the Debtors' competitors) and

might suffer corresponding losses in customer loyalty and goodwill that will harm their prospects maximizing the value of their estates. The Debtors' Customer Programs are essential marketing strategies for attracting new customers.

6. I believe that the failure to honor the Customer Programs could place the Debtors at a competitive disadvantage in the marketplace, amplifying the negative effect of customer uncertainty that may arise from the chapter 11 filings. Such uncertainty could erode the Debtors' hard-earned reputation and brand loyalty, which, in turn, could adversely impact their prospects for a successful emergence from bankruptcy.

7. I believe that the relief requested herein will pay dividends with respect to the long-term reorganization of their businesses, both in terms of profitability and the engendering of goodwill, especially at this critical time following the filing of the chapter 11 cases. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Customer Programs Motion.

VIII. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Determining Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Services, (III) Establishing Procedures for Determining Adequate Assurance of Payment, (IV) Authorizing Fee Payments to ENGIE for Services Performed, (V) Requiring Utility Providers to Return Deposits for Utility Services No Longer in Use, and (VI) Granting Related Relief (the "Utilities Motion").

8. Pursuant to the Utilities Motion, the Debtors seek entry of interim and final orders: (a) determining adequate assurance of payment for future utility services; (b) prohibiting utility companies from altering, refusing, or discontinuing services; (c) establishing procedures for determining adequate assurance of payment; (d) authorizing fee payments to ENGIE for services performed; (e) requiring utility providers to return deposits for utility services no longer in use; and (f) granting related relief.

9. In connection with the operation of their business and management of their properties, the Debtors obtain water, sewer service, electricity, waste disposal, natural gas, and other similar services (“Utility Services”) either directly from utility companies or their brokers or indirectly from landlords that pay for and pass through the costs associated therewith to the Debtors in accordance with the applicable nonresidential real property lease (“Utility Providers”). The relief requested herein applies to all Utility Providers.

10. The Debtors manage most payments for Utility Services through ENGIE Insight Services Inc. (“ENGIE”) pursuant to that Service Agreement dated January 11, 2017. On average, the Debtors pay approximately \$148,000 each month for third-party Utility Services, calculated as a historical average payment for the twelve-month period ending February 28, 2019, and including the monthly fee to ENGIE. However, Utility Services billed directly to the Debtors’ landlords are not included in the historical average payment amount stated above.

11. Over the next 30 days, the Debtors estimate that their cost for Utility Services (not including any deposits or fees paid to ENGIE) will be approximately \$148,000. The Debtors propose depositing \$75,000 into a segregated account as additional assurance of payment (the “Adequate Assurance Deposit”), which is an amount sufficient to cover one-half of the Debtors’ average monthly cost based on the historical average payment. The Adequate Assurance Deposit will be held at JP Morgan Chase Bank, N.A. (“JP Morgan”), and the Debtors’ creditors will have no lien on any Adequate Assurance Deposit.

12. As described in the Store Closing Motion, the Debtors intend to conduct store closing sales for certain retail locations. After these stores are closed and utility accounts associated therewith are settled, the Debtors will reduce the amount of the Adequate Assurance Deposit to reflect Utility Services that are no longer being provided. The applicable Utility

Providers will be required to return deposits within 21 days of receiving notice from the Debtors that the respective Utility Service is no longer in use.

13. Additionally, the Debtors seek approval of their proposed Adequate Assurance Procedures. These procedures allow Utility Providers to request adequate assurance for unpaid Utility Services and additional adequate assurance when they believe the proposed amount is not sufficient. This ensures that all key stakeholder groups obtain notice of such request before it is honored.

14. Furthermore, the Debtors request that Utility Providers be prohibited from refusing or disrupting Utility Services, for any duration, including those that are indirectly obtained through nonresidential real property leases with landlords associated with certain retail locations. Landlords must continue to honor their obligations and pay for Utility Services in accordance with such leases until the applicable lease is rejected pursuant to section 365 of the Bankruptcy Code, notwithstanding any current or future nonpayment, deferral, waiver, or other compromise of rent. Utility Services should be preserved on an uninterrupted basis because it is essential to the Debtors' ongoing operations and a successful reorganization. The Debtors' retail enterprise requires maintaining open and active stores to entice and allow customers to make purchases. Any disruption would adversely impact customer relationships and result in a significant decline in the Debtors' revenues and profits. This, in turn, jeopardizes the value of the Debtors' estates and impact creditor recoveries. Therefore, it is critical that Utility Services continue uninterrupted during these chapter 11 cases. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Utilities Motion.

XIV. Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Payment of Certain Prepetition Taxes and Fees and (II) Granting Related Relief (the "Taxes Motion").

15. The Debtors request authority to: (a) negotiate, remit and pay certain accrued and outstanding prepetition obligations accrued in the ordinary course of business on account of the Taxes and Fees in an aggregate amount not to exceed \$1,650,000 on an interim basis and \$1,800,000 on a final basis, absent further order of the Court; and (b) continue negotiating and paying the Taxes and Fees accrued in the ordinary course of business on a postpetition basis.

16. In the ordinary course of business, the Debtors incur and/or collect certain Taxes and Fees and remit such Taxes and Fees to various governmental authorities. The Debtors must continue to pay the Taxes and Fees to avoid potential costly distractions during these chapter 11 cases. Specifically, the Debtors' failure to pay the Taxes and Fees could adversely affect the Debtors' estate because the governmental authorities could file liens or seek to lift the automatic stay.

17. I believe that the relief requested in the Taxes Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to continue to operate their businesses in chapter 11 without disruption. Accordingly, on behalf of the Debtors, I respectfully submit that the Taxes Motion should be approved.

XV. Debtors' Motion Seeking Entry of an Order (I) Authorizing the Debtors to (A) Pay Their Obligations Under Insurance Policies Entered into Prepetition, (B) Continue to Pay Brokerage Fees, and (C) Renew, Supplement, Modify, or Purchase Insurance Coverage, and (II) Granting Related Relief (the "Insurance Motion").

18. The Debtors request authority to: (i) continue honoring their obligations under insurance policies entered into prepetition (the "Insurance Policies") and satisfy payment of prepetition obligations related thereto, including the payment of related brokerage fees, (ii) renew, supplement, modify, extend or purchase insurance coverage, and enter into any bonding in the

ordinary course of business on a postpetition basis, and (ii) granting related relief. The Debtors request the Court to authorize but not obligate the Debtors to pay past due Broker Fees in an aggregate amount not to exceed \$15,000 on an interim basis, absent further order of the Court.

19. The Debtors' Insurance Policies are essential to the preservation of the value of the Debtors' business, properties, and assets. I understand that, in many cases, insurance coverage such as that provided by the Insurance Policies, is required by diverse regulations, laws, and contracts. Additionally, the Debtors have a \$300,000 invoice that will become due and owing during the interim period. Failure to make the payments required by the Debtors' Insurance Policies, including the Financing Agreement, could have a significant negative impact on the Debtors' operations.

20. The Debtors also maintain a Workers' Compensation Program, as required by the laws of the States in which the Debtors' operate. The Debtors believe they are current as of the Petition Date with any fees and premiums owed as part of the Workers Compensation Program. However, out of an abundance of caution, and to ensure compliance with applicable law and to maintain the Workers Compensation Program, the debtors seek authority to pay any Unpaid Workers Compensation Coverage Fees postpetition. The Debtors seek additional relief related to the Workers Compensation program, as more fully described in the Wages Motion.

21. Regulations promulgated by U.S. Customs and Border Protection require the posting of surety bonds as a means to secure the payment of customs, duties, and import fees for importing goods from foreign countries. The Debtors contract with third party logistics providers that arrange for the importation of goods from foreign countries, and as such, the Debtors do not maintain Customs Surety Bonds. Instead, the Debtors maintain Letters of Credit as a means to ensure compliance with applicable regulations. However, out of an abundance of caution, the

Insurance Motion seeks authority to enter into Customs Surety Bonds in the ordinary course of business, if such actions would be necessary to comply with applicable law and maintain the Debtors' ability to import goods from foreign countries.

22. I believe that the relief requested in the Insurance Motion is in the best interest of the Debtors' estates, their creditors, and all other parties in interest, and will enable the Debtors to continue to operate their businesses in chapter 11 without disruption. Accordingly, on behalf of the Debtors, I respectfully submit that the Insurance Motion should be approved.

XVI. Debtors' Application for Appointment of Stretto as Claims and Noticing Agent (the "Stretto Retention Application").

23. Pursuant to the Claims and Noticing Agent Application, the Debtors seek entry of an order (a) appointing Stretto ("Stretto")⁸ as claims and noticing agent for the Debtors and their chapter 11 cases, effective *nunc pro tunc* to the Petition Date, including assuming full responsibility for the distribution of notices and the maintenance, processing, and docketing of proofs of claim filed in the Debtors' chapter 11 cases, and (b) granting related relief.

24. Based on my discussions with the Debtors' advisors, I believe that the Debtors' selection of Stretto to act as the Claims and Noticing Agent is appropriate under the circumstances and in the best interest of the Debtor's estate. Moreover, it is my understanding that, based on all engagement proposals obtained and reviewed, Stretto's rates are competitive and comparable to the rates charged by their competitors for similar services.

25. The Debtors anticipate that there will be thousands of persons and entities to be noticed in these chapter 11 cases. In light of the number of parties in interest and the complexity of the Debtors' business, the Debtors submit that the appointment of a claims and noticing agent

⁸ Stretto is the trade name of Bankruptcy Management Solutions, Inc., and its subsidiaries.

will provide the most effective and efficient means of, and relieve the Debtors and/or the Clerk's office of the administrative burden of, noticing and processing proofs of claim and is in the best interests of both the Debtors' estates and their creditors. Accordingly, on behalf of the Debtors, I respectfully submit that the Court should approve the Stretto Retention Application.