

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

In re:

BHCOSMETICS HOLDINGS, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 22-10050 (CSS)

(Joint Administration Requested)

**DECLARATION OF DAVID PERESS IN SUPPORT OF  
DEBTORS' MOTION TO AUTHORIZE ENTRY INTO AN ASSET PURCHASE  
AGREEMENT WITH A STALKING HORSE BIDDER AND  
APPROVE CERTAIN BIDDING PROTECTIONS**

I, David Peress, declare as follows under penalty of perjury:

1. I am Executive Vice President of Hilco IP Services, LLC, d/b/a Hilco Streambank ("Hilco Streambank"), an intangible asset and intellectual property brokerage firm with offices in Massachusetts, New York, and the United Kingdom. Hilco Streambank has extensive experience in, and an excellent reputation for, providing high quality intellectual property disposition services to large and complex companies in bankruptcy proceedings and other distressed situations. Hilco Streambank and its principals have coordinated the marketing and sale of intellectual property assets for numerous retailers and consumer products companies. As part of those engagements, Hilco Streambank was responsible for, among other things, identifying buyers, marketing intellectual property assets, conducting bidding auctions, and negotiating the terms of sale.

2. I have personally led the marketing and sale of intellectual property assets in a variety of Delaware bankruptcy cases including: *Charming Charlie Holdings Inc.*, Case No.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: BHCosmetics Holdings, LLC (7827); BHCosmetics Intermediate, LLC (2918); BHCosmetics, LLC (9106); and Visceral Agency LLC (9266). The Debtors' service address for purposes of these chapter 11 cases is 8161 Lankershim Blvd., North Hollywood, CA 91605.

19-11534 (CSS); *The Wet Seal, LLC*, Case No. 17-10229 (CSS); *In re Sports Authority Holdings, Inc.*, Case No. 16-10527 (MFW); *In re Ritz Camera & Image LLC*, Case No. 12-11868 (KG); *In re Malibu Lighting Corp.*, Case No. 15-12080 (KG); *In re RadioShack Corp.*, 15-10197(BLS); *In re Berkline/BenchCraft Holdings, LLC*, 11-11369 (MFW); and *In re Earth Fare, Inc.*, 20-10256 (KBO). In those cases, I was responsible for the marketing and sale of the debtor's intellectual property assets, including valuable trademarks, patents, copyrights, domain names, customer lists and related data, and related assets. I have over twenty years of experience in the asset disposition field and over thirty years of experience advising financially distressed companies, their creditors and equity holders. During that period, I have enabled estates and creditors to obtain the highest value for the debtor's intellectual property and associated tangible assets in a variety of cases and contexts.

3. I submit this declaration (this "Declaration") in support of the relief requested in the motion filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors") seeking, among other things, (i) authorization for the Debtors to enter into an asset purchase agreement with a stalking horse bidder; and (ii) approval of certain bidding protections (the "Bidding Procedures Motion"), filed contemporaneously herewith.

4. On January 14, 2022 (the "Petition Date"), the Debtors filed voluntary petitions for relief (the "Chapter 11 Cases") under chapter 11 of the Bankruptcy Code. The Debtors have continued in the possession of their properties and the operation of their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. Hilco Streambank was retained by the Debtors prior to the Petition Date to oversee the marketing and sale process (the "Sale Process") for the Assets. The Debtors will seek to retain Hilco Streambank in these Chapter 11 Cases as the Debtors' agent in connection with the

marketing and sale of certain intellectual property and other assets of the Debtors (collectively, the “Assets”).

6. As part of the Sale Process, Hilco Streambank prepared a detailed information sheet, containing information about the Debtors’ intellectual property portfolio and other assets. The Debtors and Hilco Streambank contacted a total of 84 strategic parties and received responses from 32 parties. A total of 15 parties executed confidentiality agreements and were granted access to an electronic data room (the “Data Room”) containing diligence and other confidential information with respect to the Assets. Three parties expressed an interest in acting as a stalking horse purchaser for the Debtors’ intellectual property and certain additional assets, and two of those parties submitted written indications of interest.

7. After extensive deliberations with Hilco Streambank and the Debtors’ other advisors regarding the terms of an asset purchase agreement, the Debtors secured a stalking horse agreement (the “Stalking Horse Bid”) with RBI Acquisition Holdings, LLC, a Delaware limited liability company (the “Stalking Horse Bidder”) for the sale of a substantial portion of the Assets, including a majority of the Debtors’ intellectual property and inventory. The total cash consideration for the Stalking Horse Bid is approximately \$4.3 million, comprising a bid of \$2.7 million for the Debtors’ intellectual property assets, and the remainder for certain of the Debtors’ inventory assets, subject to certain adjustments and higher or otherwise better offers. As a key inducement to the execution of the Stalking Horse Bid, the Debtors have agreed, subject to Court approval, to provide the Stalking Horse Bidder with certain standard bid protections (collectively, the “Bid Protections”), should the Debtors consummate an alternative transaction for the Assets with another bidder: (i) an initial overbid amount; (ii) payment of a break-up fee in the amount of \$172,000; and (iii) reimbursement of up to \$150,000 in out-of-pocket expenses, each subject to

the terms of the Stalking Horse Bid. The Stalking Horse Bidder would not have agreed to serve as a stalking horse at the values reflected in the Stalking Horse Bid absent the Bid Protections.

8. I believe that the value of the Assets will be best maximized by the selection of the Stalking Horse Bidder, which will enable the Debtors to commence these Chapter 11 Cases with a baseline bid for all other potential bidders for the Assets.

9. Based on my substantial experience and personal knowledge of the Debtors' sale and marketing efforts, I believe the proposed Bid Protections (a) are fair and reasonable; (b) are designed to encourage bidding and obtain the best price for the Assets; and (c) are in the best interests of the Debtors, their creditors and their estates.

Dated: January 15, 2022

/s/ David Peress

David Peress  
Executive Vice President  
Hilco IP Services, LLC d/b/a Hilco  
Streambank