

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Chapter 11

BLITZ, U.S.A., INC., et al.,

Case No. 11-13603 (PJW)

Debtors.

(Jointly Administered)

Hearing: TBD

Objection Due: February 24, 2012, 4:00 PM extended to
February 29, 2012

**OBJECTION OF THE UNITED STATES TO THE
NOTICE OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES
WHICH MAY BE ASSUMED AND ASSIGNED, PURSUANT TO
SECTION 365 OF THE BANKRUPTCY CODE, IN CONNECTION
WITH THE SALE OF CERTAIN OF THE DEBTORS'
ASSETS AND THE PROPOSED CURE AMOUNTS WITH RESPECT THERETO**

The United States, on behalf of its Navy Exchange Service Command ("NEXCOM"), through undersigned counsel, objects to the Notice of Executory Contracts and Unexpired Leases Which May Be Assumed and Assigned, Pursuant to Section 365 of the Bankruptcy Code, in Connection with the Sale of Certain of the Debtors' Assets and the Proposed Cure Amounts with Respect Thereto ("Notice"). (DE 237). The objections stated herein are based upon the best information available to date. In support of its objections, the United States avers as follows:

1. On November 9, 2011, the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. (DE 1).
2. On February 10, 2012, the Debtors filed the Notice. The Notice lists NEXCOM as



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having a F3 Brands Vendor Agreement. The cure amount of the contract is listed at zero. NEXCOM has reviewed its records and does not believe it is currently doing business with the Debtors. NEXCOM records also indicate that no amounts are owed to NEXCOM by the Debtors. However, in light of having received less than thirteen business days notice of the relief sought in the Notice, the United States is not presently in a position to confirm with complete assurance what cure amounts, if any, are owed by the Debtors to NEXCOM. The United States objects to the Notice to the extent it fails to provide for an adequate cure amount with respect to the NEXCOM agreement.

3. The Notice is part of a bidding procedures and sale process put in place by the Debtors ("sale process"). The United States objects to the assumption and assignment of any of its contracts, including but not limited to the NEXCOM agreement, to the extent the Debtors fail to comply with all applicable federal law. The Debtors are not entitled to assume and assign any contract with the United States without its consent. In re West Electronic, Inc., 852 F.2d 79, 83 (3d Cir. 1988); Anti-Assignment Act 41 U.S.C. Section 15. It is imperative to preserve the Government's ability to determine with whom to contract. Federal regulations make it clear that the decision to assign federal interests to the successful bidder is not one that the Debtors may make. Section 363 of the Bankruptcy Code, 11 U.S.C. § 363, upon which the sale process primarily relies, does not preempt non-bankruptcy law in this regard.

WHEREFORE, the United States requests, with respect to the interests of NEXCOM, that the Court deny the relief sought in the Notice for the reasons stated above.

Dated: February 29, 2012

Respectfully submitted,

CHARLES M. OBERLY, III
United States Attorney

/s/ Ellen W. Slights
ELLEN W. SLIGHTS
Assistant United States Attorney
Delaware State Bar No. 2782

Attorneys for the United States

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AFFIDAVIT OF SERVICE

I, Marie Steel, an employee in the Office of the United States Attorney for the District of Delaware, hereby attest under penalty of perjury that on February 29, 2012, a copy of the **OBJECTION OF THE NAVY EXCHANGE SERVICE COMMAND TO THE NOTICE OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES WHICH MAY BE ASSUMED AND ASSIGNED, PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE, IN CONNECTION WITH THE SALE OF CERTAIN OF THE DEBTORS' ASSETS AND THE PROPOSED CURE AMOUNTS WITH RESPECT THERETO** was served, as indicated, upon:

Daniel J. DeFranceschi, Esq.
Paul Heath, Esq.
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844 King Street
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Wilmington, DE 19801
via facsimile (302) 573-6497

Rocky Flick
Blitz U.S.A., Inc.
404 26th Avenue, NW
Miami, OK 74354
Via U.S. Mail

/s/ Marie Steel

Marie Steel