

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re  
Eastern Outfitters, LLC, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11  
Case No.: 17-10243 (LSS)  
(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING  
THE DEBTORS TO FILE CONSOLIDATED LISTS OF THE DEBTORS'  
(A) CREDITORS AND (B) TOP 40 GENERAL UNSECURED CREDITORS**

Eastern Outfitters, LLC and its chapter 11 affiliates, the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases (the "Cases"), hereby move the Court (the "Motion") for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), pursuant to sections 156(c) of title 28 of the United States Code, sections 341 and 521(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rule 1007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 1007-1, 1007-2, and 9013(m) of the Local Rules of Bankruptcy Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), authorizing the Debtors to (i) file consolidated lists of the Debtors' (a) creditors and (b) top 40 general unsecured creditors, excluding insiders, and (ii) provide notices, including notices of commencement of the Cases and of the meeting of creditors required by section 341 of the Bankruptcy Code. In support of the Motion, the Debtors rely on the *Declaration of Mark T. Walsh in Support of First Day Motions*

<sup>1</sup> The Debtors and the last four digits of their respective federal taxpayer identification numbers, where applicable, are as follows: Eastern Outfitters, LLC (9164); Subortis Retail Financing, LLC (9065); Eastern Mountain Sports, LLC (9553); Subortis IP Holdings, LLC; Bob's Stores, LLC (4389); and Bob's/EMS Gift Card, LLC (9618). The Debtors' executive headquarters are located at 160 Corporate Court, Meriden, CT 06450.



(the “First Day Declaration”)<sup>2</sup> concurrently filed herewith. In further support of the Motion, the Debtors respectfully represent as follows:

**Jurisdiction**

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over these Cases and the Motion 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 within the meaning of 28 U.S.C. § 157(b)(2). Venue of these Cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final judgment or order with respect to the Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. The statutory and legal predicates for the relief requested herein are 28 U.S.C. § 156(c), sections 341 and 521(a) of the Bankruptcy Code, Bankruptcy Rule 1007, and Local Rules 1007-1, 1007-2, and 9013(m).

**Background**

4. The Debtors’ operating business consists of Bob’s Stores and Eastern Mountain Sports (“EMS”), each of which is a regional multi-channel retailer engaged in the apparel, footwear, and sporting goods lines of business. Prior to the Petition Date, each of the two retailers was comprised of two primary units: (a) a retail store business; and (b) an e-commerce business. Collectively, the Debtors currently manage 86 retail stores in the Northeast. The

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the First Day Declaration.

Debtors employ approximately 2600 full, part-time and temporary employees across their operations.

5. The Debtors, like other retail companies, have faced various obstacles in the challenging retail environment. Since the Debtors acquired their primary assets out of bankruptcy in July 2016, the Debtors' vendors have imposed very restrictive credit terms thereby depressing inventories. Significantly, unit inventories in some categories are down as much as 30% since the prior sale closed. Largely as a result of inventory pressure, the Debtors have been unable to meet their sales plan. Facing these operational challenges along with tightening liquidity, since September 2016, the Debtors, along with their advisors, have been engaged in a robust prepetition process to explore and solicit interest in a number of potential alternatives including, without limitation, the sale of all or a material business unit of the Debtors, equity investments in all or a portion of the business, the sale of a brand, a licensing transaction, potential liquidity enhancing acquisitions, and liquidation sales.

6. After extensive negotiations with two parties and on the eve of proceeding with a liquidation alternative, the Debtors were able to secure an offer from Sportsdirect.com Retail Ltd. ("Sportsdirect"), the United Kingdom's largest sporting goods retailer, to purchase substantially all of the Debtors' assets. The Debtors commenced these Cases to consummate the sale transaction which will save nearly 1900 employee jobs, close the Debtors' stores not being sold to Sportsdirect and facilitate an orderly liquidation and wind-down.

7. On February 5, 2017 (the "Petition Date"), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner or statutory committee

has been appointed in these Cases by the Office of the United States Trustee for the District of Delaware.

8. A full description of the Debtors' acquisition of their primary assets and their business, corporate structure, prepetition indebtedness, and events leading to these Cases is set forth in the First Day Declaration.

#### **Relief Requested**

9. By this Motion, the Debtors seek entry of the Proposed Order authorizing the Debtors to (a) file consolidated lists of the Debtors' (i) creditors and (ii) top 40 general unsecured creditors,<sup>3</sup> and (b) authorizing the Debtors (or their agents) to complete all mailings of notices, including notices of the commencement of these Cases and the meeting of creditors pursuant to section 341 of the Bankruptcy Code.

#### **Basis for Relief Requested**

##### **A. Request for Authority to File Consolidated List of Creditors**

10. The Debtors along with KCC (defined below) have identified thousands of entities and individuals to which notice of certain events or requests for relief in these Cases must be provided. The Debtors anticipate that such notice of events will include, without limitation, notice of: (a) the filing of the Debtors' voluntary petitions; (b) the initial meeting of the Debtors' creditors in accordance with section 341 of the Bankruptcy Code; (c) applicable bar dates for the filing of claims; (d) the hearing to approve the Debtors' anticipated sales process; and (e) the hearing related to any chapter 11 plan (collectively, the "Notices").

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<sup>3</sup> In connection with this request, the Debtors also request authority to submit one declaration under Bankruptcy Rule 1008 verifying the validity of the consolidated list of creditors and one declaration verifying the validity of the Consolidated Top 40 List (as defined below).

11. Local Rule 1007-2 provides that, in a voluntary chapter 11 case, a debtor must file “a list containing the name and complete address of each creditor in such format as directed by the Clerk’s Office Procedures.” Del. Bankr. L.R. 1007-2(a).

12. The Debtors presently maintain various computerized lists of the names and addresses of their respective creditors that are entitled to receive the Notices and other similar documents. The Debtors believe that the information, as maintained in computer files (or those of their agents), may be consolidated and utilized efficiently to provide interested parties with the Notices and other similar documents, as contemplated by Local Rule 1007-2. Accordingly, by this Motion, the Debtors seek authority to file the lists on a consolidated basis, identifying their creditors in the format or formats currently maintained or developed in the ordinary course of the Debtors’ businesses.

13. The Debtors have filed an application (the “KCC Retention Application”) seeking the retention and appointment of Kurtzman Carson Consultants LLC (“KCC”) as the Debtors’ claims and noticing agent in the Cases. If the KCC Retention Application is granted, KCC will, among other things: (a) assist with the consolidation of the Debtors’ computer records into a creditor and security holder database; and (b) complete the mailing of the Notices to the parties in these databases. After consultation with KCC, the Debtors believe that filing the lists in the format or formats currently maintained in the ordinary course of business will be sufficient to permit KCC to notice promptly all applicable parties as required by Local Rule 1007-2.

**B. Request for Authority to File Consolidated List of Debtors’ Top 40 General Unsecured Creditors**

14. Pursuant to Bankruptcy Rule 1007(d), a chapter 11 debtor must file with its voluntary petition a list setting forth the names, addresses and claim amounts of the creditors,

excluding insiders, that hold the 20 largest unsecured claims in the debtor's case (the "Top 20 List"). This Top 20 List is primarily used by the U.S. Trustee to evaluate the types and amounts of unsecured claims against the debtor and thus identify potential candidates to serve on an official committee of unsecured creditors appointed in the debtor's case pursuant to section 1102 of the Bankruptcy Code.<sup>4</sup>

15. The Debtors submit that a single consolidated list of their combined 40 largest general unsecured creditors, excluding insiders, in these Cases would be more reflective of the body of unsecured creditors that have the greatest stake in these Cases than separate lists for each of the Debtors. Indeed, a list of the combined top 40 creditors captures creditors with claims as low as \$53,993. Any marginal benefit to preparing individual creditor lists for each of the Debtors is far outweighed by its burden and expense. Therefore, the Debtors respectfully request authorization to file a single consolidated list of their 40 largest general unsecured creditors in these Cases, excluding insiders (the "Consolidated Top 40 List").

16. The Debtors believe that such relief is not only appropriate under the circumstances, but necessary for the efficient and orderly administration of these Cases.

### **C. Mailings**

17. In lieu of effecting service through the clerk of the Court, the Debtors also request that they (or KCC) be approved and authorized to complete all mailings to creditors and equity holders in these Cases, including notice of the commencement of these Cases and

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<sup>4</sup> "The purpose of the separate list of 20 largest creditors required by this provision in the rules is to enable the clerk to identify members and the court to appoint immediately an unsecured creditors' committee in compliance with 11 U.S.C. § 1102(a)(1)." *In re Dandy Doughboy Donuts, Inc.*, 66 B.R. 457, 458 (Bankr. S.D. Fla. 1986); *see also* 9 Collier on Bankruptcy ¶ 1007.04 (Alan N. Resnick et al. eds., 16th ed. Rev. 2016) ("[T]he larger [unsecured creditor] list and information about the claims of the creditors on the list enables the United States Trustee to determine the different types of claims existing in order to assure that a fully representative committee is appointed.").

notice of the meeting of creditors, pursuant to section 341 of the Bankruptcy Code. Indeed, Local Rule 2002-1(f) requires the Debtors to file a motion for the retention of a claims and noticing agent because the Debtors have more than 200 creditors.

18. Allowing the Debtors (or KCC) to complete their own mailings will save significant time, cost and expense.

**Notice**

19. The Debtors will provide notice of this Motion to: (a) the United States Trustee for the District of Delaware; (b) the holders of the 40 largest unsecured claims, excluding insiders, against the Debtors (on a consolidated basis); (c) counsel to PNC Bank, National Association, as prepetition first lien agent and lender; (d) the Internal Revenue Service; (e) the Office of the United States Attorney for the District of Delaware; (f) the Delaware Secretary of State; (g) the Delaware Secretary of Treasury; and (h) Sportsdirect.com Retail Ltd. as prepetition second lien lender, proposed postpetition lender, and proposed purchaser of certain of the Debtors' assets. As this Motion is seeking "first day" relief on an expedited basis, the Debtors will serve copies of this Motion and any order entered in respect to this Motion as required by Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

**No Prior Request**

20. No prior motion for the relief requested herein has been made to this or any other court.

*[Remainder of Page Intentionally Left Blank]*

WHEREFORE, the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and granting such other relief as is just and proper.

Dated: February 6, 2017  
Wilmington, Delaware

**COLE SCHOTZ P.C.**



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Norman L. Pernick (I.D. No. 2290)  
Marion M. Quirk (I.D. No. 4136)  
Katharina Earle (I.D. No. 6348)  
500 Delaware Avenue, Suite 1410  
Wilmington, DE 19801  
Telephone: (302) 652-3131  
Facsimile: (302) 652-3117  
NPernick@coleschotz.com  
MQuirk@coleschotz.com  
KEarle@coleschotz.com

- and -

**BRACEWELL LLP**

Robert G. Burns (*pro hac vice* pending)  
Jennifer Feldsher (*pro hac vice* pending)  
David M. Riley (*pro hac vice* pending)  
1251 Avenue of Americas, 49th Floor  
New York, New York 10020-1104  
Telephone: (212) 508-6100  
Facsimile: (800) 404-3970  
Robert.Burns@bracewelllaw.com  
Jennifer.Feldsher@bracewelllaw.com  
David.Riley@bracewelllaw.com

- and -

Mark E. Dendinger (*pro hac vice* pending)  
CityPlace I, 34th Floor  
185 Asylum Street  
Hartford, Connecticut 06103  
Telephone: (860) 947-9000  
Facsimile: (800) 404-3970  
Mark.Dendinger@bracewelllaw.com

*Proposed Counsel for Debtors  
and Debtors in Possession*



**EXHIBIT A**

**Proposed Order**

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

In re  Eastern Outfitters, LLC, <i>et al.</i> , <sup>1</sup>  <div style="text-align: center;">Debtors.</div>	Chapter 11  Case No.: 17- 10243 (LSS)  (Joint Administration Requested)  Related to Docket No. ____
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**ORDER AUTHORIZING THE DEBTORS TO  
FILE CONSOLIDATED LISTS OF THE DEBTORS'  
(A) CREDITORS AND (B) TOP 40 GENERAL UNSECURED CREDITORS**

Upon the motion (the "Motion")<sup>2</sup> of Eastern Outfitters, LLC and its chapter 11 affiliates, the debtors and debtors in possession (the "Debtors") in the above-captioned jointly administered chapter 11 cases (the "Cases"), for entry of an order (this "Order") authorizing the Debtors to (i) file consolidated lists of the Debtors' (a) creditors and (b) top 40 general unsecured creditors, excluding insiders, (the "Consolidated Top 40 List") and (ii) complete all mailings of notices, including notices of the commencement of these Cases and of the meeting of creditors required by section 341 of the Bankruptcy Code, all as more fully described in the Motion; and upon consideration of the First Day Declaration and the record of these Cases; and it appearing that the Court has jurisdiction to consider the Motion 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 February 29, 2012; and it appearing that the Motion is a core matter pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that venue of these Cases and of the Motion is

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

proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Motion has been given under the circumstances, and that no other or further notice need be given; and after a hearing on the Motion, it appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and after due deliberation, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED, as set forth herein.
2. The Debtors are authorized to file a consolidated list of the Debtors' creditors.
3. The Debtors are authorized to file the Consolidated Top 40 List.
4. The Debtors are authorized to file one declaration under Bankruptcy Rule 1008 in connection with the consolidated list of the Debtors' creditors and the Consolidated Top 40 List.
5. The Debtors, with the assistance of KCC, are authorized to complete all mailings to creditors and equity holders in lieu of effecting service through the Office of the Clerk of this Court, including notice of the commencement of these Cases and notice of the meeting of creditors pursuant to section 341 of the Bankruptcy Code.
6. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry.
7. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
8. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion or are otherwise deemed waived.

9. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: February \_\_, 2017  
Wilmington, Delaware

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THE HONORABLE LAURIE SELBER SILVERSTEIN