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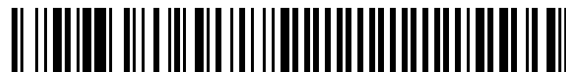
**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	Case No. 07-_____
)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹)	Chapter 11
)	
Debtors.)	
)	

**MOTION OF THE DEBTORS FOR AN ORDER AUTHORIZING
THE ASSUMPTION BY THE DEBTORS OF THE STORE CLOSING
CONSULTING AGREEMENT WITH GREAT AMERICAN GROUP, LLC**

The above-captioned debtors (collectively, the “Debtors”) hereby move the Court, pursuant to this Motion (the “Motion”), for the entry of an order, substantially in the form of Exhibit A, authorizing the Debtors to assume that certain store closing Consulting Agreement (as defined below) with Great American Group, LLC (“Great American”). In support of this Motion, the Debtors submit the declaration of Mark Naughton of Great American (the “Naughton Declaration”),

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.



which is attached hereto as Exhibit B. In further support of this Motion, the Debtors respectfully state as follows:²

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are sections 105(a) and 365(a) of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”).

Background

4. On the date hereof (the “Commencement Date”), each of the Debtors filed a petition with the Court under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated. Concurrently with the filing of this Motion, the Debtors have sought procedural consolidation and joint administration of these chapter 11 cases.

5. The Debtors are the second largest North American home entertainment specialty retailer. They currently operate approximately 4,200 retail stores located throughout all 50 states. They rent and sell DVDs, videocassettes and video games through three distinct brands — Movie Gallery, Hollywood Video and Game Crazy.

² To the extent not set forth in the Naughton Declaration, the facts and circumstances supporting this Application are set forth in the Affidavit of William C. Kosturos, Chief Restructuring Officer of Movie Gallery, Inc., in Support of First Day Motions (the “First Day Affidavit”), filed contemporaneously herewith.

6. In 2006, the aggregate annual revenues of the Debtors and their non-Debtor affiliates, including rental revenue and product sales, exceeded \$2.5 billion. Of this amount, approximately 56% was attributed to DVD rentals, 15% to the sale of previously-rented DVDs, VHS cassettes and video games, 13% to the sale of new and used gaming products, 7% to game rentals, 4% to the sale of concessions and other miscellaneous products, 3% to the sale of movie-related products and merchandise and 2% to VHS cassette rentals. As of September 2, 2007, the Debtors and their non-Debtor affiliates employed approximately 38,800 employees, including approximately 7,500 full-time employees and 31,300 part-time employees.

7. Several factors have led to the filing of these chapter 11 cases. First, the video rental industry is highly competitive. The Debtors face direct competition from competitors such as Blockbuster and Netflix and indirect competition from pay-per-view, cable television and big-box retailers who sell DVDs at increasingly lower prices. Furthermore, recent box office receipts of rental releases have declined over the previous year, contributing to an industry-wide decline in demand for video rentals. Finally, as the Debtors' financial performance has deteriorated, they have experienced contracting trade terms, which have had a negative impact on the Debtors' liquidity, which, in turn, has contributed to the Debtors' inability to comply with certain financial covenants under their credit agreements.

8. Prior to the Commencement Date, the Debtors reviewed extensively the performance of their retail store locations, including a review of the profitability of each store on a stand-alone basis. As a result of this review process, the Debtors have identified numerous stores as underperforming or unprofitable and determined that such stores should be closed as part of the Debtors' overall restructuring. Indeed, contemporaneously filed herewith, the Debtors are seeking

approval of the Motion of the Debtors for an Order Authorizing the Debtors to Reject Certain Unexpired Leases and Subleases of Real Property effective as of the Commencement Date. Additionally, the Debtors will continue to evaluate other stores and will make decisions whether to close such other stores on a continuing basis.³

9. In connection with the Debtors' closing of those certain retail store locations, the Debtors further determined that prior to those closings, the liquidation of certain inventory, fixtures and equipment (collectively, the "Merchandise") in a commercially reasonable fashion would provide the Debtors with the best opportunity to maximize the value of the Merchandise located within the Stores (the "Store Closing Sales").⁴

10. To that end, prior to the Commencement Date, Movie Gallery US, LLC ("MGUC") and Hollywood Entertainment Corporation ("Hollywood") entered into that certain store closing Consulting Agreement dated as of October 2, 2007 (the "Consulting Agreement") with Great American, which is annexed as Exhibit 1 to Exhibit A⁵ attached hereto and incorporated by reference herein. Pursuant to the Consulting Agreement, Great American was retained as an agent to conduct the Store Closing Sales at approximately 500 of the Debtors' retail locations throughout the United States. Great American is currently in the process of conducting such Store Closing Sales.

³ Within the first few weeks of the date hereof, the Debtors intend to seek approval of expedited rejection and abandonment procedures for those stores that the Debtors, in their business judgment, determine are no longer profitable or underperforming.

⁴ Contemporaneously filed herewith, the Debtors are seeking approval of the Motion of the Debtors for an Order (A) Authorizing the Debtors to Conduct Store Closing Sales, (B) Approving Procedures with Respect to Store Closing Sales and (C) Authorizing the Debtors to Pay Limited Liquidation Bonuses and Severance Bonuses in Connection with Store Closing Sales.

⁵ The Exhibits to the Consulting Agreement are available upon reasonable prior written request of the Debtors' counsel.

Relief Requested

11. By this Motion, the Debtors seek to assume the Consulting Agreement with Great American pursuant to section 365 of the Bankruptcy Code. If the Court grants the relief requested herein, Great American will continue as the Debtors' agent for the sale of Merchandise in connection with the Store Closing Sales.

12. Except as otherwise provided herein, the proposed retention of Great American conforms with the requirements under section 327 for the retention of professionals.

13. Great American will not be required to submit fee applications to the Court in accordance with the terms of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of Virginia or any procedures that may be approved by this Court for professionals retained pursuant to section 327 of the Bankruptcy Code.

14. To maintain transparency, however, Great American will submit regular invoices to the Debtors in accordance with the terms of the Consulting Agreement as well as file quarterly reports with the United States Trustee for the Eastern District of Virginia regarding any payments made by the Debtors to Great American for compensation and reimbursement of expenses pursuant to the terms and conditions of the Consulting Agreement.

15. Additionally, contemporaneously filed herewith, the Debtors are seeking approval of the Motion of the Debtors for an Order Authorizing the Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business (the "OCP Motion"). The procedures set forth in the OCP Motion contemplate the Debtors filing quarterly reports with the fees and expenses paid to each of the ordinary course professionals retained pursuant to the OCP Motion and the

procedures contemplated therein (the “Quarterly OCP Reports”). As part of the Quarterly OCP Reports, the Debtors will include all fees and expenses paid to Great American during the applicable quarter.

Great American’s Qualifications

16. Great American is one of the nation’s premier asset management firms. Prior to entry into the Consulting Agreement, the Debtors carefully reviewed the qualifications and experience of Great American’s personnel and determined that Great American was highly qualified, based on the substantial experience of its employed professionals, to assist the Debtors in maximizing value in connection with the Store Closing Sales. Moreover, Great American enjoys an excellent reputation for the quality of the services its professionals have rendered on behalf of a myriad of other large corporations involved in complex bankruptcy cases with expansive retail store portfolios similar to the Debtors. Indeed, Great American has recently assisted some of the largest retailers in the industry liquidate approximately \$30 billion of assets. Specifically, Great American has provided asset management consulting services in connection with the chapter 11 filings of numerous companies in the Court and others, including In re Collins & Aikman Corp., Case No. 05-55927 (Bankr. E.D. Mich. June 28, 2007); In re Three A’s Holdings, L.L.C., Case No. 06-10886 (Bankr. D. Del. Oct. 25, 2006); In re Refco Inc., Case No. 05-60006 (Bankr. S.D.N.Y. Mar. 30, 2006); In re Treasure Island, Inc., Case No. 06-10416 (Bankr. D.N.J. Feb. 6, 2006); In re Musicland Holding Corp., Case No. 06-10064 (Bankr. S.D.N.Y. Feb. 1, 2006); In re Rhodes, Inc., Case No. 04-78434 (Bankr. N.D. Ga. Nov. 24, 2004); In re Pegasus Satellite Television, Inc., Case No. 04-20878 (Bankr. D. Me. Nov. 10, 2004); In re Warehouse Entm’t, Inc., Case No. 03-10224 (Bankr. D. Del.

Feb. 19, 2003); In re Kmart Corp., Case No. 02-02474 (Bankr. N.D. Ill. Mar. 20, 2002); In re Heilig-Meyers Co., Case No. 00-34533 (DOT) (Bankr. E.D. Va. September 13, 2000).

Services to Be Provided

17. Pursuant to the terms and conditions set forth in the Consulting Agreement, upon assumption of the Consulting Agreement, Great American will continue to provide the Debtors with the following services in connection with ongoing and future Store Closing Sales:⁶

- a. Selling the Merchandise: All sales of Merchandise shall be made on behalf of the Debtors and run through Debtors' POS system. Great American does not have, nor shall it have, any right, title or interest in the Merchandise. All sales of Merchandise shall be by cash, credit card, gift card or check, and shall be marked "final."
- b. Advertising: Great American will recommend and implement advertising, promotion and sign programs to sell effectively the Merchandise during the Sales.
- c. Pricing: Great American will recommend and implement appropriate pricing, display and discounting of Merchandise, as well as recommend appropriate staffing levels of employees for the Closing Stores.
- d. Managing Inventory: Great American will recommend and implement the transfer and balancing of inventory between the Closing Stores to maximize results during the Sales.
- e. Monitoring Store Presentation: Great American will monitor the Closing Stores' performance and the physical layout of the Closing Stores and recommend and assist in the implementation of merchandising and visual presentation recommendations.
- f. Selling Fixtures and Equipment: Great American will assist with and direct the sale of the Fixtures and the Equipment located in the Closing Stores.
- g. Providing Other Services: Great American will provide such other related services deemed necessary or prudent by the Debtors in their sole discretion

⁶ Capitalized terms used in this summary but not otherwise defined herein shall have the meanings set forth in the Consulting Agreement. This summary is solely for the benefit of the Court and parties in interest. To the extent that this summary and the terms of the Consulting Agreement are inconsistent, the terms of the Consulting Agreement shall control.

and agreed upon by Great American, under the circumstances giving rise to the Sales.

Great American's Professional Compensation

18. The compensation arrangement provided for in the Consulting Agreement is consistent with and typical of arrangements entered into by Great American and other asset management consultants with the rendering of similar services to clients such as the Debtors (the "Fee Structure"). In consideration for services relating to the Store Closing Sales, Great American shall be compensated pursuant to the following Fee Structure, as more fully set forth in the Consulting Agreement:⁷

- a. **Base Fee:** Great American will be entitled to receive a base fee equal to \$1,950 per Store for its services.
- b. **Incentive Fee:** Great American also may be entitled to a performance based incentive fee (the "Incentive Fee") calculated as a percentage of the net proceeds received from the Sales (the "Net Proceeds"). "Net Proceeds" shall mean the gross proceeds of the Sales (*e.g.*, all amounts collected or realized during the Sales less only sales tax) less Sales Expenses (as defined below). Such Incentive Fee would be payable as earned. Pursuant to the Fee Structure, Great American's total fee for the base fee and the incentive fee shall not exceed \$1,500,000.00. The Incentive Fee will be calculated as follows:

<u>Net Proceeds</u>	<u>Consultant's Incentive Fee</u>
Up to \$14.8 million	0%
From \$14.8 million to 15.8 million	20%
From \$15.8 million to 16.8 million	25%
From \$16.8 million to 17.8 million ⁸	30%

- c. **Expenses:** The Debtors will be responsible for the payment of all reasonable and necessary expenses incurred in conducting the Sales (the "Sales Expenses"). The Sales Expenses include, but are not limited to: (i) payroll, benefits and incentive pay (if any) for all store employees used in conducting

⁷ Capitalized terms used in this summary but not otherwise defined herein shall have the meanings set forth in the Consulting Agreement. This summary is solely for the benefit of the Court and parties in interest. To the extent that this summary and the terms of the Consulting Agreement are inconsistent, the terms of the Consulting Agreement shall control.

the Sales; (ii) signs, banners, advertising and all other promotional costs; (iii) costs of consolidating Merchandise between the Closing Stores; (iv) credit card fees, charge backs and discounts; (v) per diem occupancy costs related to the Closing Stores; and (vi) all costs of Great American's supervisors, including fees, reasonable travel expenses and other out of pocket expenses. Prior to commencement of the Sales, the parties will agree upon a budget setting forth the Sales Expenses over which Great American has control (which will include advertising, travel and supervision expenses) and agree upon other Sales Expenses, for purposes of calculating the Net Proceeds. For further clarity, any cost of goods related to revenue sharing agreements or otherwise, as well as any store closing costs incurred after the conclusion of the Sales, shall not be considered a Sales Expense.

- d. Fixtures and Equipment: Great American shall sell Closing Store Fixtures and Equipment for a commission of 25% of the proceeds from the sale of such assets, plus reimbursement of Great American's actual out of pocket expenses incurred in connection with the sale of such assets. Great American will leave the Stores broom swept with any unsold fixtures moved to a corner of the Store. To the extent that any Fixtures or Equipment cannot be sold, Great American will dispose of the Fixtures or Equipment to allow for the Debtors' prompt exit from the Closing Stores at Debtors' discretion and cost.

Basis for Relief

19. Section 365 of the Bankruptcy Code provides, in relevant part, that a debtor in possession "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). A contract is executory where "performance is due to some extent on both sides." See N.L.R.B. v. Bildisco & Bildisco, 465 U.S. 513, 522 n.6 (1984); see also Gloria Mfg. Corp., v. Int'l Ladies' Garment Workers' Union, 734 F.2d 1020, 1022 (4th Cir. 1984) (A contract is executory "if the obligations of both the [debtor] and the other party to the contract are so far unperformed that the failure of either to complete the performance would constitute a material breach [of the contract, thereby] excusing the performance of the [counterparty].").

20. Section 365 further provides that a debtor in possession may assume an executory contract or unexpired lease if there has been no default under the agreement or, if a default has occurred, the debtor cures the default and provides adequate assurance of future performance under the agreement. 11 U.S.C. § 365(a), (b); see also In re Shangra-La, Inc., 167 F.3d 843, 847 (4th Cir. 1999).

21. The Debtors submit the Consulting Agreement is an executory contract within the meaning of section 365 of the Bankruptcy Code — the failure of either MGUS/Hollywood or Great American to perform under the Consulting Agreement would constitute a breach of the Consulting Agreement, excusing the performance of the other party. Great American is in the process of and will continue to conduct ongoing Store Closing Sales of the Debtors' Merchandise. The Debtors' believe Great American's efforts could potentially result in the recognition of approximately \$18 million in value resulting from the sale of the Merchandise. As a result, MGUS and Hollywood have committed to compensating Great American in accordance with the Fee Structure.

22. A debtor's decision to assume or reject an unexpired lease or executory contract is subject to court review under the "business judgment" standard. See Bildisco, 465 U.S. at 523; see also Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc., 756 F.2d 1043, 1046 (4th Cir. 1985). Under the "business judgment" standard, "courts defer to corporate officers' decisions on matters entrusted to their business judgment absent a showing of bad faith or gross abuse of that judgment, and this rule extends to bankruptcy proceedings." Quality Inns Int'l., Inc. v. L.B.H. Assocs. Ltd. P'ship, Nos. 89-2443 to 89-2445, 1990 WL 116761, at *7 (C.A.4 Md. July 26, 1990), cert denied, 498 U.S. 1083 (1991); see also Lubrizol, 756 F.2d at 1047 ("[T]he business judgment rule requires that courts accept such decision unless it is shown that the decision [is so manifestly unreasonable

that it could not be based on sound business judgment, but only on bad faith, or whim or caprice].”). Accordingly, a decision is subject to the “business judgment” standard if such decision based upon the premise that it would be beneficial to the estate. Id.

23. The Debtors have determined, in their sound business judgment, that the Consulting Agreement with Great American should be assumed. Faced with significant store closures and an immense amount of work needed to conduct Store Closing Sales in connection therewith, the Debtors simply do not have the resources necessary to conduct Store Closing Sales themselves. Thus, the Debtors sought the assistance of Great American on a prepetition basis to facilitate the sales of Merchandise and maximize value for the Debtors and, in turn, all parties in interest. Assumption of the Consulting Agreement will ensure the seamless continuation of the Store Closing Sales, many of which are in process. Therefore, assumption of the Consulting Agreement will aid in the Debtors’ efforts to maximize the value of the Merchandise for the benefit of the Debtors’ estates, their creditors and other parties in interest.

24. Furthermore, replacement of Great American at this time, while Store Closing Sales are already underway, would require the Debtors to commit significant resources to enable another consultant to get up to speed. Considering the time restraints and daily pressures of the chapter 11 process, it is unlikely that any substitute consultant would be in a position to duplicate Great American’s expertise and knowledge of the Debtors’ business in an expedited time frame to ensure continued success of current Store Closing Sales. Alternatively, without the continued assistance of Great American at this critical time, the Debtors may be required to abandon Store Closing Sales and jeopardize value that would otherwise be available for the benefit of all parties in interest. Finally, any interruption in Great American’s services would delay Store Closing Sales, causing the Debtors

to waste valuable resources on already unprofitable stores. Thus, assumption of the Consulting Agreement, a decision well within the Debtors' sound business judgment, is in the best interests of the Debtors' estate, their creditors and other parties in interest and should be authorized pursuant to section 365 of the Bankruptcy Code.

Waiver of Memorandum of Points and Authorities

25. The Debtors respectfully request that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be accompanied by a written memorandum of points and authorities as described in Rule 9013-1(G) of the Local Bankruptcy Rules for the Eastern District of Virginia.

Notice

26. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition first lien facilities; (e) counsel to the agent for the Debtors' prepetition second lien facility; (f) the trustee for the Debtors' 11% senior unsecured notes; (g) counsel to Sopris Capital Advisors LLC; (h) the trustee for the Debtors' 9.625% senior subordinated unsecured notes; (i) counsel for certain movie studios; (j) the Internal Revenue Service; (k) the Securities and Exchange Commission; and (l) the banks that process disbursements in the Debtors' cash management system (Bank of America, Canadian Imperial Bank of Commerce and Wachovia Bank). No later than two business days after entry of the order granting the relief requested in this Motion, the Debtors shall serve this Motion on the Debtors' known potential

secured creditors who have filed financing statements or their known agents or trustees, if applicable; the Debtors' respectfully suggest that such service shall satisfy any requirements set forth in Local Bankruptcy Rule 2014-1. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, for the reasons set forth herein and in the First Day Affidavit, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, (a) authorizing the Debtors to assume the Consulting Agreement and (b) granting such other and further relief as is just and proper.

Richmond, Virginia

Dated: October 16, 2007

/s/ Peter J. Barrett

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EXHIBIT A

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Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	Case No. 07-_____
)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹)	Chapter 11
)	
Debtors.)	
)	

**ORDER AUTHORIZING THE DEBTORS TO ASSUME THE STORE
CLOSING CONSULTING AGREEMENT WITH GREAT AMERICAN GROUP, LLC**

Upon the motion (the “Motion”)² of the above-captioned debtors (collectively, the “Debtors”) for the entry of an order (the “Order”) authorizing the Debtors to assume that certain store closing Consulting Agreement dated as of October 2, 2007 (the “Consulting Agreement”) among Movie Gallery US, LLC (“MGUC”), Hollywood Entertainment Corporation (“Hollywood”) and Great American Group, LLC (“Great American”), the Naughton Declaration (as defined below)

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

and the First Day Affidavit; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties in interest; the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); venue being proper before this court pursuant to 28 U.S.C. §§ 1408 and 1409; the Court having reviewed the Motion and the declaration of Mark Naughton in support thereof (the "Naughton Declaration"); the Court being satisfied based on the representations made in the Motion and the Naughton Declaration that Great American does not hold or represent an interest adverse to the Debtors' estates; notice of the Motion having been adequate and appropriate under the circumstances; and after due deliberation and sufficient cause appearing therefore, it is hereby ORDERED

1. The Motion is granted in its entirety.
2. Upon entry of this Order, the Debtors are authorized to assume the Consulting Agreement attached hereto as Exhibit 1 in accordance with the terms and conditions set forth in the Consulting Agreement and the Motion.
3. The Consulting Agreement is in full force and effect, and upon the date of this Order, no monetary or non-monetary default will exist thereunder, other than any event of default existing as a result of the filing of these bankruptcy cases and monetary cure amounts, which shall be cured by the Debtors.
4. Great American shall, in addition to submitting regular invoices to the Debtors in accordance with the terms of the Consulting Agreement, file quarterly reports with the United States Trustee for the Eastern District of Virginia regarding any payments made by the Debtors to Great

American for compensation and reimbursement of expenses pursuant to the terms and conditions of the Consulting Agreement.

5. The Debtors shall, as part of the reports filed by the Debtors pursuant to the order granting relief set forth in the Motion of the Debtors for an Order Authorizing the Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business, include the fees and expenses paid to Great American during the applicable period in such reports.

6. The entry of this Order is conditional on the terms set forth herein. Any party in interest may object to the entry of this Order within ten (10) days after the date of entry of this Order (an "Objection"). If an Objection is timely filed and not withdrawn before such hearing, the Objection shall be heard at the next regularly-scheduled omnibus hearing date. At the hearing, the Court may vacate this Order, modify it or make it final. If no timely Objection is filed (or is filed and subsequently withdrawn), this Order shall become final at the conclusion of such objection period without further order of the Court. This Order shall remain in effect until further order of the Court. The modification or vacation of this Order shall not impair any action taken pursuant to it prior to its modification or vacation.

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 terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

Richmond, Virginia
Date: October ____, 2007

United States Bankruptcy Judge

EXHIBIT 1

CONSULTING AGREEMENT

This Consulting Agreement, dated as of October 2, 2007 (together with all Schedules, Exhibits and attachments hereto, collectively, the "Agreement"), is made by and between Great American Group, LLC, a California limited liability company, with a principal place of business at 6330 Variel Avenue, Woodland Hills, California 91367 (the "Consultant") and Movie Gallery US, LLC, a Delaware limited liability company, and Hollywood Entertainment Corporation, a Virginia corporation, each with a principal place of business at 900 West Main Street, Dothan, Alabama, 36301 (collectively the "Merchant").

WITNESSETH:

WHEREAS, Merchant is in the business of operating retail store locations for the sale and rental of DVDs, videocassettes, video games and other items;

WHEREAS, from time to time, Merchant may determine that it is in its best interests to close certain of its retail store locations;

WHEREAS, Consultant is in the business of, among other things, providing inventory and fixture disposition services to retailers desiring to close retail store locations;

WHEREAS, Merchant has identified certain retail store locations identified on **Exhibit 1.10** hereto at which it desires Consultant to provide consulting services with respect to the management and disposition of Merchandise in the context of a "Store Closing" or similar theme sale; and

WHEREAS, Merchant and Consultant desire to enter into an arrangement whereby Consultant will provide Merchandise and fixture disposition services to Merchant at the Stores.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS

For the purposes of this Agreement, the terms listed below shall have the respective meanings indicated:

1.1 "Budget" shall mean the budget of specific advertising and Supervisor Costs set forth as **Exhibit 1.1** hereto.

1.2 "Merchandise" shall mean all items of inventory or merchandise located in the Stores as of the Sale Commencement Date or rental items available for the Sale that are returned by customers to the store following the Sale Commencement Date, and for greater certainty does not include any furniture, fixtures (trade or other) or equipment. Merchandise shall also include additional inventory owned by Merchant that Merchant and Consultant mutually agree to include in the Sale and is delivered to the applicable Stores by Merchant after the Sale Commencement Date.

1.3 "Proceeds" means the aggregate of all sales of Merchandise made under this Agreement, including honored discount coupons, store credits, gift certificates and frequent shopper certificates, exclusive of all applicable sales taxes.

1.4 "Sale Commencement Date" shall mean September 26, 2007.

1.5 "Sale" shall mean a "Store Closing," or other mutually agreed high impact themed sale at the Stores.

1.6 "Sale Expenses" shall mean those reasonable and necessary expenses incurred in connection with the Sale, including (a) payroll, benefits capped at no more than 10.5% of base payroll and incentive pay for employees of Merchant utilized in the Sale, (b) costs of transferring Merchandise between Stores, (c) Supervisor Costs (as defined below), (d) advertising expenses including signs and banners (including freight) and local advertising expenses, (e) per diem occupancy costs related to the Stores up to the amounts set forth on **Exhibit 1.6**, (f) corporate travel necessary to monitor and manage the Sale, (g) any additional supplies or other miscellaneous expenses directly incurred which are reasonable and necessary for the Sale, and (h) certain miscellaneous expenses approved in advance by Merchant. For further clarity, any costs of goods related to revenue sharing agreements or otherwise as well as any store closing costs incurred after the conclusion of the Sale shall NOT be considered a Sale Expense.

1.7 "Sale Term" shall mean the period of time beginning with the Sale Commencement Date and ending on the Sale Termination Date.

1.8 "Sale Termination Date" for the Stores shall be the vacate date of each Store but any case no later than November 22, 2007, unless mutually agreed by Merchant and Consultant.

1.9 "Services" shall mean the services to be performed by Consultant pursuant to Section 2.2 of this Agreement.

1.10 "Stores" shall mean Merchant's retail store locations identified on **Exhibit 1.10** (which may be expanded from time to time pursuant to Section 13.8 hereof), which may be individually referred to herein from time to time as a "Store."

1.11 "Store Employees" shall mean those individuals who Merchant employs and retains in the Stores to conduct the Sale.

1.12 "Supervisors" shall mean the individuals whom Consultant shall engage to provide Services in the Stores to Merchant in connection with the Sale.

1.13 "Supervisor Costs" shall have the meaning set forth in Section 2.3 of this Agreement.

2. CONSULTING

2.1 Merchant hereby retains Consultant to conduct a Sale at the Stores as an independent consultant to Merchant.

2.2 On the terms and conditions set forth herein, commencing as of the Sale Commencement Date, Consultant shall provide Merchant with the following Services with respect to the conduct of a Sale:

- (i) provide two lead Supervisors, three financial Supervisors and other Supervisors as needed and mutually agreed upon by the parties, to assist Merchant in conducting the Sale;
 - (ii) oversee the liquidation and disposal of the Merchandise to assist Merchant in maximizing the net proceeds from such Merchandise;
 - (iii) recommend and implement appropriate advertising to sell effectively the Merchandise during the Sale;
 - (iv) recommend and implement the appropriate merchandising, pricing and discounting of the Merchandise;
 - (v) recommend and over see appropriate staffing levels for the Stores;
 - (vi) recommend and implement the transfer and balancing of Merchandise between the Stores to maximize results during the Sale;
 - (vii) monitor the Stores' performance and the physical layout of the Stores and recommend and assist in the implementation of merchandising and visual presentation recommendations;
 - (viii) provide such other related services deemed necessary or prudent by Merchant and Consultant under the circumstances giving rise to a Sale;
- and

(ix) monitor and control those categories of Sale Expenses set forth on the Budget. Consultant shall not exceed the Sale Expenses set forth on the Budget without Merchant's written consent, which consent Merchant may withhold in its sole discretion.

2.3 In connection with the Sale, Consultant shall directly retain and engage the Supervisors and Consultant and Merchant shall mutually determine the appropriate number of Supervisors to use in the Sale based on the number and locations of Stores included in the Sale. The Supervisors are independent contractors engaged by Consultant and are not and shall not be deemed to be employees or agents of Merchant in any manner whatsoever; nor do the Supervisors have any relationship with Merchant by virtue of this Agreement or otherwise which creates any liability or responsibility on behalf of Merchant for the Supervisors. During the Sale Term, the Supervisors shall perform Services during normal Store operating hours and for the period of time prior to the Store opening and subsequent to the Store closing, as required in connection with the Sale in Consultant's discretion. In consideration of Consultant's engagement of the Supervisors, Merchant agrees to pay Consultant, as a Sale Expense, (i) the sum of \$4,455.00 per week of the Sale for each lead Supervisor, \$4,225.00 per week for each financial Supervisor and \$3,442.00 per week for each of the remaining Supervisors and (ii) the Supervisors' reasonable out of pocket travel costs for reasonable travel to and from and between the Stores (collectively, the "Supervisor Costs").

2.4 Title to all Merchandise shall remain with Merchant at all times during the Sale Term until such Merchandise is sold by or on behalf of Merchant. All sales of Merchandise in the Stores shall be made on behalf of Merchant and run through Merchant's POS system. All sales of Merchandise shall be for cash, credit card, gift card or check, and all receipts shall be marked "final".

2.5 At all times during the term of this Agreement, Consultant shall maintain liability insurance policies (including, but not limited to, comprehensive public liability insurance and auto liability insurance) covering injuries to persons and property in or in connection with Consultant's Services. Consultant shall be responsible for the payment of all deductibles, self-insurance and other amounts payable in connection with any claim asserted under such policies, except for any claims arising directly from the gross negligence or willful misconduct of Merchant.

2.6 At all times during the term of this Agreement, Consultant shall maintain a policy of worker's compensation insurance covering any employees of Consultant providing Services under this Agreement with coverage limits in compliance with applicable state law governing the employment of said employees of Consultant, and Consultant shall be responsible for the payment of all deductibles, self-insurance and other amounts payable in connection with any claim asserted under such policy or policies.

3. EXPENSES

3.1 In connection with the Sale, Merchant shall be responsible for the payment of all reasonable and necessary expenses incurred in operating the Stores and conducting the Sale, including all occupancy expenses for the Stores and all Sale Expenses.

4. CONSULTANT'S FEES

4.1 Consultant will receive a base fee equal to \$1,950.00 per Store for its services, which fee shall be payable in full upon execution of this Agreement by wire transfer of immediately available funds.

4.2 Consultant also may be entitled to a performance based incentive fee calculated as a percentage of the "Net Proceeds" received from the Sale as follows:

Net Proceeds	Consultant's Incentive Fee
Up to \$14.8 million	0
From \$14.8 million to 15.8 million	20%
From \$15.8 million to 16.8 million	25%
From \$16.8 million to 17.8 million	30%

(a) "Net Proceeds" shall mean the gross proceeds of the Sale (e.g., all amounts collected or realized during the Sale including honored store credits, gift certificated and the like less any sales tax) less Sale Expenses (as actually incurred during or in support of the Sale Term, or as determined on a per diem basis if appropriate, in accordance with the occupancy schedule set forth as exhibits hereto).

(b) Merchant expects that the Liquidation Retail Value of the Merchandise as of the Sale Commencement Date shall be \$91.75 million. The "Liquidation Retail Value" shall be determined using the "gross rings" method for Merchandise sold during the Sale, shall be based upon the agreed liquidation file prices downloaded into the Stores' POS system on or before the Sale Commencement Date, and shall be calculated by multiplying the number of each item actually sold by the liquidation file price for such item. In the event that the Liquidation Retail Value is less than \$87.163 million, then as Consultant's sole remedy, the "Net Proceeds" thresholds for application of the incentive fee set forth above shall be reduced according to the chart shown in Exhibit 4.2(b).

(c) In the event that the parties agree in writing to a modified Budget, the "Net Proceeds" thresholds set forth above shall be adjusted on a dollar for dollar basis by the amount of such change in the Budget. In the event that the parties agree to a material change in the circumstances of the Sale, the parties shall mutually agree in writing to a revised Net Proceeds Threshold.

4.3 Consultant's total fee for selling the Merchandise, including both the base fee and the incentive fee, shall not exceed \$1,500,000.00.

5. INVOICES

5.1 Consultant shall submit invoices to Merchant to the attention of Thomas Johnson, 900 West Main Street, Dothan, Alabama, 36301 on a weekly basis setting forth any Sale Expenses that have been incurred directly by Consultant in accordance with the Budget, any Fixture Commission (defined in 12.1 below) earned and any additional expenses related to fixture removal or store closure following the conclusion of the Sale incurred at Merchant's direction. Any incentive fee earned shall be determined and invoiced to Merchant following the conclusion of the Sale and after the total Net Proceeds have been calculated and agreed to by Merchant. Within five (5) business days of receipt of such invoices, such invoices shall be paid via wire transfer in full by Merchant.

5.2 Upon execution of this Agreement, Merchant shall advance to Consultant \$500,000.00 for Sale Expenses, including for signage and travel for Supervisors. The parties shall reconcile such advance with the first weekly invoice and expense settlement.

6. STORE EMPLOYEES

6.1 Merchant, after consulting with Consultant, shall select and retain all Store employees to be utilized as part of the Sale during the Sale Term. Notwithstanding the foregoing, Consultant shall have reasonable approval of the number of hours worked by such Store employees during the Sale.

6.2 As of the Sale Commencement Date, Merchant agrees to use commercially reasonable efforts to insure that the Stores are adequately staffed as mutually agreed upon by the parties.

6.3 Subject to Section 9.1 hereof, Consultant shall have no liability to the Store employees (including any of Merchant's former employees) of any kind or nature whatsoever, including without limitation, with respect to severance pay, termination pay, vacation pay, pay in lieu of reasonable notice of termination, or any other expenses or liability arising from Merchant's employment of such Store employees prior to, during, and subsequent to the Sale.

7. REPRESENTATION AND WARRANTIES OF CONSULTANT

7.1 Consultant hereby represents, warrants and covenants in favor of Merchant as follows:

(a) Consultant has taken all necessary action required to authorize the execution, performance and delivery of this Agreement, and to consummate the transactions contemplated hereby.

(b) This Agreement is a valid binding obligation of Consultant enforceable in accordance with its terms, subject only to any applicable law, including without limitation, bankruptcy, insolvency or similar laws affecting the rights of creditors generally and the availability of equitable remedies.

(c) No action or proceeding has been instituted or, to Consultant's knowledge, threatened, affecting the consummation of this Agreement or the transactions contemplated herein.

8. REPRESENTATIONS AND WARRANTIES OF MERCHANT

8.1 Merchant hereby represents, warrants and covenants in favor of Consultant as follows:

(a) Merchant has taken all necessary action required to authorize its execution, performance and delivery of this Agreement, and to consummate the transactions contemplated hereby.

(b) This Agreement is a valid and binding obligation of Merchant enforceable in accordance with its terms, subject only to any applicable law, including without limitation, bankruptcy, insolvency or similar laws affecting the rights of creditors generally and the availability of equitable remedies.

(c) No action or proceeding has been instituted or, to Merchant's knowledge, threatened, affecting the consummation of this Agreement or the transactions contemplated herein.

9. AFFIRMATIVE DUTIES OF MERCHANT

9.1 Merchant shall be solely liable for, and shall pay when due, all Sale Expenses as well as all taxes (except taxes on Consultant's income and taxes applicable to wages of Consultant's Supervisors and Consultant's Employees), costs, reasonable and necessary expenses, accounts payable and other undisputed liabilities relating to the Sale, the Stores, Store Employees and Merchant's business operations during the Sale.

9.2 Merchant shall prepare and process all reporting forms, certificates, reports and other documentation required in connection with the payment of all applicable taxes for the Stores to the appropriate taxing authorities. Merchant shall collect all sales taxes

and Merchant shall pay the same to the appropriate taxing authorities in accordance with the applicable law.

9.3 Merchant shall use all commercially reasonable efforts to cause all Store Employees, and all other representatives and agents of Merchant to cooperate fully with Consultant and its Supervisors in connection with the Sale during the Sale Term.

10. INSURANCE

10.1 Merchant shall maintain throughout the Sale Term, liability insurance policies (including, but not limited to, product liability, comprehensive public liability insurance and auto liability insurance) covering injuries to persons and property in or in connection with Merchant's operation of the Stores. Merchant shall be responsible for the payment of all deductibles, self-insurance and other amounts payable in connection with any claim asserted under such policies, except for any claims arising directly from the negligence or willful misconduct of Consultant, or its employees, representatives, agents or Supervisors.

10.2 Consultant shall maintain in full force and effect liability insurance policies (including, but not limited to, comprehensive public liability) covering injuries to persons and property in or in connection with Consultant's provision of Services at the Stores, and shall cause Merchant to be named an additional insured with respect to such policies.

11. FIXTURES

11.1 Consultant shall sell furniture, fixtures and equipment (the "FF&E") in the Stores for a commission equal to 25% of the proceeds generated from the sale of such assets ("Fixture Commission"), plus reimbursement of Consultant's expenses incurred in removing and/or disposing of such FF&E. Consultant shall leave the Stores in broom clean condition and with regard to unsold FF&E, either (a) move it to a designated location in the Store, (b) transfer it to a location designated by Merchant or (c) otherwise dispose of it in the manner deemed appropriate by Merchant, each at Merchant's expense.

12. INDEMNIFICATION

12.1 Each party ("Indemnifying Party") shall, at its sole cost and expense, indemnify, defend and hold harmless the other party, its parent company affiliates, subsidiaries and the officers, directors, employees, agents, successors and assigns of each (collectively, the "Indemnified Party") from and against any and all actions, causes of action, claims, demands, liabilities, obligations, losses, judgments, damages and costs, and charges of any kind or nature (including interest, reasonable attorneys' fees and other costs) incurred or sustained by reason of, or arising out of, relating to, or caused by the Indemnifying Party's (a) breach of any provision, warranty or representation of this Agreement; (b) failure to comply with any applicable federal, state or local law, rule,

regulation, ordinance, or court order in connection with each party's respective obligations under this Agreement; and/or (c) gross negligence, willful misconduct or omission. Notwithstanding the foregoing, no party shall be obligated to indemnify the other party for the gross negligence and/or willful misconduct or omission of such other party. The Indemnified Party shall give the Indemnifying Party prompt written notice of any claim, suit, or action for which such party believes the Indemnifying Party's obligation to indemnify, defend and hold harmless shall apply. The Indemnifying Party shall be given the opportunity to control the defense of such lawsuit and the Indemnified Party shall cooperate fully in the defense of such lawsuit. The terms of this Section 13 shall survive the termination of this Agreement.

13. MISCELLANEOUS

13.1 Any notice or other communication under this Agreement shall be in writing and may be delivered personally or sent by facsimile or by prepaid registered or certified mail, addressed as follows:

(i) in the case of Consultant:

Great American Group
Nine Parkway North, Suite 300
Deerfield, IL 60015
Attn: Mark P. Naughton
Vice President/General Counsel
Fax: (847) 444-0937

(ii) in the case of Merchant:

Movie Gallery US, LLC or Hollywood
Entertainment Corporation (as appropriate)
Office of the General Counsel
900 West Main Street
Dothan, AL 36301
Attn: General Counsel Fax: (334) 836-3626
Copy to: Jeffry B. Gordon at same address

Copy to:

Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, IL 60601
Attn: Anup Sathy, P.C. and Marc J. Carmel
Fax: (312) 861-2200

13.2 This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Alabama, without reference to any conflict of laws provisions.

13.3 In the event any term or provision contained within this Agreement shall be deemed illegal or unenforceable, then such offending term or provision shall be considered deleted from this Agreement and the remaining terms shall continue to be in full force and effect.

13.4 This Agreement constitutes the entire agreement between the parties with respect of the subject matter hereof and supersedes all prior negotiations and understandings, and can only be modified by a writing signed by Merchant and Consultant.

13.5 This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns.

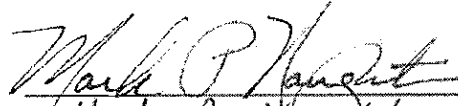
13.6 This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts, together, shall constitute one and the same instrument. Delivery by facsimile of this Agreement or an executed counterpart hereof shall be deemed a good and valid execution and delivery hereof or thereof.

13.7 Nothing contained herein shall be deemed to create any relationship between Consultant and Merchant other than that of an independent contractor. It is stipulated that the parties are not partners or joint venturers.

13.8 Merchant shall have the right to designate additional stores for Consultant to liquidate pursuant to the terms hereof by providing written notice to Consultant to the address set forth above setting forth the addresses of such stores and the proposed commencement and termination date. Promptly upon receiving such notice, Consultant shall negotiate in good faith with Merchant to determine the relevant terms related to such additional designated Stores, including the Sale Term, the minimum level of Merchandise, the Sale Expenses for such proposed sale, and the proposed incentive fee applicable to such sale. Except as set forth above, the terms of this Agreement shall apply to such additional designated stores and the reference in this agreement to "Stores" shall include such additional stores.

IN WITNESS WHEREOF, Merchant and Consultant hereby execute this Agreement by their duly authorized representatives as of the day and year first written above.

THE GREAT AMERICAN GROUP, LLC

By: 
Name: Mark P. Naughton
Its: Vice President/General Counsel

MOVIE GALLERY US, LLC and
HOLLYWOOD ENTERTAINMENT
CORPORATION

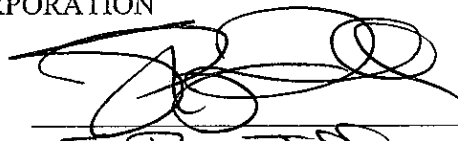
By: 
Name: S. Page Telle
Its: EVP

EXHIBIT B

Richard M. Cieri (NY 4207122)
KIRKLAND & ELLIS LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4611
Telephone: (212) 446-4800

Michael A. Condyles (VA 27807)
Peter J. Barrett (VA 46179)
KUTAK ROCK LLP
Bank of America Center
1111 East Main Street, Suite 800
Richmond, Virginia 23219-3500
Telephone: (804) 644-1700

and

Anup Sathy, P.C. (IL 6230191)
Marc J. Carmel (IL 6272032)
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, Illinois 60601-6636
Telephone: (312) 861-2000

Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	Case No. 07-_____
)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹)	Chapter 11
)	
Debtors.)	
)	

**DECLARATION OF MARK NAUGHTON IN SUPPORT OF
THE MOTION OF THE DEBTORS FOR AN ORDER AUTHORIZING
THE ASSUMPTION BY THE DEBTORS OF THE STORE CLOSING
CONSULTING AGREEMENT WITH GREAT AMERICAN GROUP, LLC**

I, Mark P. Naughton, being duly sworn, state the following under penalty of perjury:

1. I am a Vice President and General Counsel of the firm Great American Group, LLC ("Great American"), an asset management consulting firm with its principal United States office located at 6330 Variel Avenue, Suite 100, Woodland Hills, California 91367. I am duly authorized to make this declaration on behalf of Great American. I submit this declaration in support of the

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

motion (the “Motion”) of the above-captioned debtors (collectively, the “Debtors”) for an order pursuant to section 365 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), authorizing the Debtors to assume that certain store closing Consulting Agreement dated as of October 2, 2007 (the “Consulting Agreement”) with Great American Group, LLC (“Great American”) in connection with their chapter 11 cases, annexed as Exhibit 1 to Exhibit A² to the Motion. Except as otherwise noted, I have personal knowledge of the matters set forth herein.

Great American’s Qualifications

2. Great American is one of the nation’s premier asset management firms. Prior to entry into the Consulting Agreement, the Debtors carefully reviewed the qualifications and experience of Great American’s personnel and determined that Great American was highly qualified, based on the substantial experience of its employed professionals, to assist the Debtors in maximizing value in connection with the Store Closing Sales.³ Moreover, Great American enjoys an excellent reputation for the quality of the services its professionals have rendered on behalf of a myriad of other large corporations involved in complex bankruptcy cases with expansive retail store portfolios similar to the Debtors. Indeed, Great American has recently assisted some of the largest retailers in the industry liquidate approximately \$30 billion of assets. Specifically, Great American has provided asset management consulting services in connection with the chapter 11 filings of numerous companies, including In re Collins & Aikman Corp., Case No. 05-55927 (Bankr. E.D. Mich. June 28, 2007); In re Three A’s Holdings, L.L.C., Case No. 06-10886 (Bankr. D. Del. Oct. 25, 2006); In re Refco Inc., Case No. 05-60006 (Bankr. S.D.N.Y. Mar. 30, 2006); In re Treasure Island, Inc., Case

² The Exhibits to the Consulting Agreement are available upon request of the Debtors’ counsel.

³ Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

No. 06-10416 (Bankr. D.N.J. Feb. 6, 2006); In re Musicland Holding Corp., Case No. 06-10064 (Bankr. S.D.N.Y. Feb. 1, 2006); In re Rhodes, Inc., Case No. 04-78434 (Bankr. N.D. Ga. Nov. 24, 2004); In re Pegasus Satellite Television, Inc., Case No. 04-20878 (Bankr. D. Me. Nov. 10, 2004); In re Wherehouse Entm't, Inc., Case No. 03-10224 (Bankr. D. Del. Feb. 19, 2003); In re Kmart Corp., Case No. 02-02474 (Bankr. N.D. Ill. Mar. 20, 2002); In re Heilig-Meyers Co., Case No. 00-34533 (Bankr. E.D. Va. Sept. 13, 2000).

Services to Be Provided

3. Pursuant to the terms and conditions set forth in the Consulting Agreement, upon assumption of the Consulting Agreement, Great American will continue to provide the Debtors with the following services in connection with ongoing and future Store Closing Sales:⁴

- a. Selling the Merchandise: All sales of Merchandise shall be made on behalf of the Debtors and run through Debtors' POS system. Great American does not have, nor shall it have, any right, title or interest in the Merchandise. All sales of Merchandise shall be by cash, credit card, gift card or check, and shall be marked "final."
- b. Advertising: Great American will recommend and implement advertising, promotion and sign programs to sell effectively the Merchandise during the Sales.
- c. Pricing: Great American will recommend and implement appropriate pricing, display and discounting of Merchandise, as well as recommend appropriate staffing levels of employees for the Closing Stores.
- d. Managing Inventory: Great American will recommend and implement the transfer and balancing of inventory between the Closing Stores to maximize results during the Sales.
- e. Monitoring Store Presentation: Great American will monitor the Closing Stores' performance and the physical layout of the Closing Stores and

⁴ Capitalized terms used in this summary but not otherwise defined herein shall have the meanings set forth in the Consulting Agreement. This summary is solely for the benefit of the Court and parties in interest. To the extent that this summary and the terms of the Consulting Agreement are inconsistent, the terms of the Consulting Agreement shall control.

recommend and assist in the implementation of merchandising and visual presentation recommendations.

- f. Selling Fixtures and Equipment: Great American will assist with and direct the sale of the Fixtures and the Equipment located in the Closing Stores.
- g. Providing Other Services: Great American will provide such other related services deemed necessary or prudent by the Debtors in their sole discretion and agreed upon by Great American, under the circumstances giving rise to the Sales.

Great American's Professional Compensation

4. The compensation arrangement provided for in the Consulting Agreement is consistent with and typical of arrangements entered into by Great American and other asset management consultants with the rendering of similar services to clients such as the Debtors (the "Fee Structure"). In consideration for services relating to the Store Closing Sales, Great American shall be compensated pursuant to the following Fee Structure, as more fully set forth in the Consulting Agreement:⁵

- a. Base Fee: Great American will be entitled to receive a base fee equal to \$1,950 per Store for its services.
- b. Incentive Fee: Great American also may be entitled to a performance based incentive fee (the "Incentive Fee") calculated as a percentage of the net proceeds received from the Sales (the "Net Proceeds"). "Net Proceeds" shall mean the gross proceeds of the Sales (*e.g.*, all amounts collected or realized during the Sales less only sales tax) less Sales Expenses (as defined below). Such Incentive Fee would be payable as earned. Pursuant to the Fee Structure, Great American's total fee for the base fee and the incentive fee shall not exceed \$1,500,000.00. The Incentive Fee will be calculated as follows:

⁵ Capitalized terms used in this summary but not otherwise defined herein shall have the meanings set forth in the Consulting Agreement. This summary is solely for the benefit of the Court and parties in interest. To the extent that this summary and the terms of the Consulting Agreement are inconsistent, the terms of the Consulting Agreement shall control.

<u>Net Proceeds</u>	<u>Consultant's Incentive Fee</u>
Up to \$14.8 million	0%
From \$14.8 million to 15.8 million	20%
From \$15.8 million to 16.8 million	25%
From \$16.8 million to 17.8 million	30%

- c. **Expenses:** The Debtors will be responsible for the payment of all reasonable and necessary expenses incurred in conducting the Sales (the "Sales Expenses"). The Sales Expenses include, but are not limited to: (i) payroll, benefits and incentive pay (if any) for all store employees used in conducting the Sales; (ii) signs, banners, advertising and all other promotional costs; (iii) costs of consolidating Merchandise between the Closing Stores; (iv) credit card fees, charge backs and discounts; (v) per diem occupancy costs related to the Closing Stores; and (vi) all costs of Great American's supervisors, including fees, reasonable travel expenses and other out of pocket expenses. Prior to commencement of the Sales, the parties will agree upon a budget setting forth the Sales Expenses over which Great American has control (which will include advertising, travel and supervision expenses) and agree upon other Sales Expenses, for purposes of calculating the Net Proceeds. For further clarity, any cost of goods related to revenue sharing agreements or otherwise, as well as any store closing costs incurred after the conclusion of the Sales, shall not be considered a Sales Expense.
- d. **Fixtures and Equipment:** Great American shall sell Closing Store Fixtures and Equipment for a commission of 25% of the proceeds from the sale of such assets, plus reimbursement of Great American's actual out of pocket expenses incurred in connection with the sale of such assets. Great American will leave the Stores broom swept with any unsold fixtures moved to a corner of the Store. To the extent that any Fixtures or Equipment cannot be sold, Great American will dispose of the Fixtures or Equipment to allow for the Debtors' prompt exit from the Closing Stores at Debtors' discretion and cost.

5. To the best of my knowledge, Great American has no agreement with any other entity to share with such entity any compensation received by Great American in connection with these chapter 11 cases other than as permitted by section 504 of the Bankruptcy Code.

Great American's Disinterestedness

6. The Debtors have numerous creditors, stakeholders and other parties with whom they maintain business relationships. In connection with the proposed assumption of the Consulting

Agreement by the Debtors in connection with their chapter 11 cases, Great American undertook a lengthy conflicts analysis process to determine whether it had any conflicts or other relationships that might cause it not to be disinterested or to hold or represent an interest adverse to the Debtors. To check and clear potential conflicts of interest in these cases, Great American reviewed its client relationships to determine whether it had any relationships with the following entities, which were provided to Great American by the Debtors (collectively, the “Potential Parties in Interest”):

Exhibit	Category
A(i)	Current and Recent Former Entities Affiliated with the Debtors
A(ii)	Significant Current and Recent Former Equity Investors
A(iii)	Current and Recent Former Directors and Officers
A(iv)	Significant Unsecured Creditors
A(v)	Parties to Significant Actual or Known-Potential Litigation
A(vi)	Significant Current and Recent Former Lenders
A(vii)	Banks with Significant Relationships
A(viii)	Significant Vendors
A(ix)	Significant Landlords
A(x)	Current and Former Indenture Trustees
A(xi)	Professionals Known or Expected to Represent and Advise the Debtors and Potential Significant Parties in Interest
A(xii)	Significant Tenants in Subleases
A(xiii)	Insurers and Insurance Brokers
A(xiv)	Significant Bondholders
A(xv)	Significant Utility Providers
A(xvi)	United States Trustee for the Eastern District of Virginia (and Key Staff Members)
A(xvii)	Significant Competitors
A(xviii)	Key Staff for the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division
A(xix)	Letter of Credit Beneficiaries
A(xx)	Other Potential Parties In Interest

7. As part of its diverse practice, Great American appears in numerous cases, proceedings and transactions involving many different attorneys, accountants, investment bankers and financial consultants, some of whom may represent claimants and parties in interest in the Debtors’ chapter 11 cases. Further, Great American has in the past, and may in the future, be

represented by several attorneys and law firms, some of whom may be involved in these chapter 11 cases. In addition, Great American has been in the past, and likely will be in the future, engaged in matters unrelated to the Debtors or these chapter 11 cases in which it works with or against other professionals involved in these cases. Based on our current knowledge of the professionals involved in these chapter 11 cases, and to the best of my knowledge, none of these business relations constitute interests adverse to the Debtors.

8. To the best of my knowledge and belief, insofar as I have been able to ascertain after reasonable inquiry, neither I, Great American, nor any of its professional employees have any connection with the Debtors, their creditors, the United States Trustee for the Eastern District of Virginia or any other Potential Parties in Interest in these chapter 11 cases or their respective attorneys or accountants, except as set forth below:

- a. Prior to the commencement of these cases, Great American's professionals performed asset sales consulting services for the Debtors.
- b. Credit Suisse holds one third of the membership interests in Great American. Two affiliates of Credit Suisse, Credit Suisse Alternative and Credit Suisse Loan Funding, LLC, are listed as lenders or former lenders to the Debtors. Another affiliate of Credit Suisse, Credit Suisse Securities (USA), LLC, is listed as a bondholder of the Debtors.
- c. The Debtors have many creditors. From time to time, Great American may perform or may have performed services for, or maintained other commercial or professional relationships with, certain creditors of the Debtors and various other parties that are adverse to the Debtors, in each case in matters unrelated to these cases. These creditors include: Office Max (listed as a creditor and a significant vendor) and Prentice Capital Management (listed as an equity investor).
- d. Great American maintains a lending relationship with Wells Fargo Bank, N.A., which is listed as a current or former lender to the Debtors.
- e. Great American Appraisal and Valuation Services, LLC ("GAAV"), an affiliate of Great American, may have provided certain inventory and related

asset appraisal services to entities listed as creditors of or current or former lenders to the Debtors, including Bank of America Corporation, Deutsche Bank, JP Morgan Chase Bank, N.A., and Merrill Lynch. Again, any such matters would be wholly unrelated to the Debtors and these Chapter 11 cases.

- f. From time to time, Great American also may have had dealings on other unrelated matters with certain of the other professionals who are providing, or are expected to provide, services in these cases, including, without limitation:
 - i. Kirkland & Ellis LLP;
 - ii. Alvarez & Marsal;
 - iii. Ernst & Young LLP;
 - iv. Capstone Advisory and Capstone Corporate Recovery LLC;
 - v. Otterbourg, Steindler, Houston & Rosen, P.C.; and
 - vi. Skadden, Arps, Slate, Meagher & Flom LLP.

9. To the best of my knowledge, information and belief, insofar as I have been to ascertain after reasonable inquiry, Great American has not been retained to assist any entity or person other than the Debtors on matters relating to, or in direct connection with, the Debtors' chapter 11 cases. If the Debtors are authorized by the Court to assume the Consulting Agreement, Great American will not accept any engagement or perform any service for any entity other than the Debtors in these chapter 11 cases. Great American will, however, continue to provide professional services to entities that may be creditors or equity security holders of the Debtors or parties in interest in these cases, provided that such services do not relate to, or have any direct connection with, these cases or the Debtors.

10. I am not related or connected to and, to the best of my knowledge after reasonable inquiry, no other professional of Great American who will work on this engagement is related or connected to, any United States Bankruptcy Judge for the Eastern District of Virginia, any of the

District Judges for the Eastern District of Virginia who handle bankruptcy cases, the United States Trustee for the Eastern District of Virginia, or any employee in the Office of the United States Trustee for the Eastern District of Virginia.

11. If the Court grants the relief requested herein, Great American will continue as the Debtors' agent for the sale of Merchandise in connection with the Store Closing Sales. Great American is not being retained pursuant to section 327 of the Bankruptcy Code. As a result, Great American will not be required to submit fee applications to the Court in accordance with the terms of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of Virginia or any procedures that may be approved by this Court for professionals retained pursuant to section 327 of the Bankruptcy Code.

12. If Great American discovers any additional information that requires disclosure, Great American will promptly file a supplemental declaration with the Court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Deerfield, Illinois

Dated: October 16, 2007

/s/ Mark P. Naughton

Mark P. Naughton

Vice President and General Counsel

Great American Group, LLC