

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA**

|  |                                      |
|--|--------------------------------------|
| In Re:<br><br>Vanity Shop of Grand Forks, Inc.,<br><br>Debtor. | Case No.: 17-30112<br><br>Chapter 11 |
|--|--------------------------------------|

**NOTICE OF FILING OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER CONFIRMING THE DEBTOR'S  
THIRD PLAN OF LIQUIDATION DATED MAY 18, 2018**

PLEASE TAKE NOTICE that, on April 11 2018, Vanity Shop of Grand Forks, Inc. (the “Debtor”) in the above-captioned Chapter 11 case filed Debtor’s Second Plan of Liquidation dated April 9, 2018 [Doc. 646]. On May 18, 2018, Debtor filed its proposed Third Plan of Liquidation dated May 18, 2018 (the “Plan”) [Doc. 719].

PLEASE TAKE FURTHER NOTICE that a hearing to consider confirmation of the Plan is scheduled for **May 22, 2018 at 9:30 a.m. CST** before the Honorable Shon Hastings, at the United States Bankruptcy Court for the District of North Dakota, Courtroom #3, Second Floor, Quentin N. Burdick United States Courthouse, 655 First Avenue North, Fargo, North Dakota, 58102.

PLEASE TAKE FURTHER NOTICE that, attached hereto as **Exhibit A** is a Proposed Findings of Fact, Conclusions of Law and Order Confirming the Debtor’s Third Plan of Liquidation Dated May 18, 2018 for the convenience of the Court and all interested parties.



Dated this 21st day of May, 2018.

**VOGEL LAW FIRM**

BY: /s/ Caren W. Stanley

Jon R. Brakke (#03554)

jbrakke@vogellaw.com

Caren W. Stanley (#06100)

cstanley@vogellaw.com

218 NP Avenue

PO Box 1389

Fargo, ND 58107-1389

Telephone: 701.237.6983

*COUNSEL TO DEBTOR IN POSSESSION*

3263950.1

**EXHIBIT A**

*(Proposed Findings of Fact, Conclusions of Law and Order Confirming the Debtor's Third Plan of Liquidation Dated May 18, 2018)*

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

|  |                    |
|--|--------------------|
| In Re:                                       | Case No.: 17-30112 |
| Vanity Shop of Grand Forks, Inc.,<br>Debtor. | Chapter 11         |

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING THE  
DEBTOR'S THIRD PLAN OF LIQUIDATION DATED MAY 18, 2018**

The Debtor's Second Plan of Liquidation dated April 9, 2018 [Doc. 646] (as modified by the Debtor's Third Plan of Liquidation dated May 18, 2018 [Doc. 719], the "**Plan**")<sup>1</sup>, having been filed with the United States Bankruptcy Court for the District of North Dakota by the Debtor Vanity Shop of Grand Forks ("**Debtor**"); and the Court having entered an Order Approving Disclosure Statement dated April 11, 2018 ("**Disclosure Statement Order**") [Doc. 655], after due notice and a hearing pursuant to sections 105, 502, 1125 and 1128 of the Bankruptcy Code, Rules 3017, 3020, 9013, 9014, and 9021 of the Federal Rules of Bankruptcy Procedure, (i) approving the Disclosure Statement dated April 9, 2018 ("**Disclosure Statement**") [Doc. 645], (ii) fixing the voting record date, (iii) approving the notice and objection procedures in respect of confirmation of the Plan, (iv) approving solicitation packages and procedures for distribution thereof, (v) approving the forms of ballots and establishment of procedures for voting on the Plan, and (vi) fixing the voting

---

<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

deadline to accept or reject the Plan; and the Disclosure Statement and Plan having been transmitted to all holders of Claims in Classes 2, 3, and 4 (collectively the “*Voting Classes*”) as provided for by the Disclosure Statement Order; and the confirmation hearing having been held before the Court on May 22, 2018, after due notice to holders of Claims and Equity Interests and all other parties in interest in accordance with the Disclosure Statement and Disclosure Statement Order; and upon all of the proceedings had before the Court;

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**A. Exclusive Jurisdiction; Venue; Core Proceeding**

1. The Court has jurisdiction of the Debtor’s Chapter 11 case in accordance with 28 U.S.C. §§ 157 and 1334. Confirmation is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court has jurisdiction to enter a final order with respect thereto. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

**B. Eligibility for Relief**

2. The Debtor was and is an entity eligible for relief under 11 U.S.C. § 109.

**C. Commencement of Chapter 11 Case**

3. On March 1, 2017 (the “*Petition Date*”), the Debtor commenced a case under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtor managed its estate as debtor in possession pursuant to 11 U.S.C. §§ 1107(a) and 1108. No trustee or examiner has been appointed in this Chapter 11 case.

**D. Claims Bar Date**

4. On March 7, 2017, the Notice of Chapter 11 Bankruptcy Case was mailed to all creditors (the “**Bar Date Notice**”) [Doc. 102, 116], which established a bar date for filing Proofs of Claim as July 3, 2017.

**E. Burden of Proof**

5. The Debtor, as proponent of the Plan in accordance with 11 U.S.C. § 1121(a) has met its burden of proving the elements of 11 U.S.C. § 1129(a) and 1129(b) by a preponderance of the evidence, which is the applicable evidentiary standard for confirmation.

**F. Transmittal and Mailing of Solicitation Packages; Notice.**

6. Due, adequate, and sufficient notice of the Disclosure Statement, Plan, Ballots, and the Disclosure Statement Order, together with all deadlines for objecting to and voting to accept or reject the Plan, has been provided to: (a) the Office of the United States Trustee for the District of North Dakota (the “*U.S. Trustee*”); (b) counsel to the statutory committee of unsecured creditors appointed in this chapter 11 case (the “*Committee*”); (c) all parties entitled/required to receive notice pursuant to the Disclosure Statement Order; and (d) any persons who have filed a request for notice in this Chapter 11 case pursuant to F.R. Bankr. P. 2002, in substantial compliance with the Disclosure Statement Order and F.R. Bankr. P. 2002(b), 3017 and 3020(b). Adequate and sufficient notice of the confirmation hearing and other dates and deadlines was provided in compliance with the Bankruptcy Rules and Disclosure Statement Order, and no other or further notice is or shall be required.

**G. Solicitation**

7. Votes for acceptance and rejection of the Plan were solicited in good faith and in compliance with 11 U.S.C. §§ 1125 and 1126 and F.R. Bankr. P. 3017 and 3018, the

Disclosure Statement, and the Disclosure Statement Order. Specifically, the solicitation materials approved by the Court in the Disclosure Statement Order (including the Disclosure Statement, the Plan, ballots (“*Ballots*”), and the Disclosure Statement Order (collectively the “*Solicitation Packages*”)) were transmitted to and served on all holders of Claims in the Voting Classes, as well as to other parties in interest in the Debtor’s Chapter 11 case, in compliance with 11 U.S.C. § 1125 and the Disclosure Statement Order. Such transmittal and service of the Solicitation Packages were adequate and sufficient and no further notice is or shall be required. All procedures used to distribute the Solicitation Packages to Holders of Claims and Equity Interests were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code and Bankruptcy Rules.

**H. Voting Computation**

8. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, and the Bankruptcy Rules.

9. As evidenced by the Voting Computation, Class 2 voted to accept the Plan. Class 3 and Class 4 voted to reject the Plan.

**I. Bankruptcy Rule 3016**

10. The Plan is dated and identifies the entity submitting it, thereby satisfying F.R. Bankr .P. 3016(a). The filing of the Disclosure Statement with the Clerk of the Court satisfied F.R. Bankr. P. 3016(b).

**J. Compliance with the Requirements of 11 U.S.C. § 1129**

11. The Plan complies with all applicable provisions of 11 U.S.C. § 1129(a) as follows:

i) *Section 1129(a)(1) – Plan Complies with Applicable Provisions of the Bankruptcy Code.*

12. 11 U.S.C. §§ 1122 and 1123(a)(1) – Proper Classification. The classification of Claims and Equity Interests under the Plan is proper under the Bankruptcy Code. Pursuant to 11 U.S.C. §§ 1122(a) and 1123(a)(1), Article III of the Plan provides for the separate classification of Claims and Equity Interests into five (5) classes, based on differences in the legal nature or priority of such Claims and Equity Interests (other than Administrative Claims and Priority Tax Claims, which are addressed in Article IV of the Plan and are not required to be designated as separate classes pursuant to section 1123(a)(1) of the Bankruptcy Code). Valid business, factual and legal reasons exist for the separate classification of the various classes of Claims and Equity Interests created under the Plan. The classifications were not done for any improper purpose and the creation of such classes does not unfairly discriminate between or among holders of Claims or Equity Interests.

13. As required by 11 U.S.C. § 1122(a), each class of Claims and Equity Interests contains only Claims or Equity Interests that are substantially similar to the other Claims or Equity Interests within that class. As a result, the requirements of 11 U.S.C. §§ 1122 and 1123(a)(1) have been satisfied.

14. 11 U.S.C. § 1123(a)(2) – Specification of Unimpaired Classes. Article III of the Plan specifies that the Class 1 Claim of Wells Fargo is unimpaired under the Plan. Additionally, Article IV of the Plan specifies that Administrative Claims, Professional Fee Claims, and Priority Tax Claims are Unimpaired and these Claims are not classified under the Plan. As a result, the requirements of 11 U.S.C. § 1123(a)(2) have been satisfied.

15. 11 U.S.C. § 1123(a)(3) – Specification of Treatment of Impaired Classes.

Article V of the Plan specifies the treatment of each impaired class under the Plan, including Classes 2, 3, 4, and 5. As a result, the requirements of 11 U.S.C. § 1123(a)(3) have been satisfied.

16. 11 U.S.C. § 1123(a)(4) – No Discrimination. Pursuant to 11 U.S.C.

§ 1123(a)(4), Article V of the Plan uniformly provides for the same treatment of each Claim or Equity Interest in a particular class, as the case may be, unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment with respect to such Claim or Equity Interest. As a result, the requirements of 11 U.S.C. § 1123(a)(4) have been satisfied.

17. 11 U.S.C. § 1123(a)(5) – Adequate Means for Plan Implementation.

Article VII of the Plan, as well as various other provisions of the Plan, provide adequate and proper means for implementation of the Plan. The Plan is predicated upon appointment of a Plan Administrator who shall be vested with the full legal power, capacity and authority of the Debtor and who shall be directed to administer, collect and liquidate the Revested Assets, including the Causes of Action, Preserved Claims and Avoidance Actions and to implement the Plan. As a result, the requirements of 11 U.S.C. § 1123(a)(5) have been satisfied.

18. 11 U.S.C. § 1123(a)(6) – Voting Power of Equity Securities. The Plan does not

contemplate the issuance of non-voting equity securities. As a result, the requirements of 11 U.S.C. § 1123(a)(6) have been satisfied.

19. 11 U.S.C. § 1123(a)(7) – Selection of Officers and Directors. As the Plan is a

liquidating Plan, there will be no officers or directors of the Debtor after Plan confirmation. Rather the Plan Administrator will be tasked with administering, collecting and liquidating

the Revested Assets and implementing the Plan. As a result, the requirements of 11 U.S.C. § 1123(a)(7) have been satisfied.

20. 11 U.S.C. § 1123(b) – Discretionary Contents of Plan. The Plan contains various provisions that may be construed as discretionary but are not required for confirmation under the Bankruptcy Code. As set forth below, such discretionary provisions comply with 11 U.S.C. § 1123(b) and are not inconsistent in any way with the applicable provisions of the Bankruptcy Code. As a result, the requirements of 11 U.S.C. § 1123(b) have been satisfied.

A. Section 1123(b)(1)-(2) – Claims and Equity Interests; Executory Contracts and Unexpired Leases. Pursuant to 11 U.S.C. §§1123(b)(1) and 1123(b)(2), Article III of the Plan impairs or leaves unimpaired, as the case may be, each class of Claims or Equity Interests, and Article VI of the Plan provides for the rejection of the executory contracts and unexpired leases of the Debtor not previously assumed or rejected pursuant to 11 U.S.C. § 365.

B. Section 1123(b)(3) - Settlement Provision. Pursuant to 11 U.S.C. § 363 and F.R. Bankr. P. 9019, and in consideration for the distributions and other benefits provided pursuant to the Plan, the provision of the Plan shall constitute a good faith compromise of all Claims, Equity Interests, and controversies relating to the contractual, legal and subordination rights that a holder of a Claim may have with respect to any Allowed Claim or Equity Interest or any Distribution to be made on account of such Allowed Claim. The entry of this Confirmation Order shall constitute the Court's approval that such compromise or settlement is in the best interest of the Debtor, its Estate and holders of Claims, and is fair, equitable and reasonable. In

accordance with the provisions of the Plan, pursuant to 11 U.S.C. § 363 and F.R. Bankr. P. 9019(a), without any further notice to or action, order or approval of the Court, after the Effective Date the Plan Administrator may compromise and settle Claims against the Debtor and Causes of Action, Preserved Claims and Avoidance Actions against other Persons including Statutory Insiders, subject to the provisions of Sections 8.2 and 10.2 of the Plan.

C. Release Provision. Section 10.4 of the Plan releases parties critical to the formulation of the Plan for any acts or omissions in connection with the Debtor's Chapter 11 bankruptcy case and the negotiation of the Plan except for any claims and causes of action for actual fraud, willful misconduct or gross negligence in exchange for distributions under the Plan. The Debtor is not releasing any claims against third parties or statutory insiders.

D. Exculpation Provision. Section 10.6 of the Plan exculpates parties critical to the formulation of the Plan for any acts or omissions in connection with the Plan (the "**Exculpation**").

E. Injunction Provision. The injunction provision set forth in Section 10.7 of the Plan (the "**Injunction**") is necessary to preserve and enforce the Exculpation and the Injunction is narrowly tailored to achieve this purpose.

F. Accordingly, the Exculpation and Injunction provisions set forth in the Plan: (a) are within the jurisdiction of the Court under 28 U.S.C. §§ 1334(a), 1334(b) and 1334(d); (b) are necessary to implement the Plan pursuant to 11 U.S.C. § 1123(a)(6); (c) are an integral element of the transactions incorporated into the Plan; (d) confers material benefits on, and is in the best interests of, the Debtor, the Estate,

and the holders of Claims and Equity Interests; (e) are important to the overall objectives of the Plan to finally resolve all Claims among or against the parties in interest in this Chapter 11 case, with respect to the Debtor; and (f) are consistent with 11 U.S.C. §§ 105, 1123, 1129, and other applicable provisions of the Bankruptcy Code. The record of the confirmation hearing and this Chapter 11 case is sufficient to support the Exculpation and Injunction provisions contained in Article X of the Plan. The failure to implement the Exculpation and Injunction provisions of the Plan would impair the Debtor's ability to confirm the Plan.

21. 11 U.S.C. §§ 1123(d) – Cure of Defaults. Pursuant to Sections 6.1 and 6.2 of the Plan, the Debtor does not assume any executory contracts and unexpired leases and they are deemed rejected on the Effective Date.

*ii) Section 1129(a)(2) – Compliance of the Debtor and Others with Applicable Provisions of the Bankruptcy Code.*

22. The Debtor, as proponent of the Plan has complied with all applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, including sections 1123, 1125 and 1126 of the Bankruptcy Code, and Bankruptcy Rules 3017, 3018 and 3019. As a result, the requirements of 11 U.S.C. § 1129(a)(2) have been satisfied.

23. The Debtor and its respective affiliates, agents, directors, officers, employees, advisors and attorneys (collective the “*Debtor’s Representatives*”) as of or after the Petition Date did not solicit the acceptance or rejection of the Plan by any holders of Claims or Equity Interests after the Petition Date and before the approval and transmission of the Disclosure Statement. Votes to accept or reject the Plan were only solicited after the Petition

Date by the Debtor and certain of the Debtor's agents after disclosure to holders of Claims and Equity Interests of adequate information as defined in 11 U.S.C. § 1125(a).

24. The Debtor's Representatives as of or after the Petition Date have solicited acceptance or rejection of the Plan in good faith and in compliance with the applicable provisions of the Disclosure Statement Order, the Disclosure Statement, the Bankruptcy Code, and the Bankruptcy Rules and have participated in good faith and in compliance and are entitled to the protections afforded by 11 U.S.C. § 1125(e) and the Exculpation and Injunction provisions set forth in the Plan.

*iii) Section 1129(a)(3) – Proposal of Plan in Good Faith*

25. The Debtor has proposed the Plan in good faith and not by any means forbidden by law. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 case, the Plan itself and the process leading to its formulation. The good faith of the Debtor is evident from the facts and record of the Chapter 11 case, the Disclosure Statement, and the hearing thereon and the record of the confirmation hearing and other proceedings held in this Chapter 11 case. The Plan itself and the process leading to its formulation, provide independent evidence of the good faith of the Debtor, serves the public interest and assures fair treatment of holders of Claims and Equity Interests.

*iv) Section 1129(a)(4) – Court Approval of Certain Payments as Reasonable.*

26. The procedures set forth in the Plan for the Court's review and ultimate determination of the fees and expenses to be paid by the Debtor in connection with this Chapter 11 case, or in connection with the Plan and incident to this Chapter 11 case, satisfies

the objectives of, and are in compliance with, 11 U.S.C. § 1129(a)(4). As a result, the requirements of 11 U.S.C. § 1129(a)(4) have been satisfied.

v) ***Section 1129(a)(5) – Disclosure of Identity of Proposed Management, Compensation of Insiders and Consistency of Management Proposals with Interests of Creditors and Public Policy.***

27. As the Plan is a liquidating Plan, there will be no officers or directors of the Debtor after confirmation of the Plan. Rather, the Plan Administrator will be tasked with administering, collecting and liquidating the Revested Assets and implementing the Plan. As a result, the requirements of 11 U.S.C. § 1129(a)(5) have been satisfied.

vi) ***Section 1129(a)(6) – Approval of Rate Changes.***

28. The Plan does not contain any rate changes subject to the jurisdiction of any governmental regulatory commission and will not require any such governmental regulatory approval. As a result, the requirements of 11 U.S.C. § 1129(a)(6) have been satisfied.

vii) ***Section 1129(a)(7) - Best Interests of Holders of Claims and Equity Interests.***

29. The liquidation analysis set forth in the Disclosure Statement (the “***Liquidation Analysis***”) [Doc. 645, Ex. A] and other evidence related thereto, establish that, with respect to each impaired class, each holder of an Allowed Claim has voted to accept the Plan or will receive under the Plan on account of such Claim property of a value, as of the Effective Date, that is not less than the amount such holder would receive if the Debtor was liquidated on the Effective Date under Chapter 7 of the Bankruptcy Code. As a result, the requirements of 11 U.S.C. § 1129(a)(7) have been satisfied.

viii) ***Section 1129(a)(8) – Conclusive Presumption of Acceptance by Unimpaired Classes; Acceptance of the Plan by Each Impaired Class.***

30. Class 1 is unimpaired and conclusively presumed to have accepted the Plan under 11 U.S.C. § 1126(f).

31. Class 2 is an impaired class and has voted to accept the Plan.

32. Classes 3 and 4 are impaired and have rejected the Plan.

33. Class 5 is impaired and is deemed to have rejected the Plan under 11 U.S.C. § 1126(g) because holders of Equity Interests are not entitled to receive or retain any property under the Plan.

34. While the Plan does not satisfy 11 U.S.C. § 1129(a)(8) with respect to Classes 3, 4, and 5, the Plan is confirmable because it satisfies 11 U.S.C. §§ 1129(a)(10) and 1129(b), as discussed below.

*ix) Section 1129(a)(9) – Treatment of Claims Entitled to Priority Pursuant to 11 U.S.C. § 507(a).*

35. Allowed Administrative Claims and Priority Tax Claims are not impaired pursuant to Article III and IV of the Plan. As a result, the requirements of 11 U.S.C. § 1129(a)(9) with respect to such Claims have been satisfied.

*x) Section 1129(a)(10) – Acceptance by at Least One Impaired Class.*

36. As set forth in the Voting Calculation, Class 2 is impaired and has voted to accept the Plan. As such, there is at least one class of Claims that is impaired and has accepted the Plan, determined without including any acceptance of the Plan by any insider. As a result, the requirements of 11 U.S.C. § 1129(a)(10) have been satisfied.

37. Various objections were made that Class 2 – Convenience Class consisting of unsecured creditor claim under \$1,500 was solely intended to “gerrymander” a class that would accept the Plan. Class 2 includes over 50% of the Debtor’s unsecured Claims and had

numerous creditors electing to reduce their claim to \$1,500 and receive treatment as Class 2 claims. Class 2 was created for legitimate business reasons and was “reasonable and necessary” for the administrative convenience of the Plan Administrator. Thus, the requirements of 11 U.S.C. §§ 1122(b) and 1129(a)(10) have been satisfied.

*xi) Section 1129(a)(11) – Feasibility of the Plan.*

38. The Plan is feasible in its approach to the liquidation of the Debtor, thereby satisfying the requirements of 11 U.S.C. § 1129(a)(11).

*xii) Section 1129(a)(12) – Payment of Bankruptcy Fees.*

39. Section 14.8 of the Plan provides that all fees payable pursuant to 28 U.S.C. § 1930 on the Effective Date and as due until the Chapter 11 case is closed, converted, or dismissed and a final decree entered. As a result, the requirements of 11 U.S.C. § 1129(a)(12) has been satisfied.

*xiii) Sections 1129(a)(13), (14), (15) and (16) – Retiree Benefits, Domestic Support Obligations, Unsecured Claims Against Individual Debtor, and Transfers by Non-Profit Organizations.*

40. 11 U.S.C. § 1129(a)(13) requires a plan to provide for retiree benefits at levels established pursuant to 11 U.S.C. § 1114. The Debtor does not have any obligation on account of retiree benefits, and therefore, 11 U.S.C. § 1129(a)(13) is inapplicable to this Chapter 11 case.

41. The Debtor does not have a domestic support obligation, is not an individual and is not a non-profit organization. Therefore, Sections 1129(a)(14), (15) and (16) are inapplicable to this Chapter 11 case.

*xiv) Section 1129(b) – No Unfair Discrimination; Fair and Equitable.*

42. Despite the Debtor's inability to satisfy 11 U.S.C. § 1129(a)(8), the Plan does not discriminate unfairly and is fair and equitable with respect to Classes 3, 4, and 5 as required by 11 U.S.C. §§ 1129(b)(1) and (2). Thus, the Plan may be confirmed notwithstanding the rejection of the Plan by Classes 3, 4, and 5.

*xv) Section 1129(c) – Only One Plan.*

43. Other than the Plan (including previous versions thereof), no other plan has been filed in this Chapter 11 case. As a result, the requirements of 11 U.S.C. § 1129(c) have been satisfied.

*xvi) Section 1129(d) – Principal Purpose of the Plan is Not Avoidance of Taxes.*

44. No Governmental Unit has requested that the Court refuse to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the application of Section 5 of the Securities Act. As a result, the requirements of 11 U.S.C. § 1129(d) have been satisfied.

**K. Satisfaction of Confirmation Requirements**

45. Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in 11 U.S.C. § 1129.

**L. Good Faith**

46. The Debtor and the Debtor's Representatives as of or after the Petition Date have acted in good faith within the meaning of the Bankruptcy Code and the Bankruptcy Rules and any applicable non-bankruptcy law, rule or regulation, and will continue to act in good faith if they proceed to: (i) consummate the Plan and the agreements, settlements, transactions, and transfers contemplated thereby; and (ii) take the actions authorized and directed by this Confirmation Order, and are entitled to the protections afforded by 11 U.S.C.

§ 1125(e) and, to the extent such parties are listed therein, the Exculpation provision set forth in Article X of the Plan.

**M. Disclosure: Agreements and Other Documents.**

47. The Debtor has disclosed all material facts regarding the Plan.

**N. Likelihood of Satisfaction of Conditions Precedent to the Effective Date.**

48. Each of the conditions precedent to the Effective Date, as set forth in Article XI of the Plan have been satisfied or waived in accordance with the provisions of the Plan or is reasonably likely to be satisfied or waived.

**O. Implementation of Necessary Documents and Agreements**

49. All documents and agreements necessary to implement the Plan, including the corporate documents necessary to transfer stock in the Debtor to the Plan Administrator and all other relevant and necessary documents and agreements, are in the best interests of the Debtor, and holders of Claims and Equity Interests, have been negotiated in good faith and at arm's-length and shall, upon completion of documentation and execution, be valid, binding and enforceable agreements and not be in conflict with any federal or state law. The Debtor has exercised reasonable business judgment in determining to enter into all such documents and agreements and have provided sufficient and adequate notice of such documents and agreements. The terms and conditions of such documents and agreements are fair and reasonable and are approved. The Debtor is authorized, without any further notice to or action, order, or approval of the Court, to finalize and execute and deliver all agreements, documents, instruments and certificates relating thereto and perform their obligations thereunder in accordance with the Plan.

**P. Executory Contracts and Unexpired Leases**

50. The Debtor has exercised reasonable business judgment in determining whether to assume or reject each of its executory contracts and unexpired leases as set forth in Article VI of the Plan, this Confirmation Order or otherwise. Each rejection of an executory contract or unexpired lease in accordance with Article VI of the Plan, this Confirmation Order or otherwise shall be legal, valid and binding upon all non-Debtor parties to such executory contract or unexpired lease, all to the same extent as if such rejection had been authorized and effectuated pursuant to a separate order of the Court that was entered pursuant to section 365 of the Bankruptcy Code before confirmation.

**ORDER**

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

51. **Confirmation of the Plan.** All requirements for confirmation of the Plan have been satisfied. The Plan, and the provisions thereof are confirmed in each and every respect pursuant to section 1129 of the Bankruptcy Code, as may be modified by this Confirmation Order. Without any further notice to or action, order or approval of the Court, the Debtor, and its successor are authorized and empowered to make all modifications to all documents that are consistent with the Plan. As set forth in the Plan, once finalized and executed, all documents contemplated by the Plan shall constitute legal, valid, binding and authorized obligations of the respective parties thereto, enforceable in accordance with their terms.

52. **Objections.** All objections, responses to, statements, comments and all reservations of rights pertaining to confirmation that have not been withdrawn, waived or

settled, before or on the record at, the confirmation hearing are hereby overruled on the merits or addressed separately herein.

53. **Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law stated in this Confirmation Order shall constitute findings of fact and conclusions of law pursuant to F.R. Bankr. P. 7052, made applicable to the proceeding by F.R. Bankr. P. 9014. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed.

54. The terms of the Plan are incorporated by reference into, and are an integral part of, this Confirmation Order. The terms of the Plan, all exhibits thereto, and all other relevant and necessary documents, shall be effective and binding as of the Effective Date.

55. **Plan Classifications Not Dispositive of Claim.** The classification of Claims and Equity Interests for purposes of Distributions made under the Plan shall be governed solely by the terms of the Plan. The classification of Claims set forth on the Ballots tendered to or returned by the creditors in connection with voting on the Plan (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan, (b) other than an election for Plan treatment under Class 2, do not necessarily represent, and not be deemed to modify or otherwise affect, the actual classification of such Claims under the Plan for distribution purposes and (c) other than an election for Plan treatment under Class 2, shall not be deemed dispositive or binding on the Debtor or holders of Claims unless and until resolution of such Claims are determined through the claim objection process.

56. **Operation as of the Effective Date.** Subject to Article XI of the Plan and notwithstanding F.R. Bankr. P. 3020(e), 6004(h) or 7062 or otherwise, upon the occurrence

of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtor and any and all holders (irrespective of whether their Claims or Equity Interests are deemed to have accepted the Plan), all entities that are parties to or are subject to the settlements, compromises, and injunctions described in the Plan, each entity acquiring property under the Plan and any and all non-Debtor parties to executory contracts and unexpired leases with the Debtor. This Confirmation Order shall not be stayed and the terms and conditions of this Confirmation Order shall be immediately effective and enforceable upon its entry.

57. **The Plan Administrator.** Attorney David Velde is designated and approved as the Plan Administrator and shall be vested with full legal power, capacity and authority of the Debtor, and shall be directed to administer, collect and liquidate the Revested Assets and to implement the Plan.

58. **Release.** As provided for in Article X of the Plan, as of the Effective Date, the Release is approved and authorized in all respects.

59. **Exculpation.** As provided for in Article X of the Plan, as of the Effective Date, the Exculpation is approved and authorized in all respects.

60. **Injunction.** From and after the Effective Date, and as contemplated in Article X of the Plan, the Injunction shall be in full force and effect.

61. **Term of Injunction or Stays.** Pursuant to the Plan, unless otherwise provided, all injunctions or stays in effect in this Chapter 11 case pursuant to 11 U.S.C. §§ 105 or 362 or otherwise shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or this Confirmation Order shall remain in full force and effect in accordance with their terms.

62. **Section 1146 Exemption.** Pursuant to 11 U.S.C. § 1146(a), the issuance, transfer or exchange of any security, or the making, delivery, filing, or recording of any instrument of transfer under, or in connection with, the Plan shall not be taxed under any law imposing a recording tax, stamp tax, transfer tax, or similar tax. Furthermore, and without limiting the foregoing, any transfers from the Debtor to any other Person pursuant to the Plan, including the Plan Administrator, shall not be subject to any document recording tax, stamp tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording tax, or other similar tax or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of 11 U.S.C. § 1146(b), shall forego the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. The Court shall retain specific jurisdiction with respect to these matters.

63. **Severability of Plan Provisions.** This Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms. Should any provision of the Plan or this Confirmation Order, including the findings of fact and conclusions of law set forth herein, be determined to be unenforceable after the Effective Date, such determination shall in no way limit or affect the enforceability and operative effect of any and all of the other provisions of the Plan.

64. **Substantial Consummation.** The Plan shall be deemed to be substantially consummated pursuant to 11 U.S.C. §§ 1101 and 1127(b) on the first date Distributions are

made in accordance with the terms of this Plan to any holders of Allowed Claims of any Class.

65. **Conflicts with the Plan.** Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement, or any other order (other than this Confirmation Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements or amendments to any of the foregoing), conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control.

66. **Conflicts Between Confirmation Order and Plan.** The provisions of the Plan and of this Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any Plan provision and any provision of this Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of this Confirmation Order shall govern and any such provision of this Confirmation Order shall be deemed a modification of the Plan and shall control and take precedence.

67. **Effectiveness of All Actions and Reservation of Rights.** Except as expressly set forth in the Plan, the Plan shall have no force or effect before the entry by the Court of this Order, and this Order shall have no force or effect if the Effective Date does not occur. Neither the filing of the Plan, any statement or provision contained in the Plan or the taking of any action by the Debtor with respect to the Plan or the Disclosure Statement shall be or shall be deemed to be an admission or waiver of any rights of the Debtor with respect to the holders of Claims or Equity Interests before the Effective Date.

68. **Notice of Entry of Confirmation Order and Occurrence of the Effective Date.** Pursuant to F.R. Bankr. P. 2002(f)(7), 2002(k) and 3020(c), the Debtor shall file and

serve notice of entry of this Confirmation Order and occurrence of the Effective Date in substantially the form annexed hereto as **Exhibit 1** (the “*Notice of Confirmation and Effective Date*”) on all holders of Claims and Equity Interests, the U.S. Trustee, counsel to the Creditors’ Committee, counsel to the Plan Administrator (if determined), and other parties in interest by first-class mail, postage prepaid, within three (3) Business Days after the Effective Date. Such notice is adequate under the particular circumstances and no other or further notice is necessary. The form of Notice of Confirmation and Effective Date substantially in the form annexed hereto as **Exhibit 1** is approved.

69. **Final Order.** This Confirmation Order is a final order.

70. **Effectiveness of Order.** In accordance with F.R. Bankr. P. 3020(e), 6004(h) and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), this Confirmation Order shall not be stayed and shall be effective immediately upon its entry.

71. **Retention of Jurisdiction.** Notwithstanding the entry of this Confirmation Order and the occurrence of the Effective Date, and subject to applicable law, on and after the Effective Date, the Court shall retain jurisdiction over all matters arising out of, or related to, this Chapter 11 case and the Plan pursuant to 11 U.S.C. §§ 105(a) and 1142, including, without limitation, jurisdiction over those matters set forth in Article XII of the Plan.

72. The Secretary of State of each applicable jurisdiction and other applicable government offices shall accept this Order as conclusive evidence of the authority of Vanity Shop of Grand Forks, Inc. to dissolve under applicable State law and for the Plan Administrator or the Debtor to execute and file such documents, certificates and other instruments as are necessary to effect such dissolution.

Dated: \_\_\_\_\_, 2018  
Fargo, North Dakota

---

THE HONORABLE SHON HASTINGS  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Notice of Confirmation and Effective Date**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA**

|  |                                      |
|--|--------------------------------------|
| In Re:<br><br>Vanity Shop of Grand Forks, Inc.,<br><br>Debtor. | Case No.: 17-30112<br><br>Chapter 11 |
|--|--------------------------------------|

**NOTICE OF CONFIRMATION AND EFFECTIVE DATE OF DEBTOR'S THIRD  
PLAN OF LIQUIDATION DATED MAY 18, 2018**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

**A. CONFIRMATION OF PLAN.**

On May [•], 2018, the United States Bankruptcy Court for the District of North Dakota entered the *Findings of Fact, Conclusions of Law and Order Confirming the Debtor's Third Plan of Liquidation dated May 18, 2018* (the "**Confirmation Order**").

**B. EFFECTIVE DATE OF PLAN**

The Effective Date<sup>1</sup> under the Plan occurred on June [•], 2018.

**C. ADMINISTRATIVE CLAIMS BAR DATE**

Pursuant to Article 4.4 of the Plan, any person or entity who requests compensation or expense reimbursement pursuant to section 506 of the Bankruptcy Code (other than Professional Fees, Administrative Tax, and Priority Tax Claims) must have timely filed a proof of claim asserting its administrative expense claim or must file an application with the clerk of the Bankruptcy Court and serve such application on counsel for the Plan Administrator and the U.S. Trustee no later than [•], 2018 which is the first Business Day that is thirty (30) calendar days after the Effective Date.

**D. PROFESSIONAL FEE CLAIMS BAR DATE**

Pursuant to Article 4.1 of the Plan, the holder of Professional Fee Claims must file all final requests for payment by application with the Bankruptcy Court and serve on counsel to the Plan Administrator, counsel to the Creditor's Committee, and the U.S. Trustee no later

---

<sup>1</sup> All capitalized terms have the same meaning ascribed to them in the Debtor's Third Plan of Liquidation Dated May 18, 2018 [Doc. 719].

than [•], 2018, which is the first Business Day that is thirty (30) calendar days after the Effective Date.

**E. EXECUTORY CONTRACTS AND UNEXPIRED LEASES REJECTION BAR DATE**

If an executory contract or unexpired lease is rejected pursuant to Article VI of the Plan and results in a Claim, such Claim shall be forever barred and shall not be enforceable against the Debtor, the Liquidating Debtor, the Plan Administrator, the Estate or the properties of any of them unless a proof of claim is filed with the Claims Agent and served upon counsel to the Plan Administrator no later than [•], 2018 which is within thirty (30) days after the Effective Date.

**F. CLAIMS OBJECTION DEADLINE**

The Claim Objection Deadline is date that is the first Business Day that is at least 180 calendar days after the Effective Date ([•], 2018). Pursuant to Section 8.10 of the Plan, all objections to Disputed Claims shall be filed no later than the Claims Objection Bar Date, unless otherwise ordered by the Bankruptcy Court after notice and a hearing, with notice only to those parties entitled to notice pursuant to F.R.Bankr.P. 2002.

**G. COPIES OF THE PLAN AND RELATED DOCUMENTS**

Copies of the Plan, the Confirmation Order, and related materials are available for inspection during regular business hours in the office of the Clerk of the Bankruptcy Court, 655 1st Ave N #210, Fargo, ND 58102. Copies are also available on the internet site of the Debtor's notice and claims agent, Kurtzman Carson Consultants, LLC, <http://www.kccllc.net/vanity> or by accessing the Bankruptcy Court's website <http://www.ndb.uscourts.gov>. Please note that a PACER password and login are required to access documents on the Bankruptcy Court's website.

**H. PLAN ADMINISTRATOR**

Mr. David Velde is appointed to serve as the initial Plan Administrator. Pursuant to Section 14.9 of the Plan, any pleading, notice or other document required by the Plan to be served on or delivered to the Debtor shall be served on the Debtor's attorneys, U.S. Trustee's Office, the Plan Administrator, counsel to the Plan Administrator, and all persons on the Debtor's Bankruptcy Rule 2002 service list.

*Plan Administrator:*  
Mr. David Velde  
Velde Moore, LTD 1118 Broadway  
Alexandria, MN 56308  
[dave@veldemoore.com](mailto:dave@veldemoore.com)  
Telephone: (320) 763-6561

*Counsel to the Plan Administrator:*  
[TBD]

