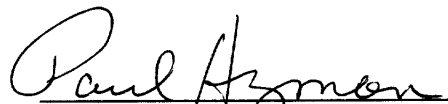




ORDERED in the Southern District of Florida on August 18, 2017.


Paul G. Hyman, Jr., Judge
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

IN RE:

AA FLORIDA BRIDAL RETAIL
COMPANY, LLC, *et al.*,

Debtors.

Case No. 17-18864-PGH
Chapter 7
(Jointly Administered)

ORDER GRANTING TRUSTEE'S MOTION TO (I) RETAIN AND PAY AUCTIONEER, (II) SELL CERTAIN PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES, (III) APPROVE PAYMENT OF CARVE-OUT FOR FEES AND EXPENSES OF THE TRUSTEE AND PROFESSIONALS RETAINED BY TRUSTEE, AND (IV) GRANT SUPER- PRIORITY ADMINISTRATIVE CLAIM TO SECURED CREDITOR IN AMOUNT OF CARVE-OUT
ECF NO. 104

THIS MATTER having come before the Court for hearing on August 14, 2017 at 1:30 p.m upon the motion (the "**Motion**") (ECF No. 104) of the Trustee,¹ upon behalf of the bankruptcy estates for the Debtors, seeking authority to (i) retain and pay an auctioneer pursuant to 11 U.S.C. §§ 327 and 328, Bankruptcy Rule 2014, and Local Rule 6005-1, (ii) sell certain

¹ Capitalized terms used but not specifically defined herein shall have the respective meanings ascribed to them in the Motion

property of the Debtors' estates by auction, free and clear of all liens, claims, and encumbrances, (iii) approve payment of Carve-Out for fees and expenses of the Trustee and professionals retained by Trustee, and (iv) granting secured creditor super-priority administrative claim in the amount of CardConnect Claim pursuant to 11 U.S.C. §§361(3), 507(a), 507(b) and 726(a); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been given; and after due deliberation and it appearing that sufficient cause exists for granting the requested relief; and that the relief requested under the Motion is in the best interests of the Debtors' estates and creditors.

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. The Trustee is hereby authorized to retain and pay the Auctioneer on the terms set forth in the Auction Agreement, with compensation to be based upon (i) the Trustee's payment of the Auctioneer's reasonable and documented expenses, up to \$18,000 (or more, upon further approval of the Court) (the "**Auctioneer Expenses**"); and (ii) a buyer's premium of 10%; *provided, however*, for the avoidance of doubt, the buyer's premium of 10% and the Auctioneer Expenses shall not be included in the calculation of the "Carve-Out;" *provided, further, however*, for the avoidance of doubt that the priority of the CardConnect Claim described herein, shall also extend to the Assets (defined herein) in the amount of the Auctioneer Expenses *plus* the amount of the Carve-Out.
3. Auctioneer is disinterested as defined in the Bankruptcy Code pursuant to the Affidavit of Auctioneer attached to the Application. The Auctioneer and Trustee have certified

that (i) Auctioneer is licensed as an auctioneer and covered by the Florida Auctioneer Recovery Fund and is authorized to conduct auctions in the State of Florida pursuant to § 468.381, Fla. Stat., *et seq.*; (ii) Auctioneer has posted a Fiduciary and Faithful Performance (Surety) Bond in the amount of \$300,000, which exceeds the expected auction revenues; (iii) the bonds are issued by a surety company approved by the Department of the Treasury and in favor of the United States of America; and (iv) true copies of the license and bond were attached to the Application or filed with this Court.

4. The Trustee is hereby authorized to sell the Personal Property by auction, free and clear of all liens, claims, and encumbrances pursuant to 11 U.S.C. § 363(f)(3), because all entities asserting a security interest in the Personal Property have consented to the sale subject to the terms set forth herein.²

5. Pursuant to section 506(c) of the Bankruptcy Code, this Court finds it appropriate, and hereby authorizes the Trustee to recover the reasonable costs and expenses necessary to preserve and dispose of the Personal Property, up to, and not exceeding, the amount of the Carve-Out (*i.e.*, 50% of the net proceeds of the sale of the Personal Property, after payment of the 10% buyer's premium and the Auctioneer Expenses), and the Carve-Out shall be used by the Trustee in accordance with a budget approved by CardConnect in its sole discretion. Any distributions made to CardConnect in connection with the sale of Personal Property shall not reduce claims against the Debtors' estates for which CardConnect has previously been granted superpriority by order of this Court.

² To the extent any of the Personal Property contains any proprietary and/or confidential information, including, for the avoidance of doubt, documents and records that CardConnect wishes to retain and/or duplicate that will facilitate the Debtors and CardConnect minimizing claims against the Debtors' estates and/or CardConnect, respectively, the Chapter 7 Trustee will utilize best efforts to keep such information confidential, and will work in good faith with CardConnect to ensure that such information is preserved and that the proprietary and/or confidentiality of such information is not in any way compromised by the sale efforts.

6. In addition, CardConnect has offered, the Trustee has accepted, and the Court has approved an additional carve-out in the amount of \$25,000, to be paid to the Trustee pursuant to section 506(c) of the Bankruptcy Code (the "Additional Carve-Out"). Unlike the Auctioneer Expenses and the Carve-Out, CardConnect will not receive, pursuant to this Order, an elevated priority with respect to the Additional Carve-Out; *provided, however*, the priority of CardConnect's liens and/or claims against the Additional Carve-Out are not otherwise prejudiced by the entry of this Order, and shall remain in full force and effect subject to bankruptcy and non-bankruptcy law, as applicable.

7. Pursuant to sections 361(3) and 507(b) of the Bankruptcy Code, the Court finds it appropriate to, and hereby grants CardConnect a super-priority administrative claim in the amount of the CardConnect Claim (*i.e.*, the aggregate amount of the Auctioneer Expenses and the Carve-Out) in and upon all assets of the Debtors located in the United States, including any after-acquired property and proceeds thereof, including, for the avoidance of doubt, proceeds (through insurance, settlement, or otherwise) of pending and/or future litigation, including under chapter 5 of the Bankruptcy Code or similar state law claims, commenced by or on behalf of the Debtors, pursuant to sections 507(a)(2), 507(b) and 726(a)(1) in the amount of the CardConnect Claim, which, for the avoidance of doubt, shall have priority over any claims asserted under section 503(b)(9) with respect to the Personal Property and 726(b).

8. The notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h) are hereby waived, and this Order shall take effect and be fully enforceable immediately upon execution hereof.

9. Trustee shall serve this order on the U.S. Trustee and all creditors together with service of the notice pursuant to Bankruptcy Rules 2002(a)(2), 2002(c)(1), and 6004.

10. Upon completion of the auction, Auctioneer shall file with this Court a report summarizing the results of the auction and stating the fees and expenses which will be paid to the Auctioneer in accordance with this Order. The report shall be served only on the U.S. Trustee, the Trustee, and any other party who specifically requests a copy.

11. The fees and expenses of the Auctioneer may be paid without the necessity of further notice or hearing unless a party in interest files an objection within 14 days from the filing of the report with this Court and service of the report on the parties set forth above.

12. The Court shall retain jurisdiction over any matters relating to or arising from the implementation of this Order.

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Submitted by:

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(Attorney Berger shall serve a copy of the signed order on all required parties and file with the court a certificate of service conforming with Local Rule 2002-1(F)).