

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
(EASTERN DIVISION)

	)	
In re:	)	
	)	Chapter 11
ESSENTIAL.COM, INC.,	)	Case No. 01-15339-WCH
	)	
Debtor.	)	

**NOTICE OF INTENDED PUBLIC AUCTION SALE OF FURNITURE,  
FIXTURES AND EQUIPMENT OF THE DEBTOR FREE AND  
CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES;  
AND SOLICITATION OF BIDS FOR THE DEBTOR'S  
LEASEHOLD INTEREST IN NONRESIDENTIAL REAL PROPERTY**

To Creditors and Parties in Interest:

Notice is hereby given, pursuant to Sections 105, 363, and 365 of the Bankruptcy Code, Fed. R. Bankr. P. 6004(c) and MLBR 6004-1(b), that, pursuant to the *Debtor's Motion For An Order: (A) Authorizing The Public Auction Sale Of Furniture, Fixtures And Equipment Of The Debtor Free And Clear Of Liens, Claims, Interests And Encumbrances; And (B) Authorizing Solicitation Of Bids For The Debtor's Leasehold Interest In Nonresidential Real Property* dated August 8, 2001 (the "Motion"), Essential.com, Inc., (the "Debtor") intends to:

Sell, transfer and convey by public auction sale, and to solicit bids for (the "Public Auction") certain assets (the "Public Sale Assets"). The Public Sale Assets are located at: the Debtor's headquarters at One Burlington Woods Drive, Burlington, Massachusetts (the "Headquarters"). The Public Sale Assets are comprised of all assets of the Debtor, as follows and except as provided herein:

- (i) furniture, fixtures, and equipment located at the Debtor's Headquarters; and
- (ii) the unexpired lease of nonresidential real property located at the Headquarters (the "Burlington Lease").

Public Sale Assets shall not include cash, assets previously sold by the Debtor, accounts receivable, causes of action inuring to the Debtor, and any other assets which the Debtor in its sole discretion elects to exclude from the public auction.

The Debtor intends to conduct the Public Auction of the Public Sale Assets on **Thursday, September 6, 2001** at the Debtor's headquarters ("Debtor's Headquarters"), One Burlington Woods Drive, Burlington, Massachusetts. The Public Sale Assets will be

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available for inspection on **Wednesday, September 5, 2001** at the Debtor's Headquarters.

Pursuant to Section 363 of the Bankruptcy Code, the Public Sale Assets shall be sold free and clear of all liens, claims, encumbrances and interests, including without limitation, all consensual liens and security interests and all liens or claims arising by operation of law. Any and all such liens, claims, encumbrances and interests shall attach with equal effect and priority to the net proceeds of sale. To the best of the Debtor's knowledge, the liens, claims and encumbrances on the Public Sale Assets are as follows:

A security interest asserted by Comdisco Financial Services Corporation ("Comdisco") against certain Comdisco computer equipment (the "Comdisco Equipment"). To the extent that any such liens are valid and perfected they shall attached to the net proceeds of the sale of the Comdisco Equipment.

The Debtor reserves the right to recover from the proceeds of any Public Sale Assets, including the Comdisco Equipment, the reasonable, necessary costs and expenses of preserving and disposing of such Public Sale Assets pursuant to Section 506(c) of the Bankruptcy Code or otherwise.

At the Public Auction, the Debtor shall solicit bids for the Burlington Lease. In the event bids are received for the Burlington Lease which are acceptable to the Debtor, the Debtor shall subsequently file a motion with the Bankruptcy Court seeking authorization to assume, assign, and sell the Burlington Lease. Any assignment and sale shall be subject to the payment of any cure obligations by the purchaser associated with the assumption and the posting of any security deposits or letters of credit as may be determined necessary by the Bankruptcy Court. The security deposits or letters of credit provided by or posted by the Debtor will not be assumed and assigned and are not being transferred.

**ANY OBJECTIONS** to the Motion, the Public Auction, or the solicitation of bids for the Burlington Lease must be stated in writing and filed with the Bankruptcy Court at Clerk's Office, United States Bankruptcy Court, 1184 Thomas P. O'Neill Federal Building, 10 Causeway Street, Boston, MA 02222 (the "Clerk's Office") on or before **September 4, 2001, at Noon**. ("Objection Deadline"). A copy of any objection must be served upon undersigned counsel to the Debtor at the address set forth below, the Office of the United States Trustee, 1101 Thomas P. O'Neill Federal Building, 10 Causeway Street, Boston, MA 02222-1074 (the "Trustee"); and counsel to the Creditors Committee, Alex F. Mattera, Esq., Gadsby Hannah LLP, 225 Franklin Street, Boston 02110 (collectively, the "Notice Parties"), so as actually to be received by the Objection Deadline at 4:00 p.m. Any objection must state with particularity the grounds for the objection and why the sale/bids should not be authorized. Any objection to the Motion shall be governed by Fed. R. Bankr. P. 9014.

A **HEARING** on the Public Auction ("Hearing") and any objections thereto is scheduled to take place on **September 5, 2001, at 10:00 a.m.** before Chief Bankruptcy Judge William C. Hillman, United States Bankruptcy Court, Eleventh Floor, Thomas P. O'Neill Federal Building, 10 Causeway Street, Boston, Massachusetts 02222. Any party

that files an objection is expected to be present at the Hearing, failing which the objection shall be overruled. If no objection to the Public Auction is timely filed, the Bankruptcy Court, in its discretion, may approve the Public Auction.

Absent a timely objection, the Bankruptcy Court may enter an order binding upon all parties authorizing the Public Auction.

### **TERMS OF PUBLIC AUCTION**

The following are the Terms of the Public Auction:

1. The Public Sale Assets shall be transferred on an “as is, where is, and how is” basis, without any representation or warranty of any kind by the Debtor.

2. Each bidder (the “Bidder” and collectively, the “Bidders”) shall be deemed to acknowledge: (a) that it had an opportunity to inspect and examine the Public Sale Assets prior to making its offer and that each such Bidder relied solely on that review and upon its own investigation and inspection of the Public Sale Assets in making its offer; and (b) that Bidder is not relying upon any written or oral statements, representations, or warranties of the Debtor, its agents or representatives.

3. Pursuant to Section 363(f) of the Bankruptcy Code, the Public Sale Assets shall be sold free and clear of any liens, claims, interests or encumbrances, with such liens, claims, interests or encumbrances, if any, attaching to the proceeds of such sale.

4. Any of the Public Sale Assets may be withdrawn from sale prior to or during the Public Auction for any reason whatsoever.

5. All bidding increments shall be determined by Paul E. Saperstein Co., Inc. (the “Auctioneer”) and the Debtor, and announced at the commencement of the Public Auction. Bidding increments may be modified by the Debtor during the Public Auction.

6. A successful bidder for all or a portion of the Public Sale Assets shall tender to the Debtor a deposit on the day of the Public Auction equal to twenty five percent (25%) of its bid for all or a portion of the Public Sale Assets.

7. The balance of the purchase price shall be paid by the successful bidder by wire transfer or endorsed bank or certified check prior to removal, except in the case of the Burlington Lease.

8. A successful bidder for the Burlington Lease shall tender to the Debtor a deposit on the day of the Public Auction so that the deposit is equal to twenty five percent (25%) of its bid. Assignment and sale of the Burlington Lease shall be subject to subsequent Court approval and subject to the payment of any cure obligations by the purchaser associated with the assumption and the posting of any security deposits or letters of credit as may be determined necessary by the Bankruptcy Court. The security deposits or letters of credit provided by or posted by the Debtor will not be assumed and assigned and are not being transferred. The balance of the purchase price for the Burlington Lease shall be paid by the successful bidder by wire transfer or endorsed bank or certified check within two (2) business days following Bankruptcy Court approval of the assignment and assumption.

9. Information respecting the amount of any cure obligations associated with the Burlington Lease shall be made available prior to the Public Auction.

10. Terms for removal of the Public Sale Assets shall be announced by the Auctioneer on the day of the Public Auction.

11. The Debtor reserves the right prior to the Public Auction to enter into agreements for the disposition of any or all of the Public Sale Assets and to sell such Public Sale Assets by private sale subject to Bankruptcy Court approval. The Debtor may withdraw from the Public Auction any of the Public Sale Assets prior to or during the Public Auction. The Debtor reserves the right to reject, in its sole discretion, any and all Bids for the Public Sale Assets.

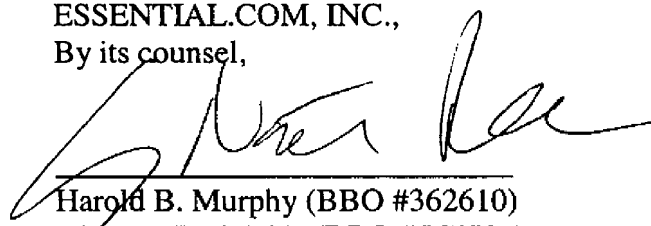
12. All sales of the Public Sale Assets, other than the Burlington Lease, shall be final, upon acceptance of bids by the Debtor in its business judgment, and not subject to further Bankruptcy Court approval.

Any questions concerning the Public Auction should be addressed to undersigned counsel to the Debtor. Entities interested in obtaining information about the Public Sale Assets may contact the Auctioneer, Paul E. Saperstein Co., Inc., 148 State Street, Boston, MA, phone (617) 227-6553, fax (617) 227-2299, [www.pesco.com](http://www.pesco.com).

The Motion is on file at the Clerk's Office of the United States Bankruptcy Court and is available for inspection during regular business hours. Copies of the Motion may also be obtained, upon request, from undersigned counsel to the Debtor.

ESSENTIAL.COM, INC.,

By its counsel,



Harold B. Murphy (BBO #362610)

Alex M. Rodolakis (BBO #567781)

C. Nathan Dee (BBO #646621)

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Dated: August 9, 2001

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