ORIGINAL

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11 Cases Nos.
RSL COM PRIMECALL, INC. and RSL COM USA, INC.,	:	01-11457 and 01-11469 (ALG)
Debtor.	:	(Jointly Administered)

MOTION FOR ORDERS PURSUANT TO SECTIONS 105, 363 AND 1146 OF THE BANKRUPTCY CODE: (A) AUTHORIZING THE DEBTOR TO SELL CERTAIN OF ITS ASSETS, FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES; (B) APPROVING ASSET PURCHASE AGREEMENT AND OTHER AGREEMENTS RELATED THERETO; (C) AUTHORIZING THE DEBTOR TO CONSUMMATE ALL TRANSACTIONS CONTEMPLATED BY SUCH AGREEMENTS; (D) APPROVING BIDDING PROCEDURES, INCLUDING PAYMENT OF BREAK-UP FEE; (E) APPROVING FORM AND MANNER OF NOTICE OF SALE; (F) SCHEDULING A HEARING TO CONSIDER FINAL APPROVAL OF SALE AGREEMENT; AND (G) GRANTING RELATED RELIEF

TO THE HONORABLE ALLAN L. GROPPER,
UNITED STATES BANKRUPTCY JUDGE:

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RSL COM U.S.A., Inc. ("RSL USA" or "Debtor" or "Seller"), one of the administratively consolidated debtors herein, by and through its undersigned attorneys, hereby moves (the "Motion") this Court pursuant to sections 105, 363 and 1146 of title 11 of the United States Code (the "Bankruptcy Code") and Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") 2002, 6004 and 6006 for an order (a) authorizing the sale (the "Sale") of the Debtor's enterprise business, in which RSL USA provides data and long distance service to its customers (the "Enterprise Business"), which Enterprise Business includes certain executory contracts and unexpired leases (the "Contracts", together with the Enterprise Business, the "Subject Assets")

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free and clear of liens, claims, interests and encumbrances (except for the liabilities expressly assumed pursuant to the Asset Purchase Agreement, the "Assumed Liabilities"); (b) approving the Asset Purchase Agreement dated as of March 25, 2002 (the "Asset Purchase Agreement") between the Debtor and Counsel Springwell Communications LLC or its designee (the "Purchaser"); (c) authorizing the Debtor to take all steps necessary or appropriate to consummate the Asset Purchase Agreement and the sale of the Subject Assets; (d) approving the bidding procedures (the "Bidding Procedures") with respect to the proposed sale as set forth herein, including approval of the payment of a break-up fee (the "Break-Up Fee") to the Purchaser and reimbursement of certain expenses; (e) approving the form and manner of the notice of the auction of the Subject Assets ("Auction") and the Bidding Procedures applicable to the Auction; (f) scheduling a hearing (the "Sale Hearing") and objection deadline with respect to the proposed Sale; and (g) granting related relief. A copy of the Asset Purchase Agreement is attached hereto as Exhibit A. Capitalized terms used herein but not otherwise defined herein have the meaning assigned thereto in the Asset Purchase Agreement.

JURISDICTION

1. This Court has jurisdiction over the subject matter of this Motion pursuant to 29 U.S.C. 157 and 1334 of the Bankruptcy Code. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On March 16, 2001 (the "Petition Date"), the Debtor and RSL COM PrimeCall, Inc. ("PrimeCall", together with the Debtor, the "Debtors") commenced cases under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and

manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of this Court. An Official Committee of Unsecured Creditors (the "Committee") was appointed on March 28, 2001.

4. As of January, 2001, the Debtors' business consisted of three segments of its telecommunications operations as follows: (i) a prepaid calling card business, in which PrimeCall sold cards with a stated value to customers to enable them to make local and long distance calls (the "PrimeCall Business"); (ii) a wholesale carrier business in which RSL USA purchased long distance telecommunication minutes on the spot market and resold them to customers (the "Wholesale Business"); and (iii) the Enterprise Business, a business in which RSL USA provides data and long distance voice services, including frame relay, to small and medium size businesses, and long distance and other voice service to small businesses and residences.

5. As of February, 2001, RSL USA divested itself of the PrimeCall Business because it was no longer enhancing the overall value of RSL USA. Postpetition, after careful consideration and based on the sound business judgment of the Debtor, the Debtor determined also to sell the Wholesale Business because it was draining the Debtor of resources with little return. At an auction held before the Bankruptcy Court on June 12, 2001, the Debtor sold the Wholesale Business to the highest and best bidder, Dancris Telecom LLC and Dan Acquisition LLC, for consideration of cash and a note. The sale of the Wholesale Business closed effective July 31, 2001.

6. Thereafter, the Debtor's attention was focused on improving both the operations and profitability of the Enterprise Business, and on marketing the Enterprise Business for sale. As explained below, the Debtor has determined that it is in its best interests, as well as the best interests of its creditors, to effectuate an orderly sale of the Subject Assets.

RELIEF REQUESTED

7. By this Motion, the Debtor seeks one or more orders under sections 105, 363 and 1146(c) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006 (a) authorizing the Sale of the Subject Assets, (i) free and clear of liens, claims, interests and encumbrances, except for Assumed Liabilities and (ii) exempt under section 1146(c) of the Bankruptcy Code from any stamp, transfer, recording or similar tax; (b) approving the Asset Purchase Agreement between the Debtor and the Purchaser or the Highest Bidder; (c) authorizing the Debtor to take all steps necessary or appropriate to consummate the Asset Purchase Agreement and the sale of the Subject Assets; (d) approving the Bidding Procedures with respect to the proposed sale as set forth herein, including approval of the payment of the Break-Up Fee to the Purchaser, and reimbursement of expenses; (e) approving the form and manner of notice of the Auction and the Bidding Procedures to be applied at the Auction; (f) scheduling the Sale Hearing and objection deadline with respect to the proposed Sale; and (g) granting related relief.

8. By separate motion or motions (collectively, the "Assumption and Assignment Motion") to be filed, after entry of an order approving the Sale, but prior to the consummation of the Sale, the Seller will seek an order or orders (collectively, the "Assumption and Assignment Order") approving the assumption and assignment to Purchaser of the Contracts

pursuant to the Asset Purchase Agreement and curing all defaults required to be cured pursuant to section 365 of the Bankruptcy Code.

EFFORTS TO MARKET THE ENTERPRISE BUSINESS

9. In August, 2001, Benedetto, Gartland & Company, Inc. ("Benedetto") prepared an offering memorandum in order to market and sell the Enterprise Business (the "PPM"). See Affidavit of Charles B. Mobus, dated April 11, 2002 at ¶ 6 ("Mobus Affidavit"). Benedetto contacted approximately 75 potential buyers to determine whether they were interested in purchasing the Enterprise Business. See Mobus Affidavit at ¶ 7. After these initial discussions, Benedetto distributed the PPM to approximately 28 potential buyers, each of which expressed interest in purchasing the Subject Assets and executed a non-disclosure agreement. See Mobus Affidavit at ¶ 8. Thereafter, Benedetto held further discussions with each of the recipients of the PPM. See Mobus Affidavit at ¶¶ 8-9.

10. Several parties expressed continued interest in potentially purchasing the Enterprise Business after reviewing the PPM. As a result, 16 potential buyers conducted additional due diligence either by participating in conference calls with senior members of the Debtor's management, receiving information from the Debtor and/or visiting the Debtor's headquarters and/or its offices.

11. This process resulted in strong expressions of interest and/or preliminary bids from 4 potential buyers. See Mobus Affidavit at ¶ 10. After lengthy and arduous negotiations and consultation with the Committee, the Debtor and Purchaser entered into the Asset Purchase Agreement for the sale of the Enterprise Business on March 25, 2002. See Mobus Affidavit at ¶ 13. The Asset Purchase Agreement is incorporated herein by reference. A description of the material terms of the Asset Purchase Agreement is set forth below.

The Terms of the Asset Purchase Agreement

12. The Purchaser of the Enterprise Business is an affiliate of a publicly traded company, Counsel Corporation, which is engaged in the operation and acquisition of telecommunication companies. The Debtor believes that the Purchaser is financially capable of executing the transaction contemplated by the Asset Purchase Agreement. The Purchaser has not required any financing contingency. As provided in Section 5.4 of Asset Purchase Agreement, the designee of the Purchaser is required to be a certificated entity licensed to conduct telecommunication businesses in all fifty states. As a result, a transaction with such certificated entity will expedite the regulatory approval process.

13. Pursuant to the terms of the Asset Purchase Agreement, the purchase price for the Subject Assets is $15,500,000 payable in cash (the "Purchase Price") as of the closing date. As of the date of the signing of the Asset Purchase Agreement, the Purchaser was required to pay $2,600,000 in escrow pursuant to an escrow agreement entered into between the Purchaser and the Seller, with LeBoeuf, Lamb, Greene & MacRae, L.L.P. ("LLG&M") as escrow agent. This account has been established and the Purchaser has paid the required amount into the account. The Purchaser is also assuming $5,150,000 in liabilities as of the closing date as further adjusted in accordance with Section 2.3 of the Asset Purchase Agreement. The closing date of the transaction shall be the first Business Day after the day on which the last consents and approvals described in Article IX and X have been obtained or such other date to which the Purchaser and Seller mutually agree. Section 2.3 of the Asset Purchase Agreement also provides for an adjustment to the Purchase Price based on Current Assets as of the Closing Date.

14. The Asset Purchase Agreement further provides for the assumption and assignment of a variety of contracts which are used in the operation of the Enterprise Business.

The Asset Purchase Agreement first specifies certain contracts that must be assigned to the Purchaser because these contracts were entered into by the Seller postpetition. Second, certain contracts are prohibited from being assigned to the Purchaser because the cure payments associated with these contracts are too onerous to the Seller. Thus, the Seller intends to reject these contracts, once the Sale is consummated. Third, the Purchaser has the option to request, within thirty days after entry of the order approving the Sale or within such time as may be extended by the prior written consent of Seller and the Committee, that certain other contracts be assigned. Fourth, with respect to the transfer of circuit services provided in accordance with tariffs and purchase orders, the Asset Purchase Agreement provides that these services utilized as of the Closing Date shall be assumed and assigned to the Purchaser and that the Purchaser is not responsible for paying amounts due prior to the assignment. Finally, the Asset Purchase Agreement provides that the assumption and assignment order pertaining to the transfer of circuit services shall include a provision for injunctive relief preventing termination of service by providers of circuit services so long as the Purchaser otherwise complies with the applicable tariffs and purchase orders.

15. Pursuant to the Asset Purchase Agreement, the Purchaser represents that it has completed its due diligence, except that a special provision exists for conducting certain customer due diligence. The Asset Purchase Agreement sets forth a procedure pursuant to which the Purchaser was to be provided with this customer due diligence. Because of the sensitive nature of the customer information, the Seller determined that it did not wish to provide wide access to such information for fear of its misuse, despite the execution by each bidder of one or more confidentiality agreements pertaining to such information. As a result, the Asset Purchase Agreement in section 6.2 provides that the Purchaser had until April 10, 2002, representing 15

days, in which to review this information. During such period, the Purchaser also had the right to contact customers. If after reviewing this information, the Purchaser wished to terminate the agreement, it was required to send a notice to the Seller. If no such notice was sent, the Purchaser is bound in accordance with the terms of the Asset Purchase Agreement. The Purchaser has now completed its customer due diligence and no notice of termination was provided.

16. Pursuant to Section 6.6 of the Asset Purchase Agreement, the Purchaser may make offers of employment to any person currently employed at RSL USA. No offers of employment were made prior to entering into the Asset Purchase Agreement so as to assure compliance with the good faith requirement for the Sale. However, upon execution of the Asset Purchase Agreement, it was agreed that the Purchaser could begin to approach the Seller's employees regarding future employment after consummation of the Sale. The Asset Purchase Agreement also prohibits solicitation of other bidders. The Seller, however, may provide information and negotiate with any buyer that either first contacts the Seller or has previously contacted the Seller.

17. The Asset Purchase Agreement sets forth the essential terms upon which higher and better offers can be made and provides for a break up fee and reimbursement of expenses for the Purchaser. In the event that the Purchaser is not the highest bidder, pursuant to the Asset Purchase Agreement, the Purchaser is entitled to be reimbursed up to $150,000 of its documented and reasonable fees and expenses. The Purchaser is also entitled to a break-up fee of $475,000 if it ultimately is not the Highest Bidder. This amount is paid at the closing of the sale to the Highest Bidder.

18. Pursuant to the bidding procedures set forth in the Asset Purchase Agreement, to be followed in the event of an auction for the Subject Assets, the initial overbid must be at least $1,000,000 in excess of the purchase price, and any subsequent bids must be in increments of at least $250,000. All competing bidders are required to submit an asset purchase agreement to the Sellers that is substantially similar to or more favorable than the Asset Purchase Agreement, including the requirement of an initial deposit of $2,600,000.

19. Any bidder bidding against the Purchaser shall also be entitled to conduct certain customer due diligence for a period of 15 days. However, the information that will be provided to the competing bidders will be somewhat more limited than that provided to the Purchaser. Because of the sensitive nature of the customer relationships, nearly all bidders with an interest in the Subject Assets expressed a concern over the dissemination of customer information to competing bidders for fear that solicitation would occur. Of particular concern was the ability of competing bidders to speak to customers whose contracts are either month to month or would soon expire. As a result, it was agreed that the competing bidder would have access only to the top ten customers with longer term contracts. The Debtor believes that, although the competing bidder is subject to this due diligence restriction, this should not chill bidding in any significant manner because the ten customers with whom the competing bidders may speak represent customers whose business generates a large part of revenue of the Enterprise Business. Moreover, although significant opportunity was provided to the other bidders to become the stalking horse bid and thereby to have full access to the customer information, no other bidders ultimately chose to make an attractive enough offer at that time.

20. The Asset Purchase Agreement also provides that, if the Purchaser is not the highest bidder, the Purchaser must stand by through the period in which the highest bidder

conducts its customer due diligence. The Purchaser may also, at its option, elect to standby even if the highest bidder is satisfied with the customer due diligence and the Seller has the option to accept or reject such standby position.

21. Several conditions exist to Purchaser's obligation to close the transaction including obtaining (a) a sale order from the Bankruptcy Court, (b) an assumption and assignment order, and (c) regulatory and other governmental approvals, among other conditions. The Debtor anticipates that the regulatory approval process could last several months. Section 6.12 of the Asset Purchase Agreement obligates the Purchaser to cause its regulatory counsel to prepare and deliver to the Seller's regulatory counsel on or before June 15, 2002, a report detailing the status of the Purchaser's efforts to obtain and/or satisfy Regulatory Requirements. This Section also contains further provisions aimed at expediting regulatory approval and requiring the Purchaser to report on its progress. In addition, the Asset Purchase Agreement also contains a material adverse change provision permitting the Purchaser to terminate the Asset Purchase Agreement if a material adverse effect on the Enterprise Business occurs prior to Closing.

22. The Asset Purchase Agreement terminates if an order approving the Sale is not obtained within 90 days of the date that the Asset Purchase Agreement is executed or if the transaction is not closed by December 31, 2002. In the event that all conditions to Closing have been satisfied other than obtaining all required regulatory approvals, the last date upon which to close the transaction may be extended, at Seller's option, to March 31, 2003.

BUSINESS JUSTIFICATION FOR THE PROPOSED SALE

23. The Seller determined that in order to preserve the value of the Enterprise Business, Seller must either develop a plan of reorganization or sell the Enterprise Business.

Seller investigated both options at length, and after discussions with the Committee, determined in February 2002 that it was in the best interest of the estate to sell the Enterprise Business. See Affidavit of Michael Caffrey, dated April 11, 2002 at ¶¶ 4-5 ("Caffrey Affidavit"). It is necessary to sell the Enterprise Business quickly for several reasons. First, although the Enterprise Business has been operating at break-even to slightly positive on an EBITDA basis for approximately six months, the earnings and cash generated by the Enterprise Business are not currently sufficient to cover the internal and external advisory costs of the Seller's chapter 11 case. Second, the Seller has been hampered in its ability to gain new customers due to the stigma attached to the Seller's chapter 11 filing and the lack of a sales force. Finally, miscellaneous asset sales that have now been concluded were used to fund certain operations.

24. As explained above, Seller's agent, Benedetto, contacted numerous companies or funds that had expressed an interest in the Enterprise Business or were likely candidates to purchase the Subject Assets. As a result of these efforts, the Seller is convinced that it has elicited sufficient interest in the Subject Assets such that a prompt sale of the Subject Assets is the best way to maximize value of the Enterprise Business. Thus, the Seller seeks authorization to sell the Subject Assets to the Purchaser promptly to achieve the best possible result for its estate.

SOLICITATION OF HIGHER AND BETTER OFFERS

25. As part of this Motion and pursuant to the Asset Purchase Agreement, the Seller seeks approval of certain Bidding Procedures. Pursuant to the negotiation between the Seller and the Purchaser, the Seller negotiated certain restrictions that would be placed on competing bidders. These restrictions assure that any competing bids be bona fide bids by potential purchasers who would be ready, willing and able promptly to consummate a transaction

with the Seller. The restrictions also assure that the Auction will result in a sale that will maximize the value paid to the Seller's estate. Accordingly, the Seller requests that the Court approve the Bidding Procedures (the salient terms of which are summarized below) to preserve the benefits of the Asset Purchase Agreement and to facilitate the receipt and analysis of competing bids for the Subject Assets.

26. Initial requirements. Unless otherwise ordered by the Court for cause shown, to participate in the bidding process, each person (a "Potential Bidder") must deliver (unless previously delivered) to the Seller (i) an executed confidentiality agreement in form and substance satisfactory to the Seller, and (ii) current audited financial statements of the Potential Bidder or other financial information satisfactory to the Seller. After receipt of this information, the Seller shall determine, in its sole discretion (but after consultation with the Committee's advisors), whether a Potential Bidder is a qualified bidder permitted to bid in the Auction Process ("Qualified Bidder"). Any Potential Bidder that qualifies as a Qualified Bidder shall be notified.

27. Information and Due Diligence. At the time that the Seller notifies a Potential Bidder that it is a Qualified Bidder, the Seller shall deliver (unless previously delivered) to the Qualified Bidder (i) the PPM together with information updating that contained in the PPM, and (ii) a copy of the Asset Purchase Agreement.

28. To obtain due diligence access or additional information from the Seller, a Qualified Bidder must first advise the Debtor in writing of its preliminary (non-binding) proposal regarding (i) its intention to make a qualifying bid under the Bidding Procedures, (ii) the structure and financing of the transaction (including sources of financing), and (iii) any significant departure from the terms of the Asset Purchase Agreement. If, based on the preliminary proposal and such additional factors as the Seller determines are relevant, the Seller

in its sole discretion (but after consultation with the Committee's advisors), determines that the preliminary proposal is reasonably likely to result in a bona fide and serious higher or better offer for the Subject Assets, the Seller shall afford the Qualified Bidder due diligence access to the Seller. Due diligence (except with respect to certain customer due diligence) shall terminate on the Bid Deadline (as defined below).

29. Bid Deadline and Bid Requirements. All Qualified Bidders desiring to bid at the Auction must submit a bid ("Bid") to be received by (i) Benedetto, at 1330 Avenue of Americas, New York, NY 10019, Attn: Charles B. Mobus, (ii) Loeb Partners Corporation, at 61 Broadway, New York, NY 10006, Attn: Phil Siegel (iii) the undersigned counsel for the Seller, and (iv) Stroock & Stroock & Lavan LLP, at 180 Maiden Lane, New York, NY 10038, Attn: Robin Keller, Esq. not later than 5:00 p.m. (EST) on May 14, 2002 (the "Bid Deadline"). Any and all follow-up questions or comments must be directed to Benedetto. A Bid is an identical or modified version of the executed Asset Purchase Agreement together with a comparite version indicating the changes made to the Asset Purchase Agreement. Seller will consider a Bid only if the Bid: (a) provides for payment of cash or a cash equivalent in an amount not less than $1 million in excess of the sum of the Purchase Price (and the assumption of liabilities) set forth in the Asset Purchase Agreement; (b) is on terms that are substantially similar or better to the Seller than the terms of the Asset Purchase Agreement; (c) is not conditioned on the performance of any due diligence (other than certain customer due diligence) as explained in paragraph 19 above; (d) does not request or entitle the Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment; (e) includes a deposit of $2.6 million in the form of a certified check ("Initial Deposit"); and (f) is likely to receive all necessary governmental approvals.

30. Upon review of each Bid, the Seller, in its sole discretion (but after consultation with the Committee's advisors), shall determine whether a Qualified Bidder that has submitted a Bid shall be invited to bid at the Auction ("Invited Bidder"). If the Debtor believes that none of the Bids submitted by a Qualified Bidder represents a higher and better offer than that of the Asset Purchase Agreement, no Auction will be held and the Debtor will recommend that the Court approve the transaction to the Purchaser.

31. Upon approval by the Court, the Seller may extend the Bid Deadline once or successively, but is not obligated to do so. If the Seller extends the Bid Deadline, it shall promptly notify all Qualified Bidders of the extension.

32. Auction, Bidding Increments, and Bids Remaining Open. In the event that there are any Invited Bidders, other than the Purchaser, the Debtor will conduct the Auction at the United States Bankruptcy Court for the Southern District of New York, Courtroom 617, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004 on the date indicated in the Order to Show Cause accompanying this Motion ("OSC") fixing a Sale Hearing Date (the "Sale Hearing") or such later time or other place as the Seller shall notify all Invited Bidders. Only the Purchaser and any Invited Bidders shall be entitled to bid at the Auction. The Seller shall open bidding with the highest and best bid received by the Bid Deadline. If that Bid is the bid of the Purchaser, the next bid shall be not less than $1 million greater than the Purchase Price including assumption of liabilities. Thereafter, bidding at the Auction must be in increments of not less than $ 250,000. If the opening bid is not that of the Purchaser, the next bid shall not be less than $250,000 greater than the purchase price offered by that Invited Bidder. Bidding at the Auction will continue until such time as the highest and best offer is determined. Upon conclusion of the Auction, the Seller (in consultation with the

Committee's advisors), shall review each bid made at the Auction on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the sale with respect to the Subject Assets, and submit the highest or otherwise best bid for approval by this Court (the "Highest Bidder").

33. Deposit. Except with respect to the Purchaser, upon completion of the Sale Hearing, the Debtor shall transfer the Initial Deposit of the Highest Bidder into an escrow account (the "Escrow Account") with LLG&M as escrow agent ("Escrow Agent"). Within three business days of the completion of the Auction, the Highest Bidder (other than the Purchaser) shall wire transfer into the Escrow Account the difference between the Initial Deposit and 20% of the winning bid (the aggregate of the Purchase Price and the liabilities assumed) at the Auction. All other certified checks submitted to the Seller shall be returned to the Invited Bidders.

34. Modifications. The Seller (in consultation with the Committee's advisors), (a) will determine, in its business judgment, which bid, if any, is the highest or otherwise best offer; and (b) may reject at any time any bid that, in the Debtor's sole discretion, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or the terms and conditions of sale, or (iii) contrary to the best interests of the Seller, its estate and creditors. At or before the Sale Hearing, the Court or the Seller may impose such other terms and conditions as they may determine to be in the best interests of the Seller's estate to the extent that such terms and conditions do not conflict with the terms of the Asset Purchase Agreement.

PROVISIONS FOR NOTICE AND OBJECTION DATES

35. The Seller proposes that on or before the date indicated in the OSC, it (or its agent) will serve this Motion, with exhibits and all supporting papers, by hand, facsimile, electronic mail or overnight courier upon: (i) the twenty largest creditors; (ii) the office of the United States Trustee for the Southern District of New York; (ii) counsel for the Purchaser; (iii) counsel for the Official Committee of Unsecured Creditors; (iv) all parties that the Debtor's financial advisor, in consultation with the Debtor, believes may be interested in acquiring the Subject Assets; and (b) service of this Motion without exhibits and supporting papers by facsimile or first-class mail postage-prepaid on or before the date indicated in the OSC upon (i) all parties that purport to have or have a lien or liens on any of the Subject Assets, the addresses of which are obtainable by the Debtor, (ii) all parties on the Master Service List pursuant to the Order Establishing Notice Procedures entered by this Court on May 2, 2001; and (iii) all creditors of the Debtor.

36. The Seller also proposes, pursuant to Fed. R. Bankr. P. 2002, that publication of the notice of Sale appear once in the national edition of The Wall Street Journal, within 5 business days after entry of the Bidding Procedure Order, substantially in the form attached as Exhibit B, and that such notice be deemed proper notice to any other interested parties whose identities are unknown to the Seller or other parties-in-interest who have not otherwise received notice of the Sale.

37. The Seller submits that the foregoing notice is reasonably calculated to provide timely and adequate notice to the Seller's major creditor constituencies, those persons most interested in this case and those persons potentially interested in bidding on the Subject

Assets and, thus, that such notice is sufficient for entry of an order or orders granting all of the relief requested in this Motion.

APPLICABLE AUTHORITY

A. The Sale of the Subject Assets Free of Liens, Claims and Encumbrances is Permitted Under the Bankruptcy Code and Within the Seller's Sound Business Judgment

38. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Although section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor's assets, courts in the United States Court of Appeals for the this Circuit, have required that it be based upon the sound business judgment of the debtor. See Licensing by Paolo v. Sinatra (In re Gucci), 126 F. 3d 380 (2d Cir. 1997) ("A sale of a substantial part of a Chapter 11 estate may be conducted if a good business reason exists to support it"); In re Chateaugay Corp., 973 F.2d 141 (2d Cir. 1992) (holding that there must be a good business reason to grant a motion to sell assets under Bankruptcy Code section 363(b)); Committee of Equity Sec. Holders v. Lionel Corp.,(In re Lionel Corp.), 722 F.2d 1063, 1071 (2d Cir. 1983); See Also In re Delaware & Hudson Railway. Co., 124 B.R. 169, 176 (D. Del. 1991) ("bankruptcy court can authorize a sale of all a Chapter 11 debtor's assets under section 363 (b)(1) when a sound business purpose dictates such action"). The Seller believes that its decision to sell the Subject Assets in accordance with the terms of the Asset Purchase Agreement is within the exercise of its reasonable business judgment.

39. Section 363(f) of the Bankruptcy Code provides that a debtor in possession may sell property free and clear of liens, claims and encumbrances with any such

encumbrances attaching to the net proceeds of the sale (except as other wise provided in the Agreement) if one of the following conditions is satisfied:

(1) applicable nonbankruptcy law permits the sale of such property free and clear of such interest;

(2) the lienholder or claimholder consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) the lienholder or claimholder could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

See 11 U.S.C. § 363(f).

40. The Seller is not aware, to the best of its knowledge, of any liens relating to the Subject Assets. The Court should authorize the Seller to sell the Subject Assets free and clear of any and all liens, claims and encumbrances (except for the Assumed Liabilities) with such liens to be transferred and attached to the net proceeds of the Sale, with the same validity and priority that such liens had against the Subject Assets.

B. The Break-Up Fee is Reasonable and Essential to the Asset Purchase Agreement

41. The Seller also proposes, under the Asset Purchase Agreement, to pay a Break-Up Fee to the Purchaser in the event that the Seller enters into an alternative transaction with the Highest Bidder ("Alternative Transaction"). The Break-Up Fee would be paid out of the proceeds of that Alternative Transaction at the time of closing of such transaction. Paying $475,000 to the Purchaser in the event the Seller sells the Subject Assets to another bidder is reasonable and customary in this type of transaction. See, e.g., In re Montgomery Ward Holding Corp., et al., Case No., 97-1409 (PJW) (Bankr. D. Del., June 15, 1998). Further, any such fee

would be covered by the additional proceeds that would be realized from the sale of the Subject Assets pursuant to an Alternative Transaction.

42. The Break-Up Fee was a material inducement for, and a condition of, the Purchaser's entry into the Asset Purchase Agreement. The Seller believes it is fair and reasonable in view of the analysis, due diligence investigation, and negotiation undertaken by the Purchaser in connection with the Sale. Moreover, payment of the Break-Up Fee will not diminish the Seller's estate. The Seller will not terminate the Asset Purchase Agreement so as to incur the obligation to pay the Break-Up Fee unless it accepts a higher and better bid at the Auction and as approved by the Court at the Sale Hearing. As set forth in the Bidding Procedures, for a bid to be a Qualified Bid, the bid must provide, among other things, for consideration having a readily ascertainable fair market value of not less than $1 million in excess of the sum of the Purchase Price payable to the Purchaser as described herein. If a bidder other than the Purchaser is found to be the Highest Bidder, it is not fully committed until certain customer due diligence is completed. As a result, the Purchaser must stand-by even after it has been found not to be the Highest Bidder while the Highest Bidder conducts this customer due diligence. Moreover, the Break-Up Fee is not payable unless and until the Alternative Transaction is actually consummated, and it is paid from the proceeds of a sale of the Subject Assets.

43. Whether evaluated under the "business judgment rule" or the "administrative expense" standard, the Break-Up Fee should be approved. The Break-Up Fee is the product of extended good faith, arm's-length negotiations between the Seller and the Purchaser. It is fair and reasonable in amount, particularly in view of the Purchaser's efforts to date, and the risk to, and time and effort expended by the Purchaser in its role of a "stalking

horse." Approval of the Break-Up Fee is particularly warranted in the instant situation where the Purchaser has negotiated a complex agreement that can serve as a floor for other parties to bid against. See Official Committee of Subordinated Bondholders v. Integrated Resources, Inc., 147 B.R. 650 (S.D.N.Y. 1992), appeal dismissed, 3 F. 3d 49 (2d Cir. 1993); In re 995 Fifth Ave. Assocs. L.P., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989).

44. The Seller accordingly requests that the Court authorize payment of the Break-Up Fee as defined in, and pursuant to the terms and conditions of, the provisions of the Asset Purchase Agreement.

C. The Purchaser should be afforded all protections under Bankruptcy Code Section 363(m) as a good faith purchaser

45. Section 363(m) of the Bankruptcy Code provides that "[T]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith.. ." 11 U.S.C. § 363(m).

46. As noted above, the Asset Purchase Agreement is a template created by the Seller for purposes of the Auction, the terms of which were negotiated at arm's length and in good faith. Accordingly, the Seller ask that the Court find that the Purchaser or the Highest Bidder to be acting in good faith and entitled to the protections of a good faith purchaser under section 363(m) of the Bankruptcy Code. See In re UPI, No. 91 B 13955 (FGC), 1992 U.S. Bankr. LEXIS 842, at *3 (Bankr. S.D.N.Y. May 18, 1992).

47. Inasmuch as the sale for the purchase of the Subject Assets is subject to higher or better offers, the Seller is ensured of realizing the best price obtainable for the Subject Assets. Accordingly, the Seller submits that the benefits to be derived from the Sale of the

Subject Assets warrants this Court's approval of the Asset Purchase Agreement and authorization to consummate the transactions contemplated therein.

48. Finally, the Debtor believes approval of the Sale will also lead to the resolution of its chapter 11 proceedings. After the Sale is completed, the Debtor intends to move immediately to propose confirmation of a liquidating plan of reorganization that provides for the distribution of the net Sale proceeds. In conjunction with such process, the Debtor anticipates that the plan of reorganization shall provide for a procedure to prosecute and/or settle the guaranty release and avoidance actions relating to the claim filed by Chase Manhattan Bank, as indenture trustee, on behalf of RSL PLC bondholders and the Ronald Lauder guarantee as well as various directors and officers claims.

MEMORANDUM OF LAW

49. Pursuant to Local Bankruptcy Rule for the Southern District of New York 9013-1(b), because there are no novel issues of law presented herein, the Debtor respectfully requests that the Court waive the requirement that it file a memorandum of law in support of this motion. The Seller, however, reserves its right to file a separate memorandum of law in reply to objections, if any, which may be interposed with respect to the relief requested herein.

NO PREVIOUS MOTION

50. No previous motion for the relief requested herein has been made to this or any other Court.

WHEREFORE the Seller respectfully request that the Court enter an order or orders granting the relief requested herein, and such other and further relief as is just and proper.

Dated: New York, New York
April 11, 2002

LeBOEUF, LAMB, GREENE & MacRAE L.L.P.

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