

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN RE: )  
)  
JOSEPH (UK) INC., )  
a Delaware corporation, )  
)  
Assignor, )  
)  
To: )  
)  
JUK (ABC), LLC, )  
)  
Assignee. )  
)  
)  
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C.A. No. 2019-0596-KSJM

**PETITION FOR APPROVAL OF FINAL ACCOUNTING PURSUANT TO 10 DEL. C. § 7385 AND FINAL DISTRIBUTIONS AND MOTION FOR DISCHARGE OF ASSIGNEE AND ORDER CLOSING CASE**

JUK (ABC), LLC, in its capacity as the assignee (the “Assignee”) for the benefit of creditors of Joseph (UK) Inc. (the “Assignor”), under a general assignment for the benefit of creditors dated August 1, 2019 (the “General Assignment”), hereby submits this petition for approval of final accounting pursuant to 10 Del. C. § 7385 and final distributions (the “Petition”) and respectfully requests the discharge of the Assignee and entry of an order, substantially in the form filed herewith, closing this case. In support hereof, the Assignee states as follows:

## **BACKGROUND**

### **A. Procedural Status**

1. On or about August 1, 2019, the Assignor assigned all of its right, title, and interest in its assets to the Assignee pursuant to the General Assignment so that the proceeds thereof are fairly distributed to its creditors without any preference or priority, except such priority as is established and permitted by applicable law, pursuant to the assignment for the benefit of its creditors.

2. On August 1, 2019, the Assignee filed a *Verified Petition for Assignment for the Benefit of Creditors*, thereby commencing this assignment for the benefit of creditors proceeding (the “ABC Proceeding”).

3. Assignor is a privately held U.S. company that focused on sales of men’s and women’s fashions. The Assignor was the U.S. arm of Joseph, a luxurious fashion brand and retail chain based in London. The Assignor operated stores in New York City and Miami, which sold clothing and accessories from a variety of designers. See *Declaration of James Gansman in Support of Petition for Approval of Final Accounting Pursuant to 10 Del. C. § 7385 and Final Distributions and Motion for Discharge of Assignee and Order Closing Case* filed concurrently herewith (the “Gansman Declaration”) ¶ 6.

4. On November 5, 2020, the Assignee filed its *Declaration (10 Del. C. § 3927) of Inventory Pursuant to 10 Del. C. § 7381 of James Gansman* (the

“Inventory Declaration”). Assignee has examined the books and records of Assignor and determined that Assignor is insolvent. The Inventory Declaration included an attached inventory of the assets of Assignor as of the date of the General Assignment.

5. On November 5, 2020, the Assignee filed its *Motion For Order Appointing Appraisers Pursuant To 10 Del. C. § 7382*, seeking the appointment of Cohen & Company, Ltd. (“Cohen”) and Onyx Asset Advisors, LLC (“Onyx”) as appraisers in this case, which motion was approved by the Court pursuant to its *Order Appointing Appraisers Pursuant To 10 Del. C. § 7382* entered on November 30, 2020 (the “Appraiser Order”).

6. In accordance with the Appraiser Order, the Assignee obtained appraisals for the inventory in the General Assignment estate from Cohen and Onyx (the “Cohen Appraisal” and “Onyx Appraisal,” respectively). As set forth in such appraisals, Cohen based its appraisal on an orderly liquidation value of the Assignor’s assets in light of the purpose of the valuation and the most likely transactional circumstances. Onyx, on the other hand, presumed a forced sale of the assets, with set prices based on a 90-day time table for liquidation of the inventory. Both appraisers considered the circumstances underlying the company and various valuation methodologies—including the cost approach, income approach, and market approach—in ascertaining their appraisals.

7. The appraisers determined that the Assignor's trade inventory had a value between \$278,000 and \$312,000. See Cohen Appraisal, p. 21; Onyx Appraisal, p. 10. Both appraisers determined that the Assignor's tangible property (i.e., the remaining property and equipment) had a value between \$26,000 and \$29,000. See Cohen Appraisal, p. 21; Onyx Appraisal, p. 12. Based on their analyses, the Cohen Appraisal valued the assets at \$338,000, and the Onyx Appraisal valued the assets at \$307,000. See Cohen Appraisal, p. 21; Onyx Appraisal, p. 13.

8. In view of the valuations set forth in the appraisals, on February 17, 2021, the Assignee filed its *Motion For Order Establishing Bond Amount Pursuant To 10 Del. C. § 7383* requesting that the Court establish a bond in this proceeding at \$322,500, reflecting the midpoint between the two appraisals, on an unsecured basis, which motion was granted by the Court pursuant to its *Order Establishing Bond Amount Pursuant To 10 Del. C. § 7383* entered on February 22, 2021.

9. Consistent with the requirements of 10 Del. C. § 7383, the Assignee secured a bond in the amount of \$322,500, which it filed on March 29, 2021.

**B. Marketing and Sales of Assets**

10. Over the course of this proceeding, the Assignee has been responsible for administering the Assignor's estate, which included liquidation of the Assignor's assets for the purposes of distributing the sale proceeds to creditors. Gansman Decl. ¶ 7.

11. Prior to the General Assignment, the Assignor conducted going-out-of-business sale at two of its locations. *Id.* ¶ 8. The going-out-of-business sales ran for approximately four weeks. *Id.*

12. During the ABC Proceeding, the Assignee's efforts to maximize value and administer the General Assignment estate, including the marketing and sale of the General Assignment estate's assets through a sample sale, taking into consideration the need to rapidly execute sales to minimize deterioration of the value of the assets due to the passage of time.

13. The sample sale generated gross proceeds of \$278,306. *Id.* The Assignee subsequently sold the remainder of the inventory to be included in the Barney's Department Store liquidation for \$93,067. *Id.*

14. The Assignee generated an aggregate amount of approximately \$371,373 in gross proceeds, and \$254,568 in net proceeds, from the sales of the General Assignment estate's assets. *Id.* ¶ 9. Following the sales of the General Assignment estate's assets described above, the Assignee determined that all remaining assets are of nominal value and will not result in any meaningful net value to the General Assignment estate. *Id.*

**C. Case Administration, Distributions, and Anticipated Distributions**

15. In administering the General Assignment estate, the Assignee prepared and, on August 21, 2019, mailed a notice of the General Assignment which

included instructions on how to file a proof of claim, to more than 30 interested parties. Gansman Decl. ¶ 9. The proof of claim notice allowed any person or entity to submit a claim in the ABC Proceeding and also established a claims bar deadline of March 1, 2020, which was approximately 180 days from the date of the Assignment. In connection with this claims process, the Assignee received a total of seven unsecured claims, totaling approximately \$29,590,567. *Id.*

16. On or around April 7, 2020, the Assignee made a distribution in the amount of \$150,000 to Joseph Limited (UK), the Assignor's parent entity which held secured claims against the estate in the amount of \$175,000. *Id.* ¶ 10. The Assignee intends to distribute \$25,000 to Joseph Limited (UK) on account of the remainder of that secured claim. *Id.*

17. Out of the \$83,683 total amount for distribution to Assignor's unsecured creditors, the Assignee anticipates that \$64,654.56 or 77.3% will be distributed to Joseph Limited (UK) on account of an unsecured claim; \$18,880.74 or 22.6% to ASB L3 72-76 Greene Street, LLC, a landlord of the Assignor; and \$124.36 or 0.1% to Christopher R. Barry, Esq. *Id.* ¶ 11. Holders of the remaining unsecured claims will receive a nominal aggregate distribution amounting to \$23.22. *Id.* All the anticipated distributions to unsecured creditors described in this paragraph shall be referred to as the "Final Distributions."

18. The Assignee's general administrative expenses, including fees to accountants, attorneys, appraisers, and other professionals, have been paid from budgeted amounts throughout this ABC Proceeding. *Id.* ¶ 12.

19. The Assignee has completed its evaluation and analysis of all potential tax liabilities of the General Assignment estate. *Id.* ¶ 13. The Assignee has completed several other wind-down activities, including preparing corporate tax returns for the Assignor and paying all associated taxes, ensuring that former employees received year-end tax reporting, and facilitating the storage of books and records of the Assignor. *Id.*

20. The Assignee has administered and wound up substantially all of the General Assignment estate and, upon making the Final Distributions to unsecured creditors as described above, will be in a position to close this matter. *Id.* ¶ 14. Pursuant to 10 Del. C. § 7385, the Assignee submits its final accounting for the General Assignment estate, a copy of which is attached to this Petition as **Exhibit A.**

### **DISCUSSION**

21. The Assignee believes that it has completed all of the functions necessary to make the Final Distributions, close this proceeding, and be discharged from its duties. Gansman Decl. ¶ 15. As set forth in the Gansman Declaration filed herewith, once the Final Distributions are made, the Assignee will have fully

administered its duties as Assignee of the General Assignment estate. As such, the Assignee respectfully requests that the Court approve the Assignee's Final Accounting and Final Distributions, and discharge the Assignee from its duties.

22. The Assignee also seeks through this Petition to release, automatically within 30 days from the date of entry on an order on this Petition, the Bond the Assignee provided since all of the Assignment estate's assets will be liquidated upon the Final Distributions, the Assignment estate will be fully administered.

### **CONCLUSION**

WHEREFORE, the Assignee respectfully requests the Court's entry of an order (i) approving the Final Accounting, (ii) approving the Final Distributions, (iii) closing this case, (iv) discharging the Assignee from any further obligations related to the Assignment of this case, (v) releasing the Bond, and (vi) granting such other relief as the Court deems just and proper.



Dated: July 20, 2021

Respectfully submitted,

DORSEY & WHITNEY (DELAWARE)  
LLP

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## EXHIBIT A

### Final Accounting for JUK (ABC), LLC

Beginning Cash Balance	\$ 404,863	
Funding from Secured Lender		\$ 175,000
<b><u>RECEIPTS</u></b>		
Sale Proceeds net of Expenses	254,568	
Collection of Deposits	35,201	
Total Receipts	<u>289,769</u>	289,769
<b><u>DISBURSEMENTS</u></b>		
Payroll & Benefits	196,756	
Assignee Fee & Legal Fees	150,069	
Company Legal	75,000	
Tax Preparation	62,000	
Inventory Storage, Shipping and Handling	37,658	
Sales and Income Taxes	29,563	
Insurance, Utilities, and Other Operating Costs+	22,001	
Administrative Costs (a)	20,000	
Appraisal and bond	17,902	
Total Expenses	<u>610,949</u>	610,949
<b>Cash Available for Disbursement</b>		<u><b>83,683</b></u>
Disbursements to Secured Creditors		175,000
Disbursements to Unsecured Creditors		83,683
Remaining Cash Balance		<u><u>\$ 0</u></u>

(a) Includes Creditor Noticing Costs, Record Storage Costs, SPE Setup Costs