



**GRANTED**

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

Commodity, Inc.,	)	
a Delaware corporation,	)	
	)	
Assignor,	)	
	)	
v.	)	Civil Action No. 2019-0468-KSJM
	)	
CMTY (ABC), LLC,	)	
a Delaware limited liability company,	)	
	)	
	)	
Assignee.	)	

**ORDER APPROVING MOTION FOR  
APPROVAL OF PLAN OF DISTRIBUTION**

Upon consideration of *Motion for Approval of Plan of Distribution* pursuant to 10 *Del. C.* §§ 7328 and 7330 (the “Motion”) of CMTY (ABC), LLC, Assignee for the Benefit of Creditors (the “Assignee”) of Commodity, Inc., the Court hereby orders that:

- (i) the distribution plan, as detailed in the Motion, is approved;
- (ii) the Assignee is authorized to immediately begin making distributions;
- (iii) in the event that any distribution check is not cashed and/or is returned undeliverable within 90 days of mailing to the address listed on each claim form, the Assignee is authorized to have such check(s) voided and the funds redistributed among remaining creditors pro rata.

Date: March \_\_\_\_\_, 2021

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Vice Chancellor  
Kathleen St. Jude McCormick

This document constitutes a ruling of the court and should be treated as such.

**Court:** DE Court of Chancery Civil Action

**Judge:** Kathaleen St Jude McCormick

**File & Serve**

**Transaction ID:** 66427118

**Current Date:** Mar 18, 2021

**Case Number:** 2019-0468-KSJM

**Case Name:** Commodity, Inc. vs CMTY (ABC), LLC

**Court Authorizer:** Kathaleen St Jude McCormick

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/s/ Judge Kathaleen St Jude McCormick



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a Delaware limited liability company,	)	
	)	
	)	
Assignee.	)	

**MOTION FOR APPROVAL OF PLAN OF DISTRIBUTION**

CMTY (ABC), LLC, a Delaware limited liability company (“Assignee”), solely in its capacity as the Assignee of Commodity, Inc., a Delaware corporation, (“Commodity” or “Assignor”) under a General Assignment for the Benefit of Creditors dated June 18, 2019 (the “General Assignment”), respectfully requests (the “Motion”) the entry of an Order approving a plan of distribution pursuant to 10 *Del. C.* §§ 7328 and 7330. In support of this Motion, the Assignee respectfully represents as follows:

**BACKGROUND**

1. Assignor was a privately held U.S. company that specialized in selling custom fragrances and other beauty and home goods such as bath soaps, lotions, candles and home scents. On or about June 18, 2019, Commodity delivered to the Assignee its General Assignment for the benefit of its creditors.

2. On or about June 18, 2019, the Assignee filed a Verified Petition for Assignment for Benefit of Creditors thereby commencing this proceeding.

3. Pursuant to the General Assignment, Assignor transferred ownership of all of its property of every kind and nature and wheresoever situated (collectively, the “Property”) to Assignee for liquidation.

4. On or about July 17, 2019, the Assignee filed its affidavit and schedule of inventory as required by 10 *Del. C.* §7381 (the “Inventory Affidavit”).

5. On September 13, 2019, this Court entered an Order Appointing Appraisers Pursuant to 10 *Del. C.* § 7382 (the “Appraiser Order”). Pursuant to the Appraiser Order, Applied Business Strategy LLC (“ABS”) and Onyx Asset Advisors, LLC (“Onyx”) were appointed as appraisers.

6. As set forth in the appraisals prepared by ABS and Onyx, the appraised value of the non-intellectual property portion of the Property ranged from \$111,400 (as determined by ABS) to \$155,000 (as determined by Onyx).

7. As set forth in the appraisals prepared by ABS and Onyx, the appraised value of the intellectual property portion of the Property ranged from \$124,000 (as determined by ABS) to \$177,000 (as determined by Onyx).

8. On or about June 18, 2019, notice of the General Assignment (the “Notice”) was provided to all known claimants. The Notice set forth a deadline of

December 18, 2019 for claimants to submit a proof of claim form to Assignee's counsel.

9. On October 2, 2019, the Assignee held an auction to liquidate the Property. The auction was marketed to hundreds of companies, private equity firms and venture capital firms, including companies in the cosmetics and fragrances industry. Five parties executed non-disclosure agreements in connection with the marketing process. The auction attracted three (3) qualified bidders. After a robust auction process featuring several rounds of bidding, the highest bid was \$230,000. After the payment and resolution of several warehouseman's liens in the amount of \$83,002.22, the net sale proceeds of the sale of the Property were \$146,997.78.

### **CLAIMS**

10. In total, claims of \$265,033.32 were timely submitted by seven (7) parties, as follows (collectively, the "Claims"):

A. Lago Group Holdings Limited, submitted a Claim for \$50,846.00 representing payment due for a secured loan.

B. Lithomatic Business Forms, Inc, submitted a Claim for \$244.97 representing amounts due for goods sold.

C. Givaudan Fragrances Corporation, submitted a Claim for \$134,065.25 representing amounts due for goods sold.

D. Bentley Laboratories, LLC, submitted a Claim for \$13,320.00 representing amounts due for services rendered.

E. Owen Gee, submitted a Claim for \$25,000.00 representing payment due for an unsecured loan.

F. The Bernard Group, Inc., submitted a Claim for \$19,955.10 representing amounts due for goods sold.

G. Robertet Inc., submitted a claim for \$21,602.00 representing amounts due for goods sold.

11. Assignee has reviewed the Claims and any applicable supporting documentation and has no material disputes.

#### **RELIEF REQUESTED AND BASIS THEREFOR**

12. 10 *Del. C.* § 7328 provides:

The net proceeds of the petitioner's estate, after deducting just expenses of executing the trust and a reasonable commission to the trustees, shall be applied towards payment of such demands against the petitioner as are exhibited to the trustees within one year after the date of the assignment, and no others. If the proceeds are insufficient to pay the whole amount of the demands, they shall be apportioned pro rata. Any overplus shall be returned to the petitioner, the petitioner's heirs, executors, or administrators.

10 *Del. C.* § 7328.

13. 10 *Del. C.* § 7330 further provides that “controversies arising in the course of the execution of the trust, respecting any disputed demands or claims,

may be referred, compromised, or settled, as may be deemed expedient.” 10 *Del. C. § 7330*.

14. The total amount of the Claims submitted to the Assignee was \$265,033.32. As of the date hereof, there is \$95,947.62 available for distribution on account of the Claims. Assignee respectfully requests that the Court approve the distribution of such amount to (1) satisfy the Lago Group Holdings Limited secured Claim in full, and (2) with respect to the remaining Claims, on a pro-rata basis, on account of the Claims. In the event that any additional funds become available, Assignee shall distribute said funds on a pro-rata basis as well.

15. The Assignee intends to distribute funds on account of the Claims to the addresses provided in each claim form. In the event that distribution checks are not cashed and/or are returned undeliverable within 90 days of mailing to the address listed on each claim form, the Assignee requests authority to have such checks voided and the funds redistributed among remaining creditors, pro rata.



## **CONCLUSION**

WHEREFORE, the Assignee respectfully requests that this Court enter an order granting the relief requested herein and that it grant the Assignee such other and further relief as is just and proper.

Dated: March 16, 2021

Respectfully submitted,

GREENBERG TRAURIG, LLP

/s/ Dennis A. Meloro

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Attorneys for CMTY (ABC), LLC, solely as  
Assignee for the benefit of the creditors of  
Commodity, Inc.

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