STATE OF MINNESOTA **DISTRICT COURT**

COUNTY OF HENNEPIN **FOURTH JUDICIAL DISTRICT**

CASE TYPE: MISC

In Re: Wayzata Home Products, LLC and cliqstudios.com LLC	))))))))	**Court File No.: 27-CV-20-4326** **Judge David L. Piper** **THE ASSIGNEE'S NOTICE OF MOTION AND MOTION TO EXTEND THE STAY**

NOTICE OF MOTION

PLEASE TAKE NOTICE that the Assignee in the above-referenced matter, Lighthouse Management Group, Inc., ("Lighthouse" or "the Assignee"), will bring this Motion to Extend the Stay ("Motion") before the Honorable David L. Piper at the Hennepin County Court, 300 South Sixth Street, Minneapolis, MN 55415, at the Court's earliest convenience. The Assignee does not specifically request a hearing on this Motion, but will follow the Court's guidelines for motion hearings during the current COVID-19 pandemic policy. The Court has advised that this matter will be determined on the basis of written pleadings. Any objections should be filed on, or before April 17, 2020. If not objections are received, the Court may grant this motion any time on or after April 28, 2020 without further notice.

MOTION

Pursuant to Minnesota Statute § 576.42, Assignee hereby moves this Court for an order extending the stay for an additional ninety (90) days, through and including July 11, 2020, in the above-captioned action. This Motion is supported by the memorandum of law and supporting declaration, which will be filed in accordance with the Minnesota Rules of General Practice. The

Motion is also based on the files, records, pleadings, and other documents previously submitted by the parties, as well as the arguments of counsel presented in written submissions, or argued at a future motion hearing.

Dated: April 7, 2020.

Respectfully submitted,

BARNES & THORNBURG LLP

By: *<u>/s/Michael A. Cavallaro</u>*
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COUNSEL FOR LIGHTHOUSE MANAGEMENT GROUP, INC.

ACKNOWLEDGMENT REQUIRED BY MINNESOTA STATUTES SECTION 549.211, SUBDIVISION 1

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

Dated: April 7, 2020.

Respectfully submitted,

BARNES & THORNBURG LLP

By: *<u>/s/ Michael A. Cavallaro</u>*
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STATE OF MINNESOTA | **DISTRICT COURT**

COUNTY OF HENNEPIN | **FOURTH JUDICIAL DISTRICT**

CASE TYPE: MISC

In Re: Wayzata Home Products, LLC and cliqstudios.com LLC	**Court File No.: 27-CV-20-4326** **THE ASSIGNEE'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO EXTEND THE STAY**

INTRODUCTION

Minnesota Statute § 577.18 provides that:

> "Except as provided in this chapter, an assignee shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53."

Under Minnesota Statute § 576.42, the appointment of a general receiver gives rise to an automatic stay – an injunction that prohibits persons from taking certain actions affecting the receivership or receivership property. In accordance with that statute, the Assignee requests a 90-day extension of the stay created by the entry notice of the assignment for the benefit of creditors. The requested extension will prevent loss or diminution in value of assignment assets while the Assignee: establishes and gets Court approval for a claims process; continues negotiations and discussions with creditors and other parties in interest; and executes on its workout plan that best maximizes the value of the assignment property.

Because of the number of entities involved in this matter, the current access to courts during the COVID-19 pandemic, and the complexity of this workout, the extension is critical to the Assignee's ability to thoroughly and accurately understand and begin to establish and implement a comprehensive workout plan. The requested extension is brief and tailored to balance the needs of the Assignee and the best interests of creditors and other parties in interest with other creditors' ability to exercise rights and remedies that may exist. Accordingly, the Court should grant the Assignee's motion to extend the stay for 90 days, through and including July 11, 2020.

BACKGROUND

I. THE PARTIES

Wayzata Home Products, Inc. and cliqstudios.com (the "Assignment Entities") entered into an assignment for the benefit of creditors with Lighthouse Management Group, Inc. (collectively, the "Assignee"), assigning Assignee all non-exempt assets of the Assignment Entities ("Assignment Property"), and consenting to the appointment of Assignee as a general receiver. ("Assignment for the Benefit of Creditors").

II. THE STATUS OF THE ASSIGNMENT

The Assignee is operating the Assignment Entities. (Declaration of Samuel J.H. Sigelman in Support of Assignee's Motion to Extend the Stay ("Sigelman Dec."), ¶ 3.) The Assignee has marketed, solicited asset purchase agreements and engaged in negotiations with multiple parties related to potential sale of some or all of the Assignment Property. (*Id.* at ¶ 6.) The Assignee has successfully negotiated an asset purchase agreement with a buyer, pending court approval. (*Id.* at ¶ 8.) The Assignee has identified many different creditors; including vendors, landlords, customers, employees and other parties. (*Id.* at ¶ 9.) The varied creditors complicate the development of an equitable claims process, which will take additional time to develop and obtain court approval. (*Id.*) The Assignee's ability to complete these and other tasks has been further hampered by and the COVID-19 pandemic. (*Id.* at ¶ 12.) The Assignee needs at least 90 days to complete these tasks. (*Id.* at ¶ 13.)

A. Status of the Workout Plan.

At the time of the Assignment for the Benefit of Creditors, and at the time Assignee took control over the Assignment Entities, the Assignment Entities were not actively pursuing sales of substantially all their assets. (*Id.* at ¶ 4.) Assignee has been required to expend significant time and resources creating and developing a workout plan for the Assignment Entities, which prior to the assignment, were fully operational businesses (*Id.* at ¶ 5.) As described in the Sigelman Dec., the Assignee has extensively marketed and solicited bids for the sale of Assignment Entities. (*Id.* at ¶ 6-7.) Approximately 20 parties entered into non-disclosure agreements for the potential sale, Assignee has hosted several "question and answer" sessions for potential bidders, and it has resulted in at least seven offers from potential purchasers. (*Id.* at ¶ 7.) Assignee identified a bidder that in their experiences reflects the highest and best offer for the estate and the sale is pending approval from the court. (*Id.* at ¶ 8.)

B. Claims Process

It is anticipated that in aggregate, the Assignment Entities will have approximately 1,260 creditors. (*Id.* at ¶ 10.) The creditors consist of individual customers, general contractors, equipment lessors, landlords, suppliers, and others. (*Id.* at ¶ 9.) Because many of the creditors may have additional recourse (i.e. credit card charge reversals), developing a claims process that is equitable to all parties requires more time. (*Id.* at ¶ 11.)

C. COVID-19 Pandemic

While Assignee has made significant progress with regards to administering the Assignment Assets, due to the COVID-19 pandemic, many efforts have been slowed. (*Id.* at ¶ 12.) Minnesota and Indiana, both states where the Assignment Entities have significant operations, are currently under Shelter in Place, or similar orders. (*Id.*) This has complicated and increased the timing of all aspects of the Assignment. The Assignee needs more time to fully execute its strategy that is in the best interest of the estate and the creditors. (*Id.* at ¶ 13.)

ARGUMENT

I. STATUTORY STAYS IN RECEIVERSHIP CASES.

The Assignee is treated as general receiver pursuant to Chapter 576 of the Minnesota Statutes. Section 42 of that chapter provides that appointment of a receiver establishes an automatic stay—an automatic injunction that prohibits persons from taking certain actions affecting the receivership or receivership property. Minn. Stat. § 576.42.

Generally speaking, the statute provides for two distinct automatic stays: (a) a stay of certain actions in all receivership cases, and (b) an additional stay in general receivership cases. Minn. Stat. § 576.42, subds. 3-4. In addition, the statute authorizes a court to extend an existing stay or establish a new stay to protect receivership property or facilitate the administration of the receivership. Minn. Stat. § 576.42, subds. 2, 5.

The statutory stays are a codification of the longstanding principle that upon the appointment of a receiver, the property over which the receiver is appointed passes to the custody of the court. *See, e.g., Culhane v. Anderson*, 17 F.2d 559, 561 (8th Cir. 1927) ("Immediately upon such appointment and after the qualification of the receiver, the property passed into the custody of the law, and thenceforward its administration was wholly under the control of the court by its officer or creature, the receiver."). Property in the custody of the court should not be subject to interference by others:

> The court appointing the receiver has exclusive jurisdiction over the corporation and its property. [...] Because it is not practical for the court to do the physical work in connection with taking possession of and preserving the property, the court appoints the receiver to act for it. The property in the receiver's possession, collected at the court's direction, is in *custodia legis*. That is, the

> property is in the custody of the law. Creditors have no right to interfere with property held in *custodia legis* or acquire liens upon it which if enforced would affect the rights of those acquiring title under the receiver's distribution with the authority of the court.

In re Telesports Prods., Inc., 476 N.W.2d 798, 799 (Minn. Ct. App. 1991) (internal citations omitted); *see also Nat'l Automatic Tool Co. v. Goldie*, 27 F. Supp. 399, 401-02 (D. Minn. 1939) (describing that the court having custody of the property is authorized to determine what actions may or may not be taken with respect to the property under its control).

A. Stay in All Receiverships.

In both limited and general receiverships, an order appointing a receiver automatically stays:

> 1. Any act to obtain possession of receivership property, or to interfere with or exercise control over receivership property, other than the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property; and
>
> 2. Any act to create or perfect any lien against receivership property, except by exercise of a right of setoff, to the extent that the lien secures a claim that arose before the time of appointment.

Minn. Stat. § 576.42, subd. 3. This stay exists until the conclusion of the receivership case unless the court orders the stay modified upon motion of a party in interest. Minn. Stat. § 576.42, subds. 3, 5.

B. Additional Stay in General Receiverships.

In addition to the stay in all receivership cases, the entry of an order appointing a general receiver automatically stays:

> 1. The commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, against the respondent or the

> receiver that was or could have been commenced before the time of appointment, or to recover a claim against the respondent that arose before the time of appointment; and
>
> 2. The commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property.

Minn. Stat. § 576.42, subd. 4. Unless ordered extended by the court, this stay expires 30 days after the entry of the order appointing the general receiver. *Id.* at subd. 4(b).

C. A Court May Extend A Stay Or Order A New Stay.

Section 576.42 authorizes a court to extend a stay or establish a new stay to protect receivership property or to facilitate the administration of the receivership. Specifically, the statute provides that "the court may order a stay or stays to protect receivership property and to facilitate the administration of the receivership." Minn. Stat. § 576.42, subd. 2 (emphasis added). The statute also expressly provides that the court may extend the stay applicable in general receivership cases beyond 30 days:

> As to the acts specified in this subdivision, the stay shall expire 30 days after the time of appointment unless, before the expiration of the 30-day period, the receiver or other party in interest files a motion seeking an order of the court extending the stay and before the expiration of an additional 30 days following the 30 day period, the court orders the stay extended.

Minn. Stat. § 576.42, subd. 4(b). Thus, the filing of a motion to extend the stay triggers an extension until the court rules on the stay extension motion, as long as the ruling is issued within 60 days of the time of the general receiver's appointment. *See id.*

III. THE COURT SHOULD EXTEND THE STAY FOR 90 DAYS.

The Assignment for the Benefit of Creditors was filed on March 13, 2020, wherein Assignor consented to Assignee being treated as a general receiver for its role is resolving all issues related to the Assignment Property. Absent the Court granting this motion for an extension, the stay would expire on April 12, 2020. The Assignee requests that the Court extend the general receivership stay by 90 days to protect the receivership property and to facilitate the administration of the receivership.

The Assignee needs the opportunity to develop a complete claims process for creditors and time to have the potential sales of the Assignment Property approved. In addition, an extension of the stay should provide the Assignee with time to continue analyzing the options for maximizing the value of the Assignment Property and to continue negotiations and discussions with parties in interest, which the Assignee believes will resolve problems in the most efficient and cost-effective manner.

Finally, the length of time of the extension motion requests appropriately balances the needs of the Assignee with the rights and interests of the creditors and other parties in interest. The additional 90 days requested would provide the Assignee with sufficient time to progress with its analysis, execute on its workout plan, and develop an efficient claims process. That time sought, however, is also relatively short, in recognition of the competing interests and rights of others affected by this case.

CONCLUSION

For the reasons set forth above, the Assignee respectfully requests that the Court grant its motion to extend the stay under Minn. Stat. § 576.42, subd. 4 for 90 days—through and including July 11, 2020.

Dated: April 7, 2020.

Respectfully submitted,

BARNES & THORNBURG LLP

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COUNSEL FOR LIGHTHOUSE MANAGEMENT GROUP, INC.

ACKNOWLEDGMENT REQUIRED BY
MINNESOTA STATUTES SECTION 549.211, SUBDIVISION 1

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

Dated: April 7, 2020.

Respectfully submitted,

BARNES & THORNBURG LLP

By: *<u>/s/ Michael A. Cavallaro</u>*
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COUNSEL FOR LIGHTHOUSE MANAGEMENT GROUP, INC.

STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF HENNEPIN | FOURTH JUDICIAL DISTRICT

CASE TYPE: MISC

In Re: Wayzata Home Products, LLC and cliqstudios.com LLC

Court File No.: 27-CV-20-4326

Judge: David L. Piper

DECLARATION OF SAMUEL J.H. SIGELMAN IN SUPPORT OF ASSIGNEE'S MOTION TO EXTEND THE STAY

Samuel J.H. Sigelman states as follows:

1. I am an adult resident of the State of Minnesota and a Director and the General Counsel of Lighthouse Management Group, Inc. ("Assignee"). I make this Declaration of my own personal knowledge, unless otherwise noted, and in support of the Assignee's Motion to Extend the stay ("Motion").

2. On March 13, 2020, Wayzata Home Products, LLC and cliqstudios.com LLC (together, the "Assignment Entities"), assigned to Assignee all of the Assignment Entities' property, including, but not limited to, all real property, fixtures, goods, stock, inventory, equipment, furniture, furnishings, accounts receivable, general intangibles, bank deposits, cash, promissory notes, cash value and proceeds of insurance policies, claims, and demands belonging to the assignor, wherever the property may be located (hereinafter, collectively the "Assignment Property").

3. The Assignee is operating the Assignment Entities.

4. At the time of the Assignment for the Benefit of Creditors, and at the time Assignee took control over the Assignment Entities, the Assignment Entities were not actively pursuing sales of substantially all their assets.

5. Assignee has been required to expend significant time and resources creating and developing a workout plan for the Assignment Entities, which prior to the assignment, were fully operational businesses.

6. The Assignee has marketed, solicited asset purchase agreements and engaged in negotiations with multiple parties related to potential sale of some or all of the Assignment Property.

7. Approximately 20 parties entered into non-disclosure agreements for the potential sale, Assignee has hosted several "question and answer" sessions for potential bidders, and it has resulted in at least seven offers from potential purchasers.

8. The Assignee has successfully negotiated an asset purchase agreement with a buyer, pending court approval.

9. The Assignee has identified many different creditors; including vendors, suppliers, landlords, customers, employees, general contractors, equipment lessors, and other parties. The varied creditors complicate the development of an equitable claims process, which will take additional time to develop and obtain court approval.

10. It is anticipated that in aggregate, the Assignment Entities will have over 1,250 creditors.

11. Because many of the creditors may have additional recourse (i.e. credit card charge reversals), developing a claims process that is equitable to all parties requires more time.

12. While Assignee has made significant progress with regards to administering the Assignment Assets, due to the COVID-19 pandemic, many efforts have been slowed. Minnesota and Indiana, both states where the Assignment Entities have significant operations, are currently under Shelter in Place, or similar orders, which has complicated and increased the timing of all aspects of the Assignment.

13. The Assignee needs more time to fully execute its strategy that is in the best interest of the estate and the creditors.

I declare under penalty of perjury that everything that I have stated in this declaration is true and correct to the best of my knowledge and belief.

Dated: April 7, 2020

By: ______________________________
Samuel J.H. Sigelman

STATE OF MINNESOTA **DISTRICT COURT**

COUNTY OF HENNEPIN **FOURTH JUDICIAL DISTRICT**

CASE TYPE: MISC

In Re: Wayzata Home Products, LLC and cliqstudios.com LLC	**Court File No.: 27-CV-20-4326** **ORDER AUTHORIZING ASSIGNEE'S MOTION TO EXTEND THE STAY**

The above-entitled matter came before the undersigned, on the Assignee's Motion to Extend the Stay. Based upon the Motion, accompanying Memorandum, the Declaration of Samuel J.H. Sigelman, and upon all of the records and proceedings herein:

FINDINGS OF FACT

A. By an Assignment for the Benefit of Creditors dated March 13, 2020 ("Assignment for the Benefit of Creditors"), Wayzata Home Products, Inc. and cliqstudios.com (collectively, the "Assignment Entities"), assigned all non-exempt assets of the Assignment Entities ("Assignment Property") to Lighthouse Management Group, Inc. ("Assignee"), and consented to the appointment of Assignee as a general receiver.

B. Under Minnesota Statute § 577.18, the Assignment for the Benefit of Creditors is governed by sections 576.21 to 576.53, including but not limited to an automatic stay of 30 days from the filing of the Assignment for the Benefit of Creditors.

C. The filing of this extension of a stay motion triggered an automatic extension of the stay pending the outcome of this motion.

D. The Assignee has marketed, solicited asset purchase agreements and engaged in negotiations with multiple parties related to potential sale of some or all of the Assignment Property.

E. The COVID-19 pandemic has caused delays related to various aspects of Assignees efforts.

F. Ultimately, the Assignee cannot fully develop and implement a comprehensive workout plan and equitable claims process in this case until the Assignee has completed, among others, the tasks outlined above.

G. The Assignee needs through at least July 11, 2020 to complete these tasks.

H. An extension of the stay provided by Minnesota Statutes § 576.42, subd. 4 would assist in protecting the Assignment Property and facilitating the administration of this case.

ORDER

1. The Assignee's Motion to Extend Stay is **GRANTED**.

2. The additional stay provided by Minnesota Statutes § 576.42, subd. 4 is hereby extended through July 11, 2020.

Dated: BY THE COURT:

____

The Honorable David L. Piper
Judge of District Court

DECLARATION OF SERVICE
BY UNITED STATES MAIL

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)

Sofia Shaw states as follows:

That on April 7, 2020, I caused the following documents to be served via U.S. Mail upon the recipients on the attached service list:

ASSIGNEE'S NOTICE OF MOTION AND MOTION TO EXTEND THE STAY,

ASSIGNEE'S MEMORANDUM IN SUPPORT OF MOTION TO EXTEND THE STAY,

DECLARATION OF SAMUEL J.H. SIGELMAN IN SUPPORT OF ASSIGNEE'S MOTION TO EXTEND THE STAY,

ORDER AUTHORIZING ASSIGNEE'S MOTION TO EXTEND THE STAY.

By placing a true and correct copy of the above-named documents in an envelope, postage pre-paid, and by depositing it in the post office in Minneapolis, Minnesota directed to the last known address of the following recipients on the attached service list. No parties fall within the statutory service requirements under Minn. Stat. § 576.35, subd. 4. Out of an abundance of caution, Assignee is serving the recipients on the attached service list, which represent creditors that Assignee currently understands may hold a claim potentially in amount of $100,000.00 or more. Additionally, all known creditors have been sent the Notice of Assignment for the Benefit of Creditors, which notifies the creditors of the case and court file number, and provides a case website containing all pleadings, including the documents listed above.

I declare under penalty of perjury under the laws of the state of Minnesota that the foregoing information is true and correct.

Dated: April 7, 2020

By: *<u>/s/ Sofia Shaw</u>*
Sofia Shaw

Andrew S. Juang 455 Ferndale Rd N Wayzata, MN 55391-1007	W78th 5350, LLC Attn: Andy Juang 7725 Washington Avenue S Edina, MN 55439	Thrive Digital 700-675 W Hastings St Vancouver BCV6B 1N2
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Facebook, Inc 1 Hacker Way Menlo Park, CA 94025	Google LLC Dept 33654 PO Box 3900 San Francisco, CA	Thompson Freight Co 12922 White Pine Way Plainfield, IL 60585
California Department of Tax and Fee Administration PO Box 942879 Sacramento, CA 94279-7072	Masterbrand Cabinets, Inc. One Masterbrand Drive Jasper, IN 47546	Wells Fargo Merchant Services 550 S 4th St Minneapolis, MN 55415
Capital Center Property, LLC Attn: Tristan Glover 201 N Illinois St Suite 200 Indianapolis, IN 46204	Blum Inc PO Box 75073 Charlotte, NC 28275-0073	American Express PO Box 981535 El Paso, TX 79998-1535
Zeller Management Corporation Attn: Zeller-Capital Center Asset Manager 401 N Michigan Avenue Suite 1300 Chicago, IL 60611	Wurth Baer Supply Co. 909 Forest Edge Drive Vernon Hills, IL 60061	Bread Finance PO Box 1264 New York, NY 10276
Wayzata Connersville RE, LLC Attn: Chief Financial Officer 5801 Clearwater Drive Minnetonka, MN 55343-8988	Werner Enterprises, Inc. 14507 Frontier Rd Omaha, NE 68138-3808	ATS Inc LBX 7130 PO Box 1450 Minneapolis, MN 55485
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