

Presentment Date and Time: June 30, 2017, at 12:00 p.m. (prevailing Eastern Time)

Objection Deadline: June 30, 2017, at 11:00 a.m. (prevailing Eastern Time)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 17-10466 (SCC)
)	
Debtors.	)	(Jointly Administered)
)	

**NOTICE OF PRESENTMENT OF ORDER (I) AUTHORIZING THE DEBTORS TO
ENTER INTO AN AMENDMENT TO THE AGENCY AGREEMENT, (II) APPROVING
PROCEDURES FOR STORE CLOSING SALES, (III) SHORTENING
THE NOTICE AND OBJECTION PERIODS, AND (IV) GRANTING RELATED**

PLEASE TAKE NOTICE that upon the annexed motion (the “Motion”) of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) dated June 26, 2017, the Debtors will present the *Order (I) Authorizing the Debtors to Enter Into an Amendment to the Agency Agreement, (II) Approving Procedures for Store Closing Sales (III) Shortening the Notice and Objection Periods, and (IV) Granting Related Relief*, substantially in the form attached to the Motion as **Exhibit A** (the “Proposed Order”), for signature to the Honorable Shelley C. Chapman of the United States Bankruptcy Court for the Southern District of New

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

York (the “Court”), in Room 623, One Bowling Green, New York, New York 10004-1408, on **June 30, 2017, at 12:00 p.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that any responses or objections (each, an “Objection”) to the Motion and the relief requested therein shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90] (the “Case Management Order”), shall set forth the basis for the Objection and the specific grounds therefore, and shall be filed with the Court electronically in accordance with General Order M-399 by registered users of the Court’s case filing system (the User’s Manual for the Electronic Case Filing System can be found at <http://www.nysb.uscourts.gov>, the official website for the Court), with a hard copy delivered directly to chambers pursuant to Local Rule 9070-1 and served so as to be actually received no later than **June 30, 2017, at 11:00 a.m. (prevailing Eastern Time)** (the “Objection Deadline”), upon the parties on the Master Service List (as defined in the Case Management Order), including, without limitation:

- a. Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654 (Attn: Benjamin M. Rhode and John R. Luze), attorneys for the Debtors;
- b. The Office of The United States Trustee for Region 2, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Brian Masumoto, Esq.);
- c. Pachulski Stang Ziehl & Jones LLP, 780 Third Avenue, 34th Floor, New York, New York 10017-2024 (Attn: Bradford Sandler and Robert Feinstein), attorneys for the Official Committee of Unsecured Creditors;
- d. Morgan, Lewis & Bockius LLP, One Federal Street, Boston, Massachusetts 02110 (Attn: Julia Frost-Davies, Christopher L. Carter), attorneys to the administrative agent under the Debtors’ prepetition and postpetition asset-based revolving credit facilities; and

- e. Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Matt Barr), attorneys to the administrative agent under the Debtors' prepetition and postpetition term loan credit facility.

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Motion, the Court may enter the Proposed Order with no further notice or opportunity to be heard.

PLEASE TAKE FURTHER NOTICE that a copy of the Motion and Proposed Order may be obtained free of charge by visiting the website of Donlin, Recano & Company, Inc. at <https://www.donlinrecano.com/bcbg>. You may also obtain copies of any pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

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Dated: June 26, 2017

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
)	
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 17-10466 (SCC)
)	
Debtors.	)	(Jointly Administered)
)	

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) AUTHORIZING THE DEBTORS TO ENTER INTO AN
AMENDMENT TO THE AGENCY AGREEMENT, (II) APPROVING
PROCEDURES FOR STORE CLOSING SALES, (III) SHORTENING THE
NOTICE AND OBJECTION PERIODS, AND (IV) GRANTING RELATED RELIEF**

BCBG Max Azria Global Holdings, LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), respectfully state the following in support of this motion:²

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors' service address is: 2761 Fruitland Avenue, Vernon, California 90058.

² In further support of this motion, the Debtors respectfully submit the *Declaration of Holly Felder Etilin in Support of Debtors' Motion for Entry of an Order (I) Authorizing the Debtors to Enter Into an Amendment to the Agency Agreement, (II) Approving Procedures for Store Closing Sales, (III) Shortening the Notice and Objection Periods, and (IV) Granting Related Relief*, attached hereto as **Exhibit B**.

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”): (a) authorizing the Debtors to enter into the First Amendment to Letter Agreement Governing Inventory Disposition dated as of June 26, 2017 (the “Amendment,” a copy of which is annexed as **Exhibit 1** to **Exhibit A** attached hereto)³ by and among BCBG Max Azria Group, LLC (the “Merchant”) and a contractual joint venture composed of Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC (together, the “Agent”); (b) authorizing and approving store closings or similar themed sales in accordance with the terms of the store closing sale procedures (the “Store Closing Procedures”) previously approved by the Court in the Final Store Closing Order (as defined below), with such sales to be free and clear of all liens, claims, and encumbrances; (c) shortening the notice and objection periods; and (d) granting related relief. The relief sought herein is consistent with the relief previously granted by the Court pursuant to the interim and final orders: (i) authorizing the Debtors to assume the agency agreement (the “Agency Agreement”), (ii) approving procedures for store closing sales, and (iii) granting related relief [Docket Nos. 68 and 235] (respectively, the “Interim Store Closing Order” and the “Final Store Closing Order”).

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry

³ Capitalized terms used but not defined herein have the meanings given to them in the Amendment.

of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105, 363, and 554 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, and 6004, and rule 9013-1(f) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

Background

I. The Store Closings.

5. The Court previously authorized the Debtors to begin the process of reducing their store footprint by closing and liquidating the inventory in approximately 120 stores, and the Debtors completed the initial store closing process pursuant to the Interim Store Closing Order and the Final Store Closing Order. This initial round of store closures focused on underperforming stores to preserve optionality for potential purchasers.

6. The Debtors have completed a comprehensive marketing process contemplated by the bidding procedures (the “Bidding Procedures”) approved in these chapter 11 cases [Docket No. 244]. As a result of these efforts, the Debtors recently filed an amended chapter 11 plan [Docket No. 446] (the “Plan”), received approval of their disclosure statement [Docket No. 459], and have begun soliciting votes on their Plan. The Plan contemplates that the Debtors will sell certain intellectual property and operating assets to Marquee Brands, LLC and GBG USA Inc. (together, the “Purchasers”). The Purchasers are not assuming all retail leases (nor acquiring all inventory). As a result, the Debtors intend to close non-acquired retail locations and sell the inventory at such locations. The Debtors need to begin the store closings and liquidations ahead of July 4 and the clearance season that follows. Accordingly, the Debtors have determined to

proceed with the closing and liquidation of the inventory at approximately 51 additional stores identified on the schedule attached hereto as Exhibit A-1 to the Amendment (the “Additional Stores”).⁴

7. As a result of the need to close the Additional Stores, the Debtors have decided to enter into the Amendment to the Agency Agreement. The Debtors have determined that (a) the services of the Agent are necessary for a seamless and efficient large-scale store closing process, as is contemplated by this motion, and to maximize the value of the assets being sold, and (b) the Agent is capable of performing the required tasks on favorable financial terms. Further, the Agent conducted the Debtors’ prior liquidation sales, and is therefore intimately familiar with the Debtors’ stores and business.

8. The Amendment will allow the Debtors to utilize the experience and resources of the Agent in performing large-scale liquidations at the Additional Stores in a format that allows the Debtors to retain control over the sale process and which will provide the maximum benefit to the estates. Importantly, the ability to use the “store closing” message in advertising is critical to drive sales and, thus, the ultimate recovery for the Debtors and their creditors.

9. The Debtors, however, must act quickly to fully capitalize on the Amendment to the Agency Agreement. Following July 4, the retail and apparel sector will enter a period of store clearance sales. If the Debtors were to provide the prescribed 21-days’ notice of the Store Closing Motion, the Debtors would be unable to maximize their time conducting the store closing sales prior to this industry-wide clearance period, which would greatly diminish the value the Debtors could obtain from such sales due to the increased competition from other retailers offering similar mark downs. In addition, immediately commencing the Store Closings is

⁴ Under the terms of the Amendment, on or before June 30, 2017, the Debtors may, in their sole discretion, remove stores from the Store Closing List.

important to the Debtors' ability to generate sufficient proceeds to enable the Debtors to make distributions on or shortly after their anticipated effective date under their proposed Plan. The Debtors', therefore, submit that shortening the notice and objection periods such that the Order may be presented to the Court for signature on June 30, 2017, at 11:00 a.m. (prevailing Eastern Time) is warranted.

II. The Agency Agreement.

10. Pursuant to the Amendment, the Agent will serve as the exclusive agent to the Debtors in connection with the sale of the Store Closure Assets. What follows is a summary of the salient terms of the Amendment to the Agency Agreement that differ from the terms of the original Agency Agreement approved in the prior Final Store Closing Order.⁵

- **Additional Stores.** The Agent and Merchant have agreed to adopt Exhibit A-1 attached to the Amendment as the list of additional stores to be added to the Store Closings (the "Store Closing List"). On or before June 30, 2017, Merchant may, in its sole discretion, remove Additional Stores from the Store Closing List. In addition, by filing a notice with the Bankruptcy Court, Agent and Merchant may further supplement the Store Closing List with additional stores, each of which shall constitute an Additional Store.
- **Sale Term.** For each Additional Store, the Sale Commencement Date shall be June 30, 2017, and the Sale Termination Date shall be September 27, 2017.
- **Agent Fee.** In connection with its services for the Additional Stores, the Agent shall earn a fee equal to one and one half percent (1.5%) of the aggregate Net Proceeds, provided that, Merchant may, in its sole discretion, increase the fee to Agent for the Additional Stores up to an additional one and one-half percent (1.5%) to the extent that the net return (Net Proceeds less store-level operating expenses attributable to Sale at the Additional Stores) from the sale of the Merchandise in the Additional Stores equal or exceed ninety percent (90%) of the aggregate cost value of the Merchandise (as such cost value is reflected in Merchant's files).
- **FF&E.** The Agent shall sell the fixtures, furniture, and equipment (the "FF&E") at the Additional Stores.

⁵ The following summary chart is for the convenience of the Court and parties in interest. To the extent there is any conflict between this summary and the Amendment, the Amendment shall govern in all respects.

III. The Store Closing Procedures.

11. The Debtors seek to apply the Store Closing Procedures that were previously approved by the Court in the Final Store Closing Order to the Additional Stores to the same extent they applied to the Stores in the Final Store Closing Order (the “Original Stores”). The Debtors seek to sell the Store Closure Assets, in each case, free and clear of liens, claims, or encumbrances.

12. The Debtors have determined, in the exercise of their business judgment and in consultation with their advisors, that the Store Closing Procedures provide the best and most efficient means of selling the Store Closure Assets to maximize the value to their estates.

13. Certain states in which the Debtors operate stores have or may have licensing or other requirements governing the conduct of store closing, liquidation, or other inventory clearance sales, including (but not limited to) state and local laws, statutes, rules, regulations, and ordinances (the “Liquidation Sale Laws”). Liquidation Sale Laws may establish licensing, permitting, or bonding requirements, waiting periods, time limits, and bulk sale restrictions and augmentation limitations that would otherwise apply to the Store Closings. The Debtors intend to conduct the Store Closings in accordance with the Store Closing Procedures and request that they are presumed to be in compliance with the Liquidation Sale Laws.

14. In addition, the Debtors respectfully request a waiver of any contractual restrictions that could otherwise inhibit or prevent the Debtors from maximizing value for creditors through the Store Closings. In certain cases, the contemplated Store Closings may be inconsistent with certain provisions of leases, subleases, or other documents with respect to the premises in which the Debtors operate, including (without limitation) reciprocal easement agreements, agreements containing covenants, conditions, and restrictions (including, without limitation, “go dark” provisions and landlord recapture rights), or other similar documents or

provisions. Such restrictions would also hamper the Debtors' ability to maximize value in selling their inventory.

15. The Debtors also request that no entity, including, without limitation, utilities, landlords, creditors, and all persons acting for or on their behalf shall interfere with or otherwise impede the conduct of the Store Closings, or institute any action against the Debtors in any court (other than in this Court) or before any administrative body that in any way directly or indirectly interferes with, obstructs, or otherwise impedes the conduct of the Store Closings or the advertising and promotion (including through the posting of signs) of the Store Closings.

Basis for Relief Requested

I. The Court Should Authorize Entry into the Amendment to the Agency Agreement and Approve the Store Closing Procedures.

16. The Court may authorize the Debtors to enter into the Amendment to the original Agency Agreement and consummate the Store Closings pursuant to sections 105(a) and 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that “[t]he [debtor], 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). Further, section 105(a) provides, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

17. Pursuant to section 363(b) of the Bankruptcy Code, for the purpose of conducting the Store Closings, the Debtors need only show a legitimate business justification for the proposed action. *See, e.g., Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made

arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct.”). When a valid business justification exists, the law vests the debtor's decision to use property out of the ordinary course of business with a strong presumption “that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *In re GSC, Inc.*, 453 B.R. 132, 174 (Bankr. S.D.N.Y. 2011) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). Accordingly, parties challenging a debtor's decision must make a showing of “bad faith, self-interest or gross negligence.” *Integrated Res.*, 147 B.R. at 656 (citations omitted).

18. In addition, the Court may authorize the Store Closings based on section 105(a) of the Bankruptcy Code. Section 105(a) codifies the Court's inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Under section 105(a), courts may authorize actions that are essential to the continued operation of a debtor's business. *See In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *see also In re Fin. New Network Inc.*, 134 B.R. 732, 735–36 (Bankr. S.D.N.Y. 1991) (holding that the “doctrine of necessity” stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor's organization).

19. The relief requested by this motion represents a sound exercise of the Debtors' business judgment, is essential to the Debtors' proposed restructuring, and is justified under sections 105(a) and 363(b) of the Bankruptcy Code. The Debtors and their advisors believe that the Store Closing Procedures represent the most efficient and appropriate means of maximizing

the value of the Store Closure Assets, while balancing the potentially competing concerns of landlords and other parties in interest.

20. Entry into the Amendment represents a reasonable exercise of the Debtors' business judgment. The Debtors have determined that the Additional Stores should be liquidated for the benefit of the Debtors' estates and their creditors as no bidders expressed an interest in purchasing the Additional Stores apart from the Debtors' other assets. Indeed, a further reduced store footprint is an integral part of the transaction contemplated by the Debtors' Plan.

21. The Agent has extensive expertise in conducting liquidation sales, including the store closings approved by the Court and conducted earlier in these chapter 11 cases, and can oversee, and assist in the management and implementation of, the Store Closings in an efficient and cost-effective manner. The Amendment will enable the Debtors to utilize the skills and resources of the Agent to efficiently conduct the Sale for the benefit of all stakeholders. If the Debtors cannot enter into the Amendment, there could be substantial harm to all stakeholders. Given the number of stores and the particular issues in administering the Store Closings, it is not certain the Debtors could retain a liquidator able to conduct the process as efficiently and effectively as the Agent.

22. Furthermore, ample business justification exists to conduct the Store Closings. None of the bids received by the Debtors as part of the marketing process indicated an interest in the Additional Stores apart from the Debtors' other assets. And delay in consummating the Store Closings would diminish the recovery tied to monetization of the Store Closure Assets given the upcoming retail and apparel season where clearance sales are common place. Further, immediately commencing the Store Closings is important to the Debtors' ability to generate

sufficient proceeds to enable the Debtors to make timely distribution under their proposed Plan on the timeline contemplated therein.

II. The Court Should Approve of the Sale of the Store Closure Assets Free and Clear of all Liens, Encumbrances and Other Interests under Bankruptcy Code Section 363(f).

23. The Debtors request approval to sell the assets at the Additional Stores (the “Store Closure Assets”) on a final “as is” basis, free and clear of any and all liens, claims, and encumbrances in accordance with section 363(f) of the Bankruptcy Code. A debtor in possession may sell property under sections 363(b) and 363(f) “free and clear of any interest in such property of an entity other than the estate” if any one of the following conditions is satisfied: (i) applicable non-bankruptcy law permits the sale of such property free and clear of such interest; (ii) such entity consents; (iii) 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; (iv) such interest is in bona fide dispute; or (v) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that since section 363(f) is written in the disjunctive, the court may approve a sale free and clear if any one subsection is met).

24. The Debtors anticipate that, to the extent there are liens on the Store Closure Assets, all holders of such liens will consent to the sales because they provide the most effective, efficient, and time-sensitive approach to realizing proceeds for, among other things, the repayment of amounts due to such parties. Any and all liens on the Store Closure Assets sold under the Store Closings would attach to the remaining net proceeds of such sales with the same force, effect, and priority as such liens currently have on these assets, subject to the rights and defenses, if any, of the Debtors and of any party-in-interest with respect thereto.

25. Moreover, all identified lienholders will receive notice and will be given sufficient opportunity to object to the relief requested on a final basis. Any such entity that does not object to the sale should be deemed to have consented. *See Futuresource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7th Cir. 2002) (“It is true that the Bankruptcy Code limits the conditions under which an interest can be extinguished by a bankruptcy sale, but one of those conditions is the consent of the interest holder, and lack of objection (provided of course there is notice) counts as consent. It could not be otherwise; transaction costs would be prohibitive if everyone who might have an interest in the bankrupt’s assets had to execute a formal consent before they could be sold.” (internal citations omitted)); *Hargrave v. Twp. of Pemberton (In re Tabone, Inc.)*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (finding failure to object to sale free and clear of liens, claims and encumbrances satisfies section 363(f)(2)); *Citicorp Homeowners Serv., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (same); *see also In re Enron Corp.*, No. 01-16034, 2003 WL 21755006, at *2 (Bankr. S.D.N.Y. July 28, 2003) (order deeming all parties who did not object to proposed sale to have consented under section 363(f)(2)).

26. Accordingly, the Debtors submit that the sale of the Store Closure Assets satisfies the statutory requirements of section 363(f) of the Bankruptcy Code and should, therefore, be free and clear of any liens, claims, encumbrances, and other interests.

III. The Court’s Approval of the Store Closing Procedures Should Presume the Debtors’ Compliance With Liquidation Sales Laws.

27. As a necessary part of Store Closings and Store Closing Procedures, the Debtors request the authority to conduct the Sale in accordance with the Store Closing Procedures. The Debtors propose the Store Closing Procedures as a way to streamline the administrative burdens on their estates while still adequately protecting the broad and varied interests of both landlords

and applicable governmental units (the “Governmental Units”) charged with enforcing any Liquidation Sale Laws that may apply to the Store Closings.

28. The Debtors submit that there is various support for granting them the authority to conduct the Sale in accordance with the Store Closing Procedures and presuming that they comply with any applicable Liquidation Sale Laws. **First**, it is generally accepted that many state statutes and regulations provide that a court authorized liquidation or bankruptcy sale is in compliance with Liquidation Sale Laws. *See, e.g.*, Ark. Code Ann. § 4-74-103 (exempting from the the provisions of the chapter sales pursuant to any court order); Fla. Stat. Ann. 559.25(2) (same); Ga. Code Ann. § 10-1-393(b)(24)(C)(iv) (same); 815 ILCS 350/3 (same); Ind. Code Ann. § 25-18-1-2 (same); La. Stat. Ann. § 51:43(1) (same); N.Y. Gen. Bus. Law § 584(a) (same); Or. Rev. Stat. § 646A.100(2)(b) (“‘Going out of business sale’ does not include a sale conducted by a bankruptcy trustee.”); Tex. Bus. & Com. Code Ann. § 17.91(3) (exempting from subchapter sales conducted pursuant to court order); Va. Code Ann. § 8.01-113 (same). **Second**, pursuant to section 105(a) of the Bankruptcy Code, the Court has the authority to permit the Store Closings to proceed notwithstanding contrary Liquidation Sale Laws. **Third**, this Court will be able to supervise the Store Closings because the Debtors and their assets are subject to this Court’s exclusive and ongoing jurisdiction. **Fourth**, the Store Closings will follow the same procedures as the earlier approved store closings.

29. Further, bankruptcy courts have consistently recognized that federal bankruptcy law preempts state and local laws that contravene the underlying policies of the Bankruptcy Code. *See Belculfine v. Aloe (In re Shenango Group, Inc.)*, 186 B.R. 623, 628 (Bankr. W.D. Pa. 1995) (“Trustees and debtors-in-possession have unique fiduciary and legal obligations pursuant to the bankruptcy code [A] state statute . . . cannot place burdens on [a debtor] where the

result would contradict the priorities established by the federal bankruptcy code.”), *aff'd*, 112 F.3d 633 (3d Cir. 1997). Courts have found that preemption of state law is not appropriate if the laws deal with public health and safety. *See Baker & Drake, Inc., v. Public Serv. Comm’n of Nev. (In re Baker & Drake, Inc.)*, 35 F.3d 1348, 1353–54 (9th Cir. 1994) (holding that Bankruptcy Code did not preempt state law prohibiting taxicab leasing that was promulgated in part as public safety measure). However, preemption is appropriate where the only state laws involved concern economic regulation rather than the protection of public health and safety. *See In re Baker & Drake, Inc.*, 35 F.3d at 1353 (finding that “federal bankruptcy preemption is more likely . . . where a state statute is concerned with economic regulation rather than with protecting the public health and safety”).

30. Under the circumstances of these chapter 11 cases, enforcing the strict requirements of the Liquidation Sale Laws and not entering an order approving the Store Closing Procedures would undermine the fundamental purpose of section 363(b) of the Bankruptcy Code by placing constraints on the Debtors’ ability to maximize estate assets for the benefit of creditors. Accordingly, authorizing the Store Closings while presuming compliance with Liquidation Sale Laws is necessary and appropriate. The requested relief is narrowly tailored to facilitate the successful consummation of Store Closings. The Debtors do not seek a general waiver of all state and local requirements; the Debtors only seek a presumption of compliance with Liquidation Sale Laws. The Debtors will comply with applicable state and local public health and safety laws, and applicable tax, labor, employment, environmental, and consumer protection laws, including consumer laws regulating deceptive practices and false advertising.

31. Based on the foregoing, this Court, courts in this district, and courts in other jurisdictions have granted similar relief in similar circumstances. *See, e.g., In re BCBG Max*

Azria Glob. Holdings, LLC, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 29, 2017) [Docket No. 235] (authorizing store closing sales while presuming compliance with laws affecting store closing or liquidation sales); *In re Gander Mountain Co.*, No. 17-30673 (MER) (Bankr. D. Minn. May 19, 2017) (same); *In re Payless Holdings LLC*, No. 17-42267 (KAS) (Bankr. E.D. Mo. May 17, 2017) (same); *In re Aéropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. June 9, 2016) (same); *In re The Great Atl. & Pac. Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y. Aug. 13, 2015) (same); *In re Daffy's, Inc.*, No. 12-13312 (MG) (Bankr. S.D.N.Y. Aug. 7, 2012) (same); *In re Blockbuster Inc.*, No. 10-14997 (BRL) (Bankr. S.D.N.Y. Jan. 20, 2011) (same); *In re Finlay Enters., Inc.*, No. 09-14873 (JMP) (Bankr. S.D.N.Y. Sept. 25, 2009) (same).

IV. The Court Should Waive Compliance with Any Restriction in the Leases.

32. Certain of the Debtors' leases governing the premises of the stores subject to any Store Closing sales may contain provisions purporting to restrict or prohibit the Debtors from conducting store closing, liquidation, or similar sales. Such provisions have been held to be unenforceable in chapter 11 cases as they constitute an impermissible restraint on a debtor's ability to properly administer its reorganization case and maximize the value of its assets under section 363 of the Bankruptcy Code. *Ames Dep't Stores*, 136 B.R. at 359 (deciding that enforcement of such lease restrictions would "contravene overriding federal policy requiring debtor to maximize estate assets"); *In re R. H. Macy and Co., Inc.*, 170 B.R. 69, 73-74 (Bankr. S.D.N.Y. 1994) (holding that the lessor could not recover damages for breach of a covenant to remain open throughout the lease term because the debtor had a duty to maximize the value to the estate and the debtor fulfilled this obligation by holding a store closing sale and closing the store.); *In re Tobago Bay Trading Co.*, 112 B.R. 463, 467-68 (Bankr. N.D. Ga., 1990) (finding that a debtor's efforts to reorganize would be significantly impaired to the detriment of creditors if lease provisions prohibiting a debtor from liquidating its inventory were enforced); *In re*

Lisbon Shops, Inc., 24 B.R. 693, 695 (Bankr. E.D. Mo. 1982) (holding restrictive lease provision unenforceable in chapter 11 case where debtor sought to conduct a liquidation sale).

33. Store closing sales are a routine part of chapter 11 cases involving retail debtors. Such sales are consistently approved by courts, despite provisions in recorded documents or agreements purporting to forbid such sales. Indeed, courts, including in this district, have repeatedly deemed such restrictive contractual provisions unenforceable as impermissible restraints on a debtor's ability to maximize the value of its assets under section 363 of the Bankruptcy Code. *See, e.g., In re Aéropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016) (authorizing store closing sales without requiring compliance with lease provisions affecting store closing or liquidation sales); *In re Sports Authority Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Mar. 3, 2016) (same); *In re Great Atl. & Pac. Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y. Aug. 13, 2015) (same); *In re Blockbuster Inc.*, No. 10-14997 (BRL) (Bankr. S.D.N.Y. Jan. 20, 2011) (same); *In re Bradlees Stores, Inc.*, No. 00-16035 (BRL) (Bankr. S.D.N.Y. Jan. 4, 2001) (same).

34. Thus, to the extent that such provisions or restrictions exist in any of the leases of the stores subject to the Store Closings, the Debtors request that the Court authorize the Debtors and/or the Agent to conduct any liquidation sales without interference by any landlords or other persons affected, directly or indirectly, by the liquidation sales.

V. The Court Should Approve the Abandonment of Certain Property In Connection with Any Liquidation Sales.

35. After notice and a hearing, a debtor "may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a); *see also Hanover Ins. Co. v. Tyco Indus., Inc.*, 500 F.2d 654, 657 (3d Cir.

1974) (stating that a trustee “may abandon his claim to any asset, including a cause of action, he deems less valuable than the cost of asserting that claim”).

36. The Debtors are seeking to sell all FF&E remaining in the Additional Stores. But the Debtors may determine that the costs associated with holding or selling certain property or FF&E exceeds the proceeds that will be realized upon its sale, or that such property is not sellable at all. In such event, the property is of inconsequential value and benefit to the estates and may be burdensome to retain.

37. To maximize the value of the Debtors’ assets and to minimize the costs to the estates, the Debtors respectfully request authority to abandon any of their remaining FF&E or other property located at any of the Additional Stores without incurring liability to any person or entity. The Debtors further request that the landlord of each Store with any abandoned FF&E or other property be authorized to dispose of such property without liability to any third parties.

38. Notwithstanding the foregoing, the Debtors will utilize all commercially reasonable efforts to remove or cause to be removed any confidential or personal identifying information in any of the Debtors’ hardware, software, computers, or cash registers or similar equipment that are to be sold or abandoned.

VI. The Court Should Shorten the Notice and Objection Periods.

39. Bankruptcy Rule 2002(a)(2) provides for a 21-day notice period for parties in interest of “a proposed use, sale, or lease of property of the estate other than in the ordinary course of business.” Bankruptcy Rule 9006(c), however, provides that the Court, for cause shown, in its discretion (with or without motion or notice) may reduce any notice period provided by the Bankruptcy Rules. Additionally, Local Bankruptcy Rule 9006-1(b) permits this Court to shorten the notice period parties typically have within which to file objections to motions. Sufficient cause exists to grant the relief requested herein.

40. The Amendment to the Agency Agreement offers significant benefits to the Debtors' estate. Most significantly, the Amendment provides for the liquidation and closing of the unpurchased stores, which will provide for a prompt cash infusion to the Debtors' estates. If the Debtors were to provide the prescribed 21-days' notice of the Motion, the value of the Store Closings would be greatly diminished. Following July 4, the retail sector will begin a period of abundant store clearance sales. This period of increased competition from other retailers offering similar mark downs threatens to significantly reduce the Debtors' recovery from the Store Closings. In addition, immediately commencing the Store Closings is important to the Debtors' ability to generate sufficient proceeds enabling the Debtors to make distributions on or shortly after their anticipated effective date under their proposed Plan. To avoid harm to the Debtors' estates and ensure the Debtors are able to maximize value, the Debtors submit that shortening the notice periods described herein is warranted. Moreover, the Amendment and the Store Closing Procedures are substantially similar to those approved earlier in this case by the prior Final Store Closing Order. The Debtors therefore respectfully submit that cause exists under the circumstances to set the deadline to object to the Store Closing Motion for **June 30, 2017, at 11:00 a.m.** (prevailing Eastern Time).

Request for Waiver of Stay

41. The Debtors also seek a waiver of any stay of the effectiveness of the orders approving the relief requested in this motion and the Order. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." As set forth above, the Debtors submit that ample cause exists to justify (i) the immediate entry of the Order granting the relief sought herein and (ii) a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

Motion Practice

42. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

Notice

43. The Debtors will provide notice of this motion to: (a) the Master Service List; (b) the 2002 List; and (c) any Affected Entity (each as defined in the *Order (I) Establishing Certain Notice, Case Management, and Administrative Procedures and (II) Granting Related Relief* [Docket No. 90]). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

44. No prior request for the relief sought in this motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter the Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: June 26, 2017

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

Christopher Marcus, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

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- and -

James H.M. Sprayregen, P.C.

Benjamin M. Rhode (*admitted pro hac vice*)

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Facsimile: (312) 862-2200

Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
)	
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 17-10466 (SCC)
)	
Debtors.	)	(Jointly Administered)

**ORDER (I) AUTHORIZING THE DEBTORS TO ENTER INTO
AN AMENDMENT TO THE AGENCY AGREEMENT, (II) APPROVING
PROCEDURES FOR STORE CLOSING SALES (III) SHORTENING THE
NOTICE AND OBJECTION PERIODS AND, (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”): (a) authorizing the Debtors to enter into the Amendment, attached hereto as **Exhibit 1**, to the Agency Agreement approved in the *Final Order (I) Authorizing the Debtors to Assume the Agency Agreement, (II) Approving Procedures for Store Closing Sales, and (III) Granting Related Relief* entered on March 29, 2017 [Docket No. 235] (the “Final Store Closing Order,” attached hereto as **Exhibit 2**); (b) authorizing and approving the application of the Store Closing Procedures approved in the Final Store Closing Order to the Store Closing Sales at the Additional Stores, with such sales to be free and clear of all liens, claims, and encumbrances; (c) shortening the notice and objection periods; and (d) granting related relief; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Reference from the United States District Court for the Southern District of New York, dated January 31, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor:

THE COURT HEREBY FINDS AND DETERMINES THAT:

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. The Debtors have advanced sound business reasons to enter into the Amendment to the Agency Agreement and for conducting the Store Closings in accordance with the terms of the Store Closing Procedures previously approved by this Court pursuant to the Final Store Closing Order, and entering into the Amendment is a reasonable exercise of the Debtors' business judgment and is in the best interests of the Debtors and their estates.

3. The Debtors have shown cause to shorten the notice and objection periods in connection with the relief requested by the Motion.

4. The conduct of the Store Closings in accordance with the Store Closing Procedures will provide an efficient means for the Debtors to dispose of the Store Closure Assets.

5. The Amendment was negotiated, proposed, and entered into by the Agent and the Debtors without collusion, in good faith, and from arm's-length bargaining positions.

6. The entry into the Amendment is a sound exercise of the Debtors' business judgment.

7. The Store Closings are in the best interest of the Debtors' estates, and the Debtors have demonstrated good, sufficient, and sound business purposes and justifications for the relief approved herein.

8. The entry of this Order is in the best interest of the Debtors and their estates, creditors, and interest holders and all other parties in interest herein.

IT IS HEREBY ORDERED THAT:

9. The Motion is granted as provided herein.

10. The Debtors are authorized and empowered to take any and all further actions as may be reasonably necessary or appropriate to give effect to this Order.

11. To the extent of any conflict between this Order, the Store Closing Procedures, and the Amendment, the terms of this Order shall control over all other documents and the Store Closing Procedures shall control over the Amendment.

12. Notwithstanding Bankruptcy Rule 6004(h), this Order shall take effect immediately upon its entry.

13. The Debtors' notice of the Motion, opportunity for a hearing on the Motion, and opportunity to object to the relief requested by the Motion no later than June 30, 2017, at

11:00 a.m. (prevailing Eastern Time) was appropriate under the circumstances and no other notice or opportunity to object need be provided.

I. Authority to Enter Into the Amendment to the Agency Agreement.

14. The Debtors are authorized pursuant to sections 363 and 105 of the Bankruptcy Code to enter into the Amendment to the Agency Agreement. The Debtors are further authorized to act and perform in accordance with the terms of the Amendment.

15. Subject to the restrictions set forth in this Order and the Store Closing Procedures, the Debtors and the Agent hereby are authorized to take any and all actions as may be necessary or desirable to implement the Amendment to the Agency Agreement and the Store Closings; and each of the transactions contemplated by the Amendment, and any actions taken by the Debtors and the Agent necessary or desirable to implement the Amendment and/or the Store Closings prior to the date of this Order, hereby are approved and ratified.

II. Authority to Engage in Store Closings.

16. Except as set forth herein, all provisions of the Final Store Closing Order shall apply to the Store Closing Sales at the Additional Stores to the same extent that they applied to the Original Stores, including, but not limited to, the conduct of the Store Closings, the Store Closing Procedures, and the dispute resolution procedures with Governmental Units.

17. The Debtors are authorized pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to immediately conduct the Store Closings at the Additional Stores in accordance with the Amendment to the Agency Agreement, this Order, the Final Store Closing Order, and the Store Closing Procedures.

18. The Debtors are authorized to discontinue operations at the Additional Stores in accordance with this Order, the Final Store Closing Order, and the Store Closing Procedures.

19. The Agent shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against Agent, in each case, other than as expressly provided for in the Amendment to the Agency Agreement.

20. This Court shall retain exclusive jurisdiction with regard to all issues or disputes relating to this Order or the Amendment to the Agency Agreement.

New York, New York

Dated: _____, 2017

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Agency Agreement



June 26, 2017

VIA EMAIL

BCBG MAX AZRIA GROUP, LLC
c/o Holly Felder Etlin
Chief Restructuring Officer
2761 Fruitland Avenue
Vernon, CA 90058
+1.212.297.1594
Email: hetlin@alixpartners.com

Re: **First Amendment to Letter Agreement Governing Inventory Disposition**

Dear Holly:

Reference is made to that certain letter agreement dated February 1, 2017 (the "Agreement") by and between Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC, on the one hand ("Agent" or a "Party"), and BCBG MAX AZRIA GROUP, LLC, on the other hand ("Merchant" or a "Party" and together with the Agent, the "Parties"). Reference is further made to that certain *Final Order (I) Authorizing the Debtors to Assume the Agency Agreement, (II) Approving Procedures for Store Closing Sales, and (III) Granting Related Relief* [Docket No. 235] entered on March 29, 2017 (the "Store Closing Sales Order") by the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement and the Store Closing Sales Order, as applicable.

The Agreement provides for, among other things, a list of Merchant's Stores included in the Store Closings, and the fee and budgeted expenses of Agent related thereto. The Parties desire to supplement the Stores to be included in the Store Closings (collectively, the "Additional Stores"), and amend the Agreement to provide for the Sale Term, fee and budgeted expenses related to the Additional Stores. All terms and conditions of the Agreement and the Store Closing Sales Order, including the Store Closing Procedures, shall continue and apply in full force and effect to the Additional Stores except as specifically, and only to the extent, modified herein.

Accordingly, the Parties, subject to the approval of the Bankruptcy Court, hereby amend and/or supplement the Agreement as follows (this "First Amendment"):

1. Additional Stores. Agent and Merchant have agreed to adopt Exhibit A-1 attached hereto as the list of Additional Stores to be added to the Store Closings (the "Store Closing List"). By filing a notice with the Bankruptcy Court, Agent and Merchant may further supplement the Store Closing List with additional stores, each of which shall constitute an Additional Store, and Agent and Merchant shall mutually agree upon the applicable Sale Commencement and Sale Termination Dates, Agent's Fee, and Expense Budget(s).

On or before June 30, 2017, Merchant may, in its sole discretion, remove Additional Stores from the Store Closing List. And upon such removal, the Agent and Merchant will use commercially reasonable efforts to agree on a revised Expense Budget reflecting the revised Store Closing List.

2. Sale Term for Additional Stores. For each Additional Store, the Sale Commencement Date shall be June 30, 2017, and the Sale Termination Date shall be September 27, 2017.

3. Agent's Fee.

As used in this First Amendment, the following terms shall have the following meanings:

(i) "Gross Proceeds" shall mean the sum of the gross proceeds of all sales of Merchandise made in the Additional Stores during the Sale Term using the "gross rings" method, net only of sales taxes.

(ii) "Net Proceeds" shall mean aggregate Gross Proceeds, less Agent's actual expenses incurred pursuant to the Expense Budget.

In connection with its services for the Additional Stores, Agent shall earn a fee equal to one and one-half percent (1.5%) of the aggregate Net Proceeds, provided that, Merchant may, in its sole discretion, increase the fee to Agent for the Additional Stores up to an additional one and one-half percent (1.5%) to the extent that the net return (Net Proceeds less store-level operating expenses attributable to Sale at the Additional Stores) from the sale of the Merchandise in the Additional Stores equal or exceed ninety percent (90%) of the aggregate cost value of the Merchandise (as such cost value is reflected in Merchant's files).

4. Expense Budget for Additional Stores. Merchant shall be responsible for all expenses of the Sale, including (without limitation) all Additional Store level operating expenses, all costs and expenses related to Merchant's other retail store operations, and Agent's other reasonable, documented out of pocket expenses. To control expenses of the Sale, Merchant and Agent have established an aggregate budget (the "Expense Budget") of certain delineated expenses, including (without limitation) payment of the costs of supervision (including (without limitation) Supervisors' wages, fees, travel, and deferred compensation) and advertising costs. The Expense Budget for the Additional Stores is attached hereto as Exhibit B-1. The Expense Budget may only be modified by mutual written agreement of Agent and Merchant and Merchant may review, verify, and/or audit the expenses at any time. Notwithstanding anything herein to the contrary, unless otherwise agreed to by Merchant, Merchant shall not be obligated to pay costs of supervision and advertising costs that have not been included, or provided for, in the Expense Budget, as may be amended in accordance with this Agreement.

5. FF&E. In accordance with section I. of the Agreement, the Agent shall sell the FF&E at the Additional Stores.

6. With respect to this First Amendment, (i) Merchant hereby reaffirms the representations, warranties, and agreements set forth in section H. of the Agreement, and (ii) Agent hereby reaffirms the representations, warranties, and agreements set forth in section H. of the Agreement.

7. This First Amendment, together the Agreement, all prior amendments or supplements, and all schedules and exhibits attached hereto and thereto, constitutes a single, integrated written contract expressing the entire agreement of the Parties concerning the subject matter hereof. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any party to this First Amendment except as specifically set forth in this First Amendment or the Agreement.

8. Upon receipt of a fully executed copy of this First Amendment, Merchant agrees to seek entry of an order, in form and substance acceptable to the Parties, with the Bankruptcy Court approving this First Amendment and the Sale of the Additional Stores pursuant to and on the same conditions as set forth in the Store Closing Sales Order. From and after entry of such an order, Agent shall conduct the Sale for the Additional Stores in accordance with the terms of the Store Closing Sales Order in all material respects.

* * *

If this First Amendment is acceptable to you, kindly execute a copy in the space provided, and return a countersigned version to the undersigned. Thank you again for this opportunity -- we look forward to working with you.

Very truly yours,

HILCO MERCHANT RESOURCES, LLC

/s/ Ian S. Fredericks
By: Ian S. Fredericks
Its: EVP

GORDON BROTHERS RETAIL PARTNERS, LLC

/s/ Robert Grosskopf
By: Robert Grosskopf
Its: Co President

**AGREED AND ACCEPTED as of the 26th day
of June 2017:**

BCBG MAX AZRIA GROUP, LLC

/s/ Holly Felder Etlin
By: Holly Felder Etlin
Its: Chief Restructuring Officer

BCBG
Exhibit A-1

Store List

Store #	Location Type	Concept	Name	Address	Address2	City	State	Zip	Open Date	Lease End Date	Landlord	Selling Sq. Ft.
400	Outdoor Outlet	Factory	FTY, Citadel	100 Citadel Drive	Spc#608	Los Angeles	CA	90040	11/15/94	01/31/18	Craig	2,932
401	Outdoor Outlet	Factory	FTY, Cabazon	48650 Seminole Drive	Spc#152	Cabazon	CA	92230	05/27/95	11/30/21	Simon	3,600
405	Outdoor Outlet	Factory	FTY, Camarillo	850 E. Ventura Blvd	Spc#702A	Camarillo	CA	93010	11/24/95	08/31/19	Simon	4,203
406	Outdoor Outlet	Factory	FTY, Waikale	94-798 Lumiaina St	Spc#410	Waipahu	HI	96797	12/20/95	06/30/18	Simon	3,383
414	Outdoor Outlet	Factory	FTY, San Marcos	3939 IH 35 South	Spc#1210	San Marcos	TX	78666	04/02/98	09/30/25	Simon	3,570
417	Outdoor Outlet	Factory	FTY, Carlsbad	5630 Paseo Del Norte	Spc#D110	Carlsbad	CA	92008	10/15/98	03/31/19	Simon	5,131
421	Outdoor Outlet	Factory	FTY, Orlando	8200 Vineland Avenue	Spc#1157	Orlando	FL	32821	10/26/00	09/30/20	Simon	2,998
424	Indoor Outlet	Factory	FTY, Dolphin Mall	11401 NW 12th St.	Spc#362	Miami	FL	33172	03/03/01	01/31/26	Taubman	2,985
425	Outdoor Outlet	Factory	FTY, Allen Premium	820 W. Stacy Rd.	Spc#256	Allen	TX	75013	10/18/01	06/30/20	Simon	5,518
448	Outdoor Outlet	Factory	FTY, Orlando Prime Outlets	4957 International Drive	Spc#1D01	Orlando	FL	32819	04/05/08	04/30/18	Simon	4,872
452	Outdoor Outlet	Factory	FTY, Las Americas	4155 Camino de la Plaza	Spc#422	San Ysidro	CA	92173	05/19/05	05/19/20	Simon	3,000
474	Indoor Outlet	Factory	FTY, Sawgrass Mills	12801 W. Sunrise Blvd.	Spc#413	Sunrise	FL	33323	07/20/07	05/31/22	Simon	2,789
482	Outdoor Outlet	Factory	FTY, Park City	6699 N. Landmark Dr.	Spc#H110	Park City	UT	84098	12/15/06	12/31/18	Tanger	2,985
489	Outdoor Outlet	Factory	FTY, Las Vegas	795 S. Grand Central Pkwy	Spc#2251	Las Vegas	NV	89106	02/28/08	02/28/18	Simon	3,270
501	Indoor Outlet	Factory	FTY, Great Lakes Mall	4058 Baldwin Rd.	Spc#230	Auburn Hills	MI	48326	09/04/09	01/31/19	Taubman	2,954
512	Outdoor Outlet	Factory	FTY, Livermore	2940 Paragon Outlets Dr	Spc#240	Livermore	CA	94551	11/08/12	11/30/22	Simon	3,014
514	Indoor Outlet	Factory	FTY, Rosemont Fashion Outlets	5220 Fashion Outlet Way	Spc#2145	Rosemont	IL	60018	8/1/2013	12/31/23	Macerich	3,500
604	Inside Mall	BCBG	San Francisco Centre	845 Market Street	Spc#241	San Francisco	CA	94103	11/25/94	01/31/17	Westfield	3,953
606	Inside Mall	BCBG	Las Vegas	3200 Las Vegas Blvd	Spc#2295	Las Vegas	NV	89109	05/05/95	07/31/17	GGP	3,849
607	Inside Mall	BCBG	Westchester	125 Westchester Ave.	Spc#2005B-6	White Plains	NY	10601	05/18/95	07/31/16	Simon	2,696
609	Street	BCBG	Sunset Plaza	8634 W. Sunset Blvd.	-	West Hollywood	CA	90069	12/11/98	MTM	MONTGOMERY MGMT	2,279
610	Inside Mall	BCBG	King of Prussia	160 N. Gulph	Spc#1095A	King of Prussia	PA	19406	11/02/95	05/31/25	Simon	3,500
614	Inside Mall	BCBG	Dallas Galleria	13350 Dallas Parkway	Spc#1465	Dallas	TX	75240	05/02/96	04/30/18	Simon	2,073
620	Inside Mall	BCBG	Roosevelt	630 Old Country Rd	Spc#2070	Garden City	NY	11530	10/04/96	04/30/17	Simon	3,448
625	Inside Mall	BCBG	Garden State	1 Garden State Plaza	Spc#2168	Paramus	NJ	7652	10/18/97	06/30/17	Westfield	4,056
632	Street	BCBG	Georgetown	3210 M Street NW	-	Washington	DC	20007	06/18/98	12/31/17	GEORGETOWN RENAISSANCE, LLC	4,800
637	Inside Mall	BCBG	Plaza Las Americas	525 FD Roosevelt Ave.	Spc#072	Hato Rey	PR	00918	12/30/98	06/30/21	Plaza Las Americas	2,785
638	Inside Mall	BCBG	Venetian	3377 Las Vegas Blvd. South	Spc#2235	Las Vegas	NV	89109	07/15/99	06/30/19	GGP	4,161
644	Inside Mall	BCBG	Tyson's Galleria	2001 International Drive	Spc#1114	McLean	VA	22102	05/22/00	07/31/20	GGP	4,000
645	Inside Mall	BCBG	Miracle Mile	3663 Las Vegas Blvd. South	#E012	Las Vegas	NV	89109	09/01/00	01/31/18	Miracle Mile Shops	4,049
649	Inside Mall	BCBG	Boca Raton	6000 Glades Road	Spc#1223	Boca Raton	FL	33431	03/08/01	11/30/20	Simon	3,503
654	Inside Mall	BCBG	Scottsdale Fashion Square	7014 E. Camelback Rd.	Spc#1096	Scottsdale	AZ	85251	03/31/01	01/31/26	Macerich	3,744
664	Outside Mall	BCBG	Stanford	206 Stanford Shopping Center	-	Palo Alto	CA	94304	03/01/02	01/31/26	Simon	2,691
669	Outside Mall	BCBG	Waterside	4776 Admiralty Way	Spc#C-7.3	Marina del Rey	CA	90292	07/03/08	01/31/19	Caruso	3,200
681	Outside Mall	BCBG	The Shops at La Cantera	15900 La Cantera Pkwy	Spc#3380	San Antonio	TX	78256	07/24/06	09/30/20	GGP	3,342
696	Street	BCBG	Flatiron 5th Avenue	168 5th Ave.	-	New York	NY	10010	06/30/06	07/31/17	168 FIFTH AVE REALTY CORP	7,800
702	Inside Mall	BCBG	Keystone Crossing	8701 Keystone Crossing	Spc#7A	Indianapolis	IN	46240	07/21/06	04/30/20	Simon	4,722
706	Lifestyle	BCBG	Shops at Wailea	3750 Wailea Alanui Dr.	Spc#EW18	Wailea	HI	96753	03/08/07	01/31/17	Hart Wailea	2,886
710	Lifestyle	BCBG	Perkins Rowe	10156 Perkins Rowe	Spc#160	Baton Rouge	LA	70810	10/26/07	02/28/18	CRAWFISH LLC	4,100
712	Outside Mall	BCBG	The Domain	11501 Century Oaks Terrace	Spc#K14	Austin	TX	78758	03/09/07	03/31/17	Simon	3,800
716	Lifestyle	BCBG	Albuquerque	2260 Q Street	-	Albuquerque	NM	87110	12/20/06	04/30/23	Simon	2,947
729	Outside Mall	BCBG	Oakbrook	290 Oakbrook Center	-	Oak Brook	IL	60523	05/18/07	03/31/17	GGP	2,748
732	Inside Mall	BCBG	Cherry Hill	2000 RT 38	Spc#1775	Cherry Hill	NJ	08002	07/31/08	07/31/18	Preit	4,600
737	Lifestyle	BCBG	Americana	529 Americana Way	-	Glendale	CA	91204	05/01/08	01/31/19	Caruso	5,028
743	Inside Mall	BCBG	Menlo Park	100 Menlo Park	Spc#1245A	Edison	NJ	08837	08/27/09	04/30/20	Simon	2,200
748	Inside Mall	BCBG	The Forum Shop	3500 Las Vegas Blvd S	Spc#0D13	Las Vegas	NV	89109	09/06/08	12/31/18	Simon	3,445
749	Inside Mall	BCBG	La Plaza	2200 S. 10th St.	Spc#F10	McAllen	TX	78503	04/07/09	04/30/19	Simon	2,859
757	Outside Mall	BCBG	Santa Monica Place	395 Santa Monica Place	Spc#170W	Santa Monica	CA	90401	08/06/10	01/31/20	Macerich	4,173
759	Inside Mall	BCBG	Cherry Creek	3000 E. First Ave	Spc#276	Denver	CO	80206	05/20/10	01/31/20	Taubman	4,000
763	Inside Mall	BCBG	Short Hills	1200 Morris Tpke	SPC#D135	Short Hills	NJ	07078	07/01/10	01/31/20	Taubman	4,492
777	Inside Mall	BCBG	BCBG, International Marketplace	2330 Kalakaua Ave.	Space 176	Honolulu	HI	96815	01/00/00	01/31/27	Taubman	2,063

51

Average Sq. Ft. 3,621

BCBG
Exhibit B-1

Expense Budget

Advertising

Media	10,000
Signs	89,749
Sign Walkers	-
Subtotal Advertising	<u>99,749</u>

Supervision

Fees / Wages / Expenses (1)	<u>589,108</u>
Subtotal Supervision	<u>589,108</u>

Total Expenses	<u><u>688,857</u></u>
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Note(s):

1. Includes Deferred Compensation and Insurance.

EXHIBIT 2

Final Store Closing Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
)	
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 17-10466 (SCC)
)	
Debtors.	)	(Jointly Administered)

**FINAL ORDER (I) AUTHORIZING THE DEBTORS
TO ASSUME THE AGENCY AGREEMENT, (II) APPROVING PROCEDURES
FOR STORE CLOSING SALES AND, (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Order”), (a) authorizing the Debtors to assume the Agency Agreement, (b) authorizing and approving the Store Closing Procedures, with such sales to be free and clear of all liens, claims and encumbrances, and (c) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby:

THE COURT HEREBY FINDS AND DETERMINES THAT:

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. The Debtors have advanced sound business reasons for seeking to assume the Agency Agreement and adopt the Store Closing Procedures, as set forth in the Motion and at the Hearing, and entering into the Agency Agreement is a reasonable exercise of the Debtors' business judgment and in the best interests of the Debtors and their estates.

3. The conduct of the Store Closings in accordance with the Store Closing Procedures will provide an efficient means for the Debtors to dispose of the Store Closure Assets.

4. The Agency Agreement was negotiated, proposed and entered into by the Agent and the Debtors without collusion, in good faith and from arm's length bargaining positions.

5. The assumption of the Agency Agreement is a sound exercise of the Debtors' business judgment.

6. The relief set forth herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates and the Debtors have demonstrated good, sufficient and sound business purposes and justifications for the relief approved herein.

7. The Store Closings are in the best interest of the Debtors' estates.

8. The entry of this Order is in the best interest of the Debtors and their estates, creditors, and interest holders and all other parties in interest herein.

IT IS HEREBY ORDERED THAT:

9. The Motion is granted on a final basis as provided herein.

10. The Debtors are authorized and empowered to take any and all further actions as may be reasonably necessary or appropriate to give effect to this Interim Order.

11. To the extent of any conflict between this Order, the Store Closing Procedures, and the Agency Agreement, the terms of this Order shall control over all other documents and the Store Closing Procedures shall control over the Agency Agreement.

12. Notwithstanding Bankruptcy Rule 6004(h), this Order shall take effect immediately upon its entry.

I. Authority to Assume the Agency Agreement.

13. The assumption of the Agency Agreement by the Debtors pursuant to section 365 of the Bankruptcy Code is approved on an interim basis. The Debtors are authorized to act and perform in accordance with the terms of the Agency Agreement, including, making payments required by the Agency Agreement to the Agent without the need for any application of the Agent or a further order of the Court.

14. Subject to the restrictions set forth in this Order and the Store Closing Procedures, the Debtors and the Agent hereby are authorized to take any and all actions as may be necessary or desirable to implement the Agency Agreement and the Store Closings; and each of the transactions contemplated by the Agency Agreement, and any actions taken by the Debtors and the Agent necessary or desirable to implement the Agency Agreement and/or the Store Closings prior to the date of this Order, hereby are approved and ratified.

II. Authority to Engage in Store Closings.

15. The Debtors are authorized pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to immediately continue and conduct the Store Closings in accordance with this Order, the Store Closing Procedures and the Agency Agreement.

16. The Store Closing Procedures are approved in their entirety on a final basis.

17. The Debtors are authorized to discontinue operations at the Stores in accordance with this Order and the Store Closing Procedures.

18. All entities that are presently in possession of some or all of the Merchandise or FF&E in which the Debtors hold an interest that are or may be subject to the Agency Agreement or this Order hereby are directed to surrender possession of such Merchandise or FF&E to the Debtors or the Agent.

19. Neither the Debtors nor the Agent nor any of their officers, employees, or agents shall be required to obtain the approval of any third party, including (without limitation) any Governmental Unit (as defined in Bankruptcy Code section 101(27)) or landlord, to conduct the Sale and to take the related actions authorized herein.

20. Treatment of Proceeds from Sale of Texas Assets. As adequate protection for the claims of the Local Texas Tax Authorities,³ which are asserted on a secured basis, on or before May 1, 2017, the Debtors will fund a segregated account (the “Local Texas Tax Account”) in the amount of \$144,288.07 from the proceeds of the non-ordinary course sale of any of the Debtors’ assets located in the state of Texas occurring on or after February 28, 2017. The liens asserted by the Local Texas Tax Authorities (and all other liens junior to those of the Local Texas Tax Authorities) shall attach to the Local Texas Tax Account to the same extent and with the same priority as the liens the Local Texas Tax Authorities assert against such assets of the Debtors. The Local Texas Tax Account shall be maintained solely for the purpose of providing adequate protection for the Local Texas Tax Authorities prior to the distribution of any proceeds to any other creditor and shall constitute neither the allowance of the claims of the Local Texas Tax Authorities, nor a floor or cap on the amounts the Local Texas Tax Authorities may be entitled to receive. All parties’ rights to object to the priority, validity, amount, and extent of the claims and liens asserted by the Local Texas Tax Authorities are fully preserved. Funds in the Local Texas Tax Account may be distributed upon agreement between the Local Texas Tax Authorities and the Debtors, with the consent of the DIP Agents, or by subsequent order of the Court, duly noticed to the Local Texas Tax Authorities and the DIP Agents.

III. Conduct of the Sale.

21. All newspapers and other advertising media in which the Store Closings may be advertised and all landlords are directed to accept this Order as binding authority so as to authorize the Debtors and the Agent to conduct the Sale and the sale of Merchandise and FF&E

³ As used herein, “Local Texas Tax Authorities” shall mean Arlington ISD, HC MUD 358, HC WCID 155, City of Mercedes, Bexar County, Cameron County, Cypress - Fairbanks ISD, Dallas County, El Paso, Fort Bend County, Frisco, Harris County, Hidalgo County, McAllen, McLennan County, Montgomery County, Nueces County, San Marcos CISD, Smith County, Tarrant County, and Lewisville ISD.

pursuant to the Agency Agreement, including, without limitation, to conduct and advertise the sale of the Merchandise and FF&E in the manner contemplated by and in accordance with this Order, the Store Closing Procedures, and the Agency Agreement.

22. The Debtors and Agent are hereby authorized to take such actions as may be necessary and appropriate to implement the Agency Agreement and to conduct the Store Closings without necessity of further order of this Court as provided in the Agency Agreement or the Store Closing Procedures, including, but not limited to, advertising the sale as a “store closing sale”, “sale on everything”, “everything must go”, or similar-themed sales through the posting of signs (including the use of exterior banners at non-enclosed mall closing locations, and at enclosed mall closing locations to the extent the applicable closing location entrance does not require entry into the enclosed mall common area), use of sign-walkers and street signage; *provided, however*, that only Merchant-approved terminology will be used at each Store in connection with the Store Closings.

23. Notwithstanding anything herein to the contrary, and in view of the importance of the use of sign-walkers, banners, and other advertising to the sale of the Merchandise and FF&E, to the extent that, prior to the Final Hearing, disputes arise during the course of such sale regarding laws regulating the use of sign-walkers, banners, or other advertising and the Debtors and the Agent are unable to resolve the matter consensually, any party may request an immediate telephonic hearing with this Court pursuant to these provisions. Such hearing will, to the extent practicable, be scheduled initially no later than the earlier of (i) the Final Hearing or (ii) within two business days of such request. This scheduling shall not be deemed to preclude additional hearings for the presentation of evidence or arguments as necessary.

24. Except as expressly provided in the Agency Agreement, the sale of the Merchandise and FF&E shall be conducted by the Debtors and the Agent notwithstanding any restrictive provision of any lease, sublease, or other agreement relative to occupancy affecting or purporting to restrict the conduct of the Sale, the rejection of leases, abandonment of assets, or “going dark” provisions. The Debtors and landlords of the closing locations are authorized to enter into agreements (“Side Letters”) between themselves modifying the Store Closing Procedures without further order of the Court, and such Side Letters shall be binding as among the Debtors and any such landlords. In the event of any conflict between the Store Closing Procedures, this Final Order, and any Side Letter, the terms of such Side Letter shall control.

25. Except as expressly provided for herein or in the Store Closing Procedures, no person or entity, including, but not limited to, any landlord, licensor, service providers, utilities, and creditor, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of the Sale or the sale of Merchandise or FF&E, or the advertising and promotion (including the posting of signs and exterior banners or the use of sign-walkers) of such sales, and all such parties and persons of every nature and description, including, but not limited to, any landlord, licensor, service providers, utilities, and creditor and all those acting for or on behalf of such parties, are prohibited and enjoined from (i) interfering in any way with, obstructing, or otherwise impeding, the conduct of the Store Closings and/or (ii) instituting any action or proceeding in any court (other than in the Bankruptcy Court) or administrative body seeking an order or judgment against, among others, the Debtors, the Agent, or the landlords at the closing locations that might in any way directly or indirectly obstruct or otherwise interfere with or adversely affect the conduct of the Sale or sale of the Merchandise or FF&E or other liquidation sales at the closing locations and/or seek to recover damages for breach(es) of

covenants or provisions in any lease, sublease, license, or contract based upon any relief authorized herein.

26. In accordance with and subject to the terms and conditions of the Agency Agreement, the Agent shall have the right to use the Stores and all related Store services, furniture, fixtures, equipment, and other assets of the Debtors for the purpose of conducting the Sale, free of any interference from any entity or person, subject to compliance with the Store Closing Procedures and this Order.

27. All sales of Store Closure Assets shall be “as is” and final. However, as to the Stores, all state and federal laws relating to implied warranties for latent defects shall be complied with and are not superseded by the sale of said goods or the use of the terms “as is” or “final sales.”

28. The Agent shall not be liable for sales taxes except as expressly provided in the Agency Agreement and the payment of any and all sales taxes is the responsibility of the Debtors. The Debtors are directed to remit all taxes arising from the Sale to the applicable Governmental Units as and when due, provided that in the case of a bona fide dispute the Debtors are only directed to pay such taxes upon the resolution of the dispute, if and to the extent that the dispute is decided in favor of the applicable Governmental Unit. For the avoidance of doubt, sales taxes collected and held in trust by the Debtors shall not be used to pay any creditor or any other party, other than the applicable Governmental Unit for which the sales taxes are collected. The Agent shall collect, remit to the Debtors and account for sales taxes as and to the extent provided in the Agency Agreement. This Order does not enjoin, suspend, or restrain the assessment, levy or collection of any tax under state law, and does not constitute a declaratory judgment with respect to any party’s liability for taxes under state law.

29. Pursuant to section 363(f) of the Bankruptcy Code, the Agent, on behalf of the Debtors, is authorized to sell and all sales of Store Closure Assets, whether by the Agent or the Debtors, shall be free and clear of any and all of any liens, claims, encumbrances, and other interests; provided, however, that any such liens, claims, encumbrances, and other interests shall attach to the proceeds of the sale of the Store Closure Assets with the same validity, in the amount, with the same priority as, and to the same extent that any such liens, claims, and encumbrances have with respect to the Store Closure Assets, subject to any claims and defenses that the Debtors may possess with respect thereto and the Agent's fees and expenses (as provided in the Agency Agreement).

30. To the extent that the Debtors propose to sell or abandon FF&E which may contain personal and/or confidential information about the Debtors' employees and/or customers (the "Confidential Information"), the Debtors shall remove the Confidential Information from such items of FF&E before such sale or abandonment.

31. The Debtors and/or the Agent (as the case may be) are authorized and empowered to transfer Store Closure Assets among the Stores. The Agent is authorized to sell the Debtors' FF&E and abandon the same, in each case, as provided for and in accordance with the terms of the Agency Agreement.

32. Notwithstanding this or any other provision of this Order, nothing shall prevent or be construed to prevent the Agent (individually, as part of a joint venture, or otherwise) or any of its affiliates from bidding on the Debtors' assets not subject to the Agency Agreement pursuant to an agency agreement or otherwise ("Additional Assets"). The Agent is hereby authorized to bid on and guarantee or otherwise acquire such Additional Assets notwithstanding anything to

the contrary in the Bankruptcy Code or other applicable law, provided that such guarantee, transaction or acquisition is approved by separate order of this Court.

IV. Dispute Resolution Procedures with Governmental Units.

33. Nothing in this Order, the Agency Agreement or the Store Closing Procedures, releases, nullifies, or enjoins the enforcement of any liability to a governmental unit under environmental laws or regulations (or any associated liabilities for penalties, damages, cost recovery, or injunctive relief) to which any entity would be subject as the owner, lessor, lessee, or operator of the property after the date of entry of this Order. Nothing contained in this Order, the Agency Agreement, or the Store Closing Procedures shall in any way (a) diminish the obligation of any entity to comply with environmental laws or (b) diminish the obligations of the Debtors to comply with environmental laws consistent with its rights and obligations as debtor in possession under the Bankruptcy Code. The Store Closings shall not be exempt from laws of general applicability, including, without limitation, public health and safety, criminal, tax, labor, employment, environmental, antitrust, fair competition, traffic and consumer protection laws, including consumer laws regulating deceptive practices and false advertising (collectively, “General Laws”). Nothing in this Order, the Agency Agreement or the Store Closing Procedures, shall alter or affect obligations to comply with all applicable federal safety laws and regulations. Nothing in this Order shall be deemed to bar any Governmental Unit (as such term is defined in section 101(47) of the Bankruptcy Code) from enforcing General Laws in the applicable non-bankruptcy forum, subject to the Debtors’ rights to assert in that forum or before this Court that any such laws are not in fact General Laws or that such enforcement is impermissible under the Bankruptcy Code, this Order, or otherwise, pursuant to paragraph 31 herein. Notwithstanding any other provision in this Order, no party waives any rights to argue any position with respect to whether the conduct was in compliance with this Order and/or any

applicable law, or that enforcement of such applicable law is preempted by the Bankruptcy Code. Nothing in this Order shall be deemed to have made any rulings on any such issues.

34. To the extent that the sale of Store Closure Assets is subject to and Liquidation Sale Laws, including any federal, state, or local statute, ordinance, or rule, or licensing requirement directed at regulating “going out of business,” “store closing,” similar inventory liquidation sales, or bulk sale laws, including laws restricting safe, professional, and non-deceptive, customary advertising such as signs, banners, posting of signage, and use of sign-walkers solely in connection with the sale and including ordinances establishing license or permit requirements, waiting periods, time limits or bulk sale restrictions that would otherwise apply solely to the sale of the Store Closure Assets, the dispute resolution procedures in this section shall apply.

- (i) Provided that the Store Closings are conducted in accordance with the terms of this Order and the Store Closing Procedures, and in light of the provisions in the laws of many Governmental Units that exempt court-ordered sales from their provisions, the Debtors shall be presumed to be in compliance with any Liquidation Sale Laws and, subject to Paragraph 10 hereof, are authorized to conduct the Store Closings in accordance with the terms of this Order and the Sale Guidelines without the necessity of further showing compliance with any Liquidation Sale Laws.
- (ii) Within two business days after entry of this Order, the Debtor shall serve copies of this Order, the Agency Agreement and the Store Closing Procedures via email, facsimile, or regular mail, on the following: (i) the Attorney General’s office for each state where the Store Closings are being held, (ii) the county consumer protection agency or similar agency for each county where the Store Closings will be held, (iii) the division of consumer protection for each state where the Store Closings will be held, (iv) the chief legal counsel for the local jurisdiction, and (v) the landlords for the Stores.
- (iii) To the extent there is a dispute arising from or relating to the Store Closings, this Order, the Agency Agreement, or the Store Closing Procedures, which dispute relates to any Liquidation Sale Laws (a “Reserved Dispute”), this Court shall retain exclusive jurisdiction to resolve the Reserved Dispute. Any time within ten days following entry of this Order, any Governmental Unit may assert that a Reserved Dispute exists by serving written notice of such Reserved Dispute to counsel for the Debtors so as to ensure delivery thereof within one business day

thereafter. If the Debtors and the Governmental Unit are unable to resolve the Reserved Dispute within 15 days after service of the notice, the aggrieved party may file a motion with this Court requesting that this Court resolve the Reserved Dispute (a "Dispute Resolution Motion").

- (iv) In the event a Dispute Resolution Motion is filed, nothing in this Order shall preclude the Debtors, a landlord, or other interested party from asserting (i) that the provisions of any Liquidation Sale Laws are preempted by the Bankruptcy Code, or (ii) that neither the terms of this Order nor the conduct of the Debtors pursuant to this Order, violates such Liquidation Sale Laws. Filing a Dispute Resolution Motion as set forth herein shall not be deemed to affect the finality of any Order or to limit or interfere with the Debtors' or the Agent's ability to conduct or to continue to conduct the Store Closings pursuant to this Order, absent further order of this Court. This Court grants authority for the Debtors and the Agent to conduct the Store Closings pursuant to the terms of this Order, the Agency Agreement, and/or the Store Closing Procedures and to take all actions reasonably related thereto or arising in connection therewith. The Governmental Unit shall be entitled to assert any jurisdictional, procedural, or substantive arguments it wishes with respect to the requirements of its Liquidation Sale Laws or the lack of any preemption of such Liquidation Sale Laws by the Bankruptcy Code. Nothing in this Order shall constitute a ruling with respect to any issues to be raised in any Dispute Resolution Motion.
- (v) If, at any time, a dispute arises between the Debtors and/or the Agent and a Governmental Unit as to whether a particular law is a Liquidation Sale Law, and subject to any provisions contained in this Order related to the Liquidation Sale Laws, then any party to that dispute may utilize the provisions of subparagraphs (b) and (c) hereunder by serving a notice to the other party and proceeding thereunder in accordance with those paragraphs. Any determination with respect to whether a particular law is a Liquidation Sale Law shall be made *de novo*.

35. Except as expressly provided for herein or in the Store Closing Procedures, and except with respect to any Governmental Unit (as to which paragraphs 32 and 33 shall apply), no person or entity, including but not limited to any landlord, licensor, or creditor, shall take any action to directly or indirectly prevent, interfere with, or otherwise hinder consummation of the Store Closings, or the advertising and promotion (including the posting of signs or the use of sign walkers) of the Store Closings, and all such parties and persons of every nature and description, including landlords, licensors, creditors and utility companies and all those acting for or on behalf of such parties, are prohibited and enjoined from (a) interfering in any way with,

or otherwise impeding, the conduct of the Store Closings and/or (b) instituting any action or proceeding in any court or administrative body seeking an order or judgment against, among others, the Debtors, Agent, or the landlords at the Stores that might in any way directly or indirectly obstruct or otherwise interfere with or adversely affect the conduct of the Store Closings and/or seek to recover damages for breach(es) of covenants or provisions in any lease, sublease or license based upon any relief authorized herein.

36. Any restrictions in any lease agreement, restrictive covenant, or similar documents purporting to limit, condition, or impair the Debtors' ability to conduct the Store Closings shall not be enforceable in conjunction with the Store Closings, nor shall any breach of such provisions in these chapter 11 cases in conjunction with the Store Closings constitute a default under a lease or provide a basis to terminate the lease; provided, the Store Closings are conducted in accordance with the terms of this Order and the Store Closing Procedures.

37. Subject to Paragraphs 32 and 33 above, each and every federal, state, or local agency, departmental or governmental unit with regulatory authority over the Store Closings and all newspapers and other advertising media in which the Store Closings are advertised shall consider this Order as binding authority that no further approval, license, or permit of any governmental unit shall be required, nor shall the Debtors be required to post any bond, to conduct the Store Closings.

V. Other Provisions.

38. The Agent shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against Agent, in each case, other than as expressly provided for in the Agency Agreement.

39. To the extent the Debtors are subject to any state "fast pay" laws in connection with the Store Closings, the Debtors shall be presumed to be in compliance with such laws to the

extent, in applicable states, such payroll payments are made by the later of (a) the Debtors' next regularly scheduled payroll and (b) seven calendar days following the termination date of the relevant employee, and in all such cases consistent with, and subject to, any previous orders of this Court regarding payment of same.

40. This Court shall retain exclusive jurisdiction with regard to all issues or disputes relating to this Order or the Agency Agreement, including, but not limited to, (i) any claim or issue relating to any efforts by any party or person to prohibit, restrict or in any way limit banner and sign-walker advertising, including with respect to any allegations that such advertising is not being conducted in a safe, professional, and non-deceptive manner, (ii) any claim of the Debtors, the landlords and/or the Agent for protection from interference with the Sale, (iii) any other disputes related to the Sale, and (iv) to protect the Debtors and/or the Agent against any assertions of of any liens, claims, encumbrances, and other interests. No such parties or person shall take any action against the Debtors, the Agent, the landlords or the Sale until this Court has resolved such dispute. This Court shall hear the request of such parties or persons with respect to any such disputes on an expedited basis, as may be appropriate under the circumstances.

New York, New York
Dated: March 28, 2017

/S/ Shelley C. Chapman
THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Etlin Declaration

Joshua A. Sussberg, P.C.
Christopher Marcus, P.C.
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Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
BCBG MAX AZRIA GLOBAL HOLDINGS, LLC, <i>et al.</i> , ¹	)	Case No. 17-10466 (SCC)
Debtors.	)	(Jointly Administered)

**DECLARATION OF HOLLY FELDER ETLIN
IN SUPPORT OF DEBTORS’ MOTION FOR ENTRY
OF AN ORDER (I) AUTHORIZING THE DEBTORS TO
ENTER INTO AN AMENDMENT TO THE AGENCY AGREEMENT,
(II) APPROVING PROCEDURES FOR STORE CLOSING SALES, (III) SHORTENING
NOTICE AND OBJECTION PERIODS, AND (IV) GRANTING RELATED RELIEF**

I, Holly Felder Etlin, Chief Restructuring Officer of BCBG Max Azria Global Holdings, LLC and certain of its subsidiaries hereby declare under under penalty of perjury:

1. I am a Managing Director at AlixPartners LLP (“AlixPartners”) and have served as the Chief Restructuring Officer of BCBG Max Azria Global Holdings, LLC since January 12, 2017. I submit this declaration (the “Declaration”) in support of the *Debtors’ Motion for Entry*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

of an Order (I) Authorizing the Debtors to Enter Into an Amendment to the Agency Agreement, (II) Approving Procedures for Store Closing Sales, (III) Shortening Notice and Objection Periods, and (IV) Granting Related Relief (the “Store Closing Motion”).²

2. Except as otherwise indicated, all facts in this Declaration are based on my personal knowledge, my discussions with the Debtors’ management team and advisors, including the AlixPartners team working under my supervision, my review of relevant documents and information provided to me or verified by other executives, management, employees, or advisors of the Debtors, or my opinion based on my experience and knowledge of the Debtors’ operations and financial condition. If called upon to testify, I could and would testify competently to the facts set forth herein.

Store Closing Motion

3. The Court previously authorized the Debtors to begin the process of reducing their store footprint by closing and liquidating the inventory in approximately 120 stores. The Debtors completed the initial store closing process pursuant to the interim and final orders: (i) authorizing the Debtors to assume the agency agreement, (ii) approving procedures for store closing sales, and (iii) granting related relief. This initial round of store closures focused on underperforming stores to preserve optionality for potential purchasers.

4. The Debtors have completed a comprehensive marketing process contemplated by the bidding procedures approved in these chapter 11 cases. As a result of these efforts, the Debtors recently filed an amended chapter 11 plan (the “Plan”), received approval of their disclosure statement, and have begun soliciting votes on their Plan. The Plan contemplates that the Debtors will sell certain intellectual property and operating assets to Marquee Brands, LLC

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Store Closing Motion.

and GBG USA Inc. (together, the “Purchasers”). The Purchases are not assuming all retail leases (nor acquiring all inventory). As a result, the Debtors intend to close non-acquired retail locations and sell the inventory at such locations. The Debtors need to begin the store closings and liquidations ahead of July 4 and the clearance season that follows. Accordingly, the Debtors have determined to proceed with the closing and liquidation of the inventory at approximately 51 additional stores identified in the Amendment to the Agency Agreement (the “Additional Stores”). Under the terms of the Amendment, on or before June 30, 2017, the Debtors may, in their sole discretion, remove stores from the Store Closing List.

5. As a result of the need to close the Additional Stores, the Debtors have decided to enter into the Amendment to the Agency Agreement. The Debtors have determined that (a) the services of the Agent are necessary for a seamless and efficient large-scale store closing process, as is contemplated by the Store Closing Motion, and to maximize the value of the assets being sold, and (b) the Agent is capable of performing the required tasks on favorable financial terms. Further, the Agent conducted the Debtors’ prior liquidation sales, and is therefore intimately familiar with the Debtors’ stores and business.

6. The Amendment will allow the Debtors to utilize the experience and resources of the Agent in performing large-scale liquidations at the Additional Stores in a format that allows the Debtors to retain control over the sale process and which will provide the maximum benefit to the estates. Importantly, the ability to use the “store closing” message in advertising is critical to drive sales and, thus, the ultimate recovery for the Debtors and their creditors. Accordingly, I believe that entering into the Amendment to the Agency Agreement is a reasonable exercise of the Debtors’ business judgment.

7. The Debtors, however, must act quickly to fully capitalize on the Amendment. Following July 4, the retail and apparel sector will enter a period of store clearance sales. If the Debtors were to provide the prescribed 21-days' notice of the Store Closing Motion, the Debtors would be unable to maximize their time conducting the store closing sales prior to this industry-wide clearance period, which would greatly diminish the value the Debtors could obtain from such sales due to the increased competition from other retailers offering similar mark downs. In addition, immediately commencing the Store Closings is important to the Debtors' ability to generate sufficient proceeds to enable the Debtors to make distributions on or shortly after their anticipated effective date under their proposed Plan. Therefore, I believe that shortening the notice and objection periods such that the Order may be presented to the Court for signature on June 30, 2017 is warranted.

[Remainder of page intentionally left blank]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: June 26, 2017
New York, New York

/s/ Holly Felder Etlin
Holly Felder Etlin
Chief Restructuring Officer
Max Azria Global Holding, LLC