

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|                                   |   |                                |
|-----------------------------------|---|--------------------------------|
| In re:                            | ) |                                |
|                                   | ) | Chapter 11                     |
| BEAUTY BRANDS, LLC, <i>et al.</i> | ) | Case No. 19-10031 (___)        |
|                                   | ) |                                |
| Debtors. <sup>1</sup>             | ) | Joint Administration Requested |
|                                   | ) |                                |
|                                   | ) | <b>Related Docket No. 16</b>   |
|                                   | ) |                                |

**MOTION OF THE DEBTORS FOR EXPEDITED CONSIDERATION OF DEBTORS’  
MOTION FOR, INTER ALIA, ENTRY OF BIDDING PROCEDURES ORDER**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), having filed contemporaneously herewith the *Debtors’ Motion for Entry of (A) an Order (I) Scheduling a Hearing on the Approval of the Sale of All or Substantially All of the Debtors’ Assets Free and Clear of All Encumbrances, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures, Assumption and Assignment Procedures, and Bid Protections and the Form and Manner of Notice Thereof, and (III) Granting Related Relief; and (B) an Order (I) Authorizing the Sale of All or Substantially All of the Debtors’ Assets Free and Clear of All Encumbrances, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* (the “Bidding Procedures Motion”),<sup>2</sup> respectfully submit this motion (the “Motion for Expedited Consideration”), pursuant to section 105 of title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532 (the “Bankruptcy Code”), Rule 9006

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Beauty Brands, LLC (0290); Beauty Brands Payroll Holdings, Inc. (6218); and Beauty Brands Payroll, LLC (1789). The location of the Debtors’ corporate headquarters is 4600 Madison Avenue, Suite 400, Kansas City, MO 64112.

<sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Bidding Procedures Motion.

of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 6004-1(c) and 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for entry of an order shortening the time for notice of the hearing to consider the entry of the Bidding Procedures Order, so that the bidding procedures portion of the Bidding Procedures Motion may be considered by the Court at a hearing to be held on or before January 18, 2019 at a time convenient to the Court (the “Proposed Hearing”), with any objections to the bidding procedures portion of the Bidding Procedures Motion to be filed by 12:00 p.m. (ET) the day prior to the Proposed Hearing (the “Proposed Objection Deadline”). In support of this Motion for Expedited Consideration, the Debtors rely on the First Day Declarations and respectfully represent as follows:

#### **Jurisdiction**

1. This Court has jurisdiction over this Motion for Expedited Consideration under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper in this judicial district under 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are section 105(a) of the Bankruptcy Code, Bankruptcy Rule 9006, and Local Rules 6004-1(c) and 9006-1(e).

3. Pursuant to Local Rule 9013-1(f), the Debtors hereby consent to the entry of a final order or judgment by the Court if it is determined that the Court, absent consent of the parties, cannot enter a final order or judgment consistent with Article III of the United States Constitution.

#### **Background**

4. On the date hereof (the “Petition Date”), each of the Debtors filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code. The Debtors

continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner in the Chapter 11 Cases, and no statutory committees have been appointed or designated.

5. Founded in 1995 and headquartered in Kansas City, Missouri, the Debtors operate specialty beauty stores under the trade name “Beauty Brands” that provide salon and spa services and retail third-party branded beauty products. The Debtors currently operate a chain of 58 retail stores located in 12 states.

6. As described more fully in the First Day Declarations and the Bidding Procedures Motion, the Debtors’ liquidity and financial position has been adversely affected by declining sales and rising costs associated with doing business as a predominantly “brick and mortar” retailer. As part of the Debtors’ overall strategy for these chapter 11 cases, the Debtors have decided, in an exercise of their business judgment, to sell all or substantially all of their Assets, including the Core Stores, in order to further maximize recoveries for the benefit of the Debtors’ estates and creditors. Pursuant to the Bidding Procedures Motion, the Debtors, in part, seek entry of the Bidding Procedures Order (i) scheduling the Sale Hearing and (ii) authorizing and approving the Bidding Procedures, the Assumption and Assignment Procedures, the Bid Protections, including the Break-Up Fee and Expense Reimbursement, and the form and manner of notice thereof for the foregoing. The Debtors developed the Bidding Procedures in consultation with their professional advisors, and believe that they are appropriately designed to preserve flexibility in the sale process, and to generate the greatest level of interest, and the highest or best value for the Assets, under the circumstances of these chapter 11 cases.

**Relief Requested**

7. By this Motion for Expedited Consideration, the Debtors respectfully request the

entry of an order shortening notice of the hearing to consider the entry of the Bidding Procedures Order so that the bidding procedures portion of the Bidding Procedures Motion can be considered at the Proposed Hearing.

**Basis for Relief Requested**

8. Local Rule 9006-1(c)(i) requires that all motion papers be filed and served at least 18 days (or twenty-one (21) days if service is by first class mail, or nineteen (19) days if service is by overnight delivery) prior to the hearing date. Local Rule 9006-1(c)(ii) further provides that objections, if any, to such motion shall be no later than seven days before the hearing date. *See* DEL. BANKR. L.R. 9006-1(c)(i), (ii).

9. Local Rule 9006-1(e), however, provides that a motion may be heard on less notice than as otherwise required if authorized “by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” DEL. BANKR. L.R. 9006-1(e). Indeed, as stated in section 102(a) of the Bankruptcy Code, “notice and a hearing” is an elastic phrase meant to take into account the “particular circumstances” of a motion. *See* 11 U.S.C. § 102(1) (stating that “‘after notice and a hearing’, or similar phrase . . . means after such notice as is appropriate in the particular circumstances . . . .”); *Rockwell Int’l Corp. v. Harnischfeger Indus., Inc. (In re Harnischfeger Indus., Inc.)*, 316 B.R. 616, 620 (D. Del. 2003) (“The policy of Section 102 is to permit the court flexibility, while ensuring that all parties have proper notice.”).

10. Local Rule 6004-1(c) provides, in part, that “[t]he Court will only schedule a hearing to consider approval of bidding and sale procedures in accordance with the notice procedures set forth in Local Rule 9006-1, unless the requesting party files a motion to shorten notice which may be heard at the first day hearing in the case and presents evidence at the hearing of compelling circumstances.” DEL. BANKR. L.R. 6004-1(c).

11. As set forth more fully in the First Day Declarations and the Bidding Procedures Motion, the Debtors believe that a prompt sale of their assets, including a hearing on the Bidding Procedures Order on shortened notice as requested herein, will reduce unnecessary administrative expenses and thus maximize the value of their estates to the greatest extent possible under the circumstances of these chapter 11 cases. The proposed sale timeline will generate the highest or best possible recoveries, in the most efficient manner possible, to the benefit of the Debtors' creditors and stakeholders.

12. As detailed in the First Day Declarations, prior to the Petition Date, the Debtors, in consultation with their professional advisors, undertook a comprehensive and robust prepetition marketing process. Thus, the contemplated timeline for the sale process is unlikely to have a negative impact on the Debtors' ability to achieve the highest or otherwise best value for their Assets because some or all of the parties that originally expressed interest in purchasing the Assets prior to the Petition Date will have the opportunity to participate in the postpetition sale process, as will parties that did not participate in the prepetition marketing process. The Bidding Procedures are designed to establish a fair, open, and competitive postpetition bidding and auction process, subject to the time limitations driven by the Debtors' financial condition and milestones established in connection with the Debtors' proposed debtor-in-possession financing and the Stalking Horse APA.

13. Accordingly, the Debtors request that the Bidding Procedures Motion be heard at the Proposed Hearing on or before January 18, 2019 at a time convenient to the Court, with any objections due on or before 12:00 p.m. (ET) the day prior to the Proposed Hearing.

14. To mitigate any potential prejudice resulting from these shortened notice and objection periods, on the Petition Date, the Debtors served the Bidding Procedures Motion by

overnight delivery (and where possible electronic mail or facsimile) on the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the 30 largest unsecured claims against the Debtors; (iii) counsel to any official committee appointed in these cases; (iv) counsel to PNC Bank, National Association; (v) counsel to the Stalking Horse Purchaser; (vi) all parties known or reasonably believed to have expressed an interest in acquiring any of the Assets within the six months prior to the Petition Date, including any person or entity that has submitted a bid for the Assets; (vii) all banks at which the Debtors have accounts; (viii) all of the landlords for the Debtors' Stores; (ix) any non-debtor parties to an executory contract or unexpired lease of the Debtors; (x) all parties known by the Debtors to assert any lien, claim, interest, or encumbrance in the Assets; (xi) all applicable federal, state, and local taxing and regulatory authorities having jurisdiction over the Assets; (xii) all environmental authorities having jurisdiction over the Assets, including the Environmental Protection Agency and similar state agencies for each state in which the Assets are located; (xiii) the Federal Trade Commission; (xiv) the Antitrust Division of the United States Department of Justice; and (xv) any party that has requested notice pursuant to Bankruptcy Rule 2002. As a result, all parties in interest will have been provided with 12 days' notice of the Proposed Objection Deadline, which the Debtors submit is adequate under the circumstances of these cases.

15. In light of the foregoing, the Debtors submit that consideration of the Bidding Procedures Order on shortened notice as requested herein is justified under the circumstances of these chapter 11 cases and is in the best interests of the Debtors, their estates, and creditors.

16. Notice of this Motion for Expedited Consideration has been provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 30

largest unsecured claims against the Debtors; (c) counsel to PNC Bank, National Association;  
(d) any party that has requested notice pursuant to Bankruptcy Rule 2002.

WHEREFORE, the Debtors respectfully request the entry of the Proposed Order,  
granting the relief requested herein and such other and further relief as is just and proper.

Dated: January 6, 2019  
Wilmington, Delaware

**ASHBY & GEDDES, P.A.**

*/s/ Gregory A. Taylor*  
Gregory A. Taylor (No. 4008)  
Stacy L. Newman (No. 5044)  
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*Proposed Counsel for Debtors  
and Debtors-in-Possession*

**EXHIBIT A**

(Proposed Order)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|                                   |   |                                |
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| In re:                            | ) |                                |
|                                   | ) | Chapter 11                     |
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| BEAUTY BRANDS, LLC, <i>et al.</i> | ) | Case No. 19-10031 (___)        |
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| Debtors. <sup>1</sup>             | ) | Joint Administration Requested |
|                                   | ) |                                |
|                                   | ) | <b>Related Docket No. ___</b>  |
|                                   | ) |                                |

**ORDER GRANTING MOTION OF THE DEBTORS FOR EXPEDITED  
CONSIDERATION OF DEBTORS’ MOTION FOR, INTER ALIA, ENTRY OF  
BIDDING PROCEDURES ORDER**

Upon the motion (the “Motion for Expedited Consideration”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of an order, pursuant to Bankruptcy Rule 2002 and Local Rule 9006-1(e), shortening the time for notice of the hearing to consider the Bidding Procedures Motion; and upon consideration of the Motion for Expedited Consideration and all pleadings related thereto, including the First Day Declarations; and due and proper notice of the Motion for Expedited Consideration having been given; and it appearing that no other or further notice of the Motion for Expedited Consideration is required under the circumstances; and it appearing that the Court has jurisdiction to consider the Motion for Expedited Consideration in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion for Expedited Consideration is

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Beauty Brands, LLC (0290); Beauty Brands Payroll Holdings, Inc. (6218); and Beauty Brands Payroll, LLC (1789). The location of the Debtors’ corporate headquarters is 4600 Madison Avenue, Suite 400, Kansas City, MO 64112.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion for Expedited Consideration.

proper pursuant to 28 U.S.C. §§1408 and 1409; and it appearing that the relief requested in the Motion for Expedited Consideration and provided for herein is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing thereof,

**IT IS HEREBY ORDERED THAT**

1. The Motion for Expedited Consideration is GRANTED as set forth herein.
2. A hearing to consider approval of the Bidding Procedures Order shall be held on January \_\_, 2019 at \_\_\_\_\_ (ET).
3. Any objection to the relief requested in the Bidding Procedures Order shall be filed with the Court and served on (i) proposed counsel to the Debtors, Ashby & Geddes, 500 Delaware Avenue, 8th Floor, Wilmington, DE 19801 (Attn: Gregory A. Taylor, Esq.; gtaylor@ashbygeddes.com); (ii) proposed counsel to any official committee appointed in the Debtors' chapter 11 cases; (iii) counsel to PNC Bank, National Association, Blank Rome, 1201 N. Market Street, Suite 800, Wilmington, DE 19801 (Attn: Regina Stango Kelbon, Esq.; kelbon@blankrome.com); (iv) the Office of the United States Trustee for the District of Delaware, 855 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Linda Casey, Esq.; Linda.Casey@usdoj.gov); and (v) counsel to the Stalking Horse Purchaser, Pepper Hamilton LLP, 1313 N. Market Street, Suite 5100, Wilmington, DE 19801 (Attn: Douglas Herrmann, Esq.; herrmann@pepperlaw.com) on or before January \_\_\_\_\_, 2019 at 12:00 p.m. (ET).
4. The Debtors shall serve a copy of this Order on the same parties that received notice of the Bidding Procedures Motion within one business day of the entry of this Order.
5. This Court shall retain jurisdiction over any and all matters arising from or related

to the implementation or interpretation of this Order.

Dated: January \_\_, 2019  
Wilmington, Delaware

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THE HONORABLE  
UNITED STATES BANKRUPTCY JUDGE