

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:

CAFE HOLDINGS CORP. *et al.*,¹

Debtors.

Chapter 11

Case No. 18-05837 (hb)

(Jointly Administered)

**NOTICE OF PROPOSED SALE OF THE DEBTORS' ASSETS FREE AND CLEAR
OF LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS,
THE AUCTION, AND THE SALE HEARING**

TO: All Creditors and Parties in Interest

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On November 30, 2018, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), filed the *Debtors’ Expedited Motion, Pursuant to Bankruptcy Code Sections 105(A), 363, And 365, and Bankruptcy Rules 2002, 6004, and 6006, for Entry of Orders (I) Approving Sale, Bidding, Notice, and Auction Procedures in Connection with the Sale of Substantially All of the Assets of the Debtors; (II) Approving Assumption and Assignment of Certain Executory Contracts Unexpired Leases; (III) Authorizing the Sale of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, and (IV) Granting Related Relief* [Docket No. 106]. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

2. On January 10, 2019, the United States Bankruptcy Court for the District of South Carolina (the “**Bankruptcy Court**”) entered the *Order Regarding Bid and Auction Procedures, Establishing Deadlines and Scheduling Sale Hearing* (the “**Order**”) [Docket No. 335].

3. **Any third party (other than the Stalking Horse Bidder) that is interested in acquiring the Purchased Assets must submit an Initial Overbid conforming to the requirements set forth in the Bidding Procedures set forth in the Order by not later than Monday, February 4, 2019 10:00 a.m. Eastern time (the “**Bid Deadline**”).**

4. Any Initial Overbid must be submitted to (i) Café Enterprises, Inc., 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687, Attention: Jim Mazany (jmazany@cafeent.com) and Eric Easton (eeaston@cafeent.com), (ii) counsel to the Debtors, Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Tx 75219 Attention: Ian T. Peck, Esq. (email: ian.peck@haynesboone.com) and J. Frasher Murphy, Esq. (email: frasher.murphy@haynesboone.com); (iii) Duff & Phelps, 55 East 52nd Street, 31st

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Cafe Holdings Corp. (7910); Cafe Enterprises, Inc. (4946); CE Sportz LLC (2009); and CES Gastonia LLC (0863). The location of the Debtors’ corporate headquarters is 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687.

Floor, New York, New York 10055, Attention: Vin Batra (vin.batra@duffandphelps.com) and Matthew Gates (matthew.gates@duffandphelps.com); (iv) Loughlin Management Partners + Co., 20 West 55th St., 5th Floor, New York, New York 10019, Attention: John Sordillo (jsordillo@lmcopartners.com), (v) Office of the U.S. Trustee, 1835 Assembly Street, Suite 953, Columbia, South Carolina 29201, (Facsimile: (803) 765-5260); and (vi) counsel for the official committee of unsecured creditors appointed in these cases, Pachulski Stang Ziehl & Jones LLP, Attention Bradford Sandler (email: bsandler@pszjlaw.com), 919 North Market Street, 17th Floor, Wilmington, DE 19801 in each case so as to be received not later than the Bid Deadline. The Debtors may extend the Bid Deadline without further notice and for one or more bidders but shall not be obligated to do so.

5. In the event that the Debtors receive a timely conforming Initial Bid from a Qualified Bidder by the Bid Deadline, the Court will conduct an auction (the “**Auction**”) with respect to the sale of the Purchased Assets. The Court shall hold the Auction for the Purchased Assets on **Thursday, February 7, 2019 at 1:00 p.m. Eastern Time** at the United States Bankruptcy Court for the District of South Carolina, Donald S. Russell Federal Building & U.S. Courthouse, 201 Magnolia Street, Spartanburg, South Carolina 29306. All bidding for the Purchased Assets will be concluded at the Auction and there will be no further bidding at the subsequent Bankruptcy Court hearing held to approve the highest or best bid for the Purchased Assets and to consider whether the sale should be approved (the “**Sale Hearing**”).

6. The Sale Hearing will be conducted on **Tuesday, February 12, 2019 at 9:30 a.m. (Eastern Time), in courtroom of the Honorable Helen E. Burris in the United States Bankruptcy Court for the District of South Carolina, Donald S. Russell Federal Building & U.S. Courthouse, 201 Magnolia Street, Spartanburg, South Carolina 29306** at which time the Debtors intend to present the Prevailing Bid for approval by the Bankruptcy Court pursuant to the provisions of sections 105, 363(b), 363(f), 363(m), 363(n) and 365 of the Bankruptcy Code, and shall request approval of the sale. The Debtors shall be deemed to have accepted a bid only when the bid has been approved by the Bankruptcy Court at the Sale Hearing and the sale has been approved.

7. At the Sale Hearing the Debtors will seek authorization to consummate the transactions contemplated by either the Prevailing Bid or that certain Asset Purchase Agreement by and between the Debtors and the Stalking Horse Bidder (the “**Agreement**”). **The Debtors will seek to sell and transfer the Purchased Assets and assume and assign the Transferred Contracts, subject to the terms of the Prevailing Bid, to either the Stalking Horse Bidder or the purchaser under the Prevailing Bid, free and clear of any and all liens, claims, encumbrances, and other interests other than those specifically assumed by the party submitting the Prevailing Bid.**

8. Objections, if any, to the sale of the Purchased Assets, shall be in writing, shall set forth the name of the objecting party, the basis for the objection and the specific grounds therefor, and shall be filed with the Bankruptcy Court and served so as to be actually received **by 4:00 p.m. Eastern time on February 1, 2019, by:** (i) counsel to the Debtors, Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219, Attention: Ian T. Peck (email: ian.peck@haynesboone.com) and J. Frasher Murphy (email: frasher.murphy@haynesboone.com), (ii) Office of the U.S. Trustee, 1835 Assembly Street, Suite 953, Columbia, South Carolina 29201, Attention: Elisabetta G. Gasparini (Facsimile: (803) 765-5260), (iii) counsel for the official committee of unsecured creditors appointed in these cases, Pachulski Stang Ziehl & Jones LLP, Attention Bradford Sandler (email: bsandler@pszjlaw.com), 919 North Market Street, 17th Floor, Wilmington, DE, and (iv) counsel to the Stalking Horse Bidder and First Lien Secured Lender, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201, Attention: Brent McIlwain (email: brent.mcilwain@hkllaw.com). **Each person or entity who receives notice of the proposed sale of the Purchased Assets and who does not object thereto on or prior to the February 1, 2019, deadline may be deemed by the Court to have consented to the sale.**

9. This Notice and the Auction are subject to the terms and conditions of the Order and the Bidding Procedures, which shall control in the event of any conflict with this Notice. Copies of the Motion and the Order can be obtained by accessing the Debtors' website (www.donlinrecano.com/cafe) or by contacting the Debtors' claims agent by phone ((212) 771-1128) or by sending a written request to Donlin, Recano & Company, Inc., Re: Cafe Holdings Corp., et al., P.O. Box 199043, Blythebourne Station, Brooklyn, NY 11219. Parties interested in receiving more information regarding the sale of the Purchased Assets, subject to any necessary confidentiality agreement, may make a written request to: (i) counsel to the Debtors, Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219, Attention: Ian T. Peck, or (ii) Duff & Phelps, 55 East 52nd Street, 31st Floor, New York, New York 10055, Attention: Vin Batra (vin.batra@duffandphelps.com) and Matthew Gates (matthew.gates@duffandphelps.com). A copy of the APA may be obtained by making a request to Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219, Attention: Ian T. Peck.

10. The Debtors have requested that any order that approves the sale be effective immediately by providing that the 14-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

TYPE OF SALE: Public Auction

PROPERTY TO BE SOLD: Substantially all of the assets of Cafe Holdings Corp.; Cafe Enterprises, Inc.; CE Sportz LLC; and CES Gastonia LLC

PRICE: Consideration estimated at approximately \$4.2 million in the aggregate, consisting of a non-cash credit bid of prepetition senior indebtedness and/or assumption of postpetition indebtedness. Absent a competing bid that contemplates cash consideration in excess of the amount of the Debtors' secured debt (estimated to exceed \$15.7 million), the sale is not anticipated to result in a cash distribution to creditors.

APPRAISAL VALUE: N/A

BUYER: ACM Fatz VII LLC, first lien pre-petition lender and debtor-in-possession lender to the Debtor

PLACE AND TIME OF SALE: Auction to be held at the United States Bankruptcy Court for the District of South Carolina, Donald S. Russell Federal Building & U.S. Courthouse, 201 Magnolia Street, Spartanburg, South Carolina 29306., commencing on Thursday, February 7, 2019 at 1:00 p.m. Eastern Time.

SALES AGENT/AUCTIONEER/BROKER: Duff & Phelps, 55 East 52nd Street, 31st Floor, New York, New York 10055, Attention: Vin Batra (vin.batra@duffandphelps.com) and Matthew Gates (matthew.gates@duffandphelps.com).

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER/ETC.: Duff & Phelps has requested compensation of 4% of sale consideration up to \$10,000,000 and 6% of sale consideration in excess of \$10,000,000, subject to a minimum of \$450,000.

ESTIMATED TRUSTEE'S COMPENSATION: N/A

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY: Various parties assert liens on the Debtors' assets. The non-cash bid of approximately \$4.2 million will be insufficient to satisfy the first lien security interest asserted on the Debtors' assets by Atalaya Administrative LLP as agent for ACM Fatz VII LLC. The following are the known prepetition secured claims asserted against the Debtors' assets (this list excludes tax claims, statutory claims, and possessory lien claims unless the claimant has filed a proof of claim in the Debtors' cases): (A) Atalaya Administrative LLP, as agent, in the principal amount of \$9,698,584.13 secured by a first priority lien on all of the Debtors' assets, including prepetition and post-petition assets; (B) BSP Agency, LLC, in the principal amount of \$2,000,000 secured by a lien on all of the

Debtors' assets, which lien is subordinate to the lien of Atalaya Administrative LLP pursuant to an Intercreditor and subordination agreement; (C) Sysco Columbia, LLC, in the amount of \$2,784,619.66 secured by a lien on the Debtors' goods, inventory, instruments, chattel paper, documents, accounts, accounts receivable, general intangibles, payment intangibles, and proceeds and all support obligations of any of the foregoing; (D) Sysco Charlotte, LLC, in the amount of \$1,152,031.26 secured by a lien on the Debtors' goods, inventory, instruments, chattel paper, documents, accounts, accounts receivable, general intangibles, payment intangibles, and proceeds and all support obligations of any of the foregoing; (E) Refrigeration Heroes of Greenville Co. in the amount of \$1,950.48 secured by a mechanics and materialman's lien; (F) City of Rockingham for taxes in the amount of \$1,102.92; (G) Greene County Trustee for taxes in the amount of \$1,413.00; (H) Spartanburg County Tax Collector for taxes in the amount of \$7,921.25; (I) Guilford County Tax Dept. for taxes in the amount of \$2,782.87; (J) Richmond County Tax Collector for taxes in the amount of \$8,598.61; (K) Ridgeway Plumbing and Services Inc. in the amount of \$1,026.00 secured by a mechanics and materialman's lien; and (L) Greenwood County for taxes in the amount of \$46,012.83.

DEBTOR'S EXEMPTION: N/A

PROCEEDS ESTIMATED TO BE PAID TO ESTATE: Current Bid is a combination of non-cash credit bid and indebtedness assumption. The Current Bid results in the reduction of the Debtors' pre-petition debt and post-petition debt and will permit the Debtors to satisfy budgeted administrative and priority claims.

STAY OF ORDER: Relief from Fed. R. Bankr. P. 6004 requested

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by public auction. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this application.

The Court may consider additional offers at any hearing held on this notice and application for sale. The Court may order at any hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek appropriate sanctions or other similar relief against any party filing a spurious objection to this notice and application.

WHEREFORE, applicant requests the Court issue an order authorizing sale of said property and such other and further relief as may be proper.

Dated: January 10, 2019

HAYNES AND BOONE, LLP

/s/ Ian T. Peck

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