

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Gander Mountain Company,

Case No.: 17-30673
Chapter 11 Case

Debtor.

In re:

Overton's, Inc.,

Case No.: 17-30675
Chapter 11 Case

Debtor.

NOTICE OF HEARING AND MOTION FOR AN ORDER (A) DETERMINING THAT DEBTORS' PROPOSED SALE OF SUBSTANTIALLY ALL OF THEIR ASSETS INCLUDING PERSONALLY IDENTIFIABLE INFORMATION, IS CONSISTENT WITH DEBTORS' PRIVACY POLICY PURSUANT TO SECTION 363(B)(1)(A) OF THE BANKRUPTCY CODE, OR ALTERNATIVELY, (B) DIRECTING THE UNITED STATES TRUSTEE TO APPOINT A CONSUMER PRIVACY OMBUDSMAN IMMEDIATELY PURSUANT TO SECTION 332(A) OF THE BANKRUPTCY CODE

TO: The Office of the United States Trustee and Other Parties in Interest as Specified in Local Rule 9013.

1. The above-captioned debtors and debtors in possession (collectively, the "Debtors") hereby move this Court for the relief requested below and give notice of hearing.

2. The Court will hold a hearing on this motion at 1:30 p.m. on March 24, 2017 in Courtroom No. 7 West, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

3. Local Rule 9006-1(b) provides deadlines for responses to this Motion. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, Rule 5005 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 1070-1 and 1073-1. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The petitions commencing these chapter 11 cases were filed on March 10, 2017 (the “Filing Date”). The cases are currently pending in this Court.

5. This Motion arises under sections 105(a), 363(b) and 332(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”). Notice of the hearing on this motion is provided pursuant to Bankruptcy Rule 9013 and Local Rules 9013-2 and 9013-3. This Motion is filed under Bankruptcy Rules 6004 and 9014 and Local Rules 9013-1 through 9013-3. The Debtors request an order (a) determining that Debtors’ proposed Sale (as defined below) of substantially all of their assets, including personally identifiable information, is consistent with the Debtors’ privacy policy pursuant to section 363(b)(1)(A) of the Bankruptcy Code, or alternatively, (b) directing the Office of the United States Trustee (the “U.S. Trustee”) to appoint a consumer privacy ombudsman (an “Ombudsman”) immediately pursuant to section 332(a) of the Bankruptcy Code and Rule 6004(g) of the Federal Rules of Bankruptcy Procedure, so that the Ombudsman may address any applicable privacy issues as set forth in section 332(b) of the Bankruptcy Code prior to the Sale Hearing, and the Court may approve the sale of personally identifiable information as part of the Sale pursuant to section 363(b)(1)(B) of the Bankruptcy Code at the Sale Hearing (defined below).

BACKGROUND

6. On the Filing Date, the Debtors filed voluntary petitions for relief pursuant to chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue

to operate their businesses as debtors in possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code.

7. Additional general background information about the Debtors and this case is set forth in the Declaration of Timothy G. Becker in Support of Chapter 11 Petitions and Initial Motions. The additional facts relevant to this motion set forth below are verified by Timothy G. Becker, as evidenced by the attached verification.

BACKGROUND RELATED TO RELIEF REQUESTED

8. In the ordinary course of the Debtors' business, the Debtors collect and retain information on their customers. The Debtors' privacy policy (the "Privacy Policy"), which was in effect on the Filing Date and has been the same or substantially the same since at least 2010 and which is available online on the Debtors' websites, discloses that "the information [the Debtors] collect depends on how [a consumer] use[s] our Sites." For example, if a person signs up for email communications, the Debtors collect that person's name and email address. If a consumer makes an online purchase, the Debtors collect credit card and shipping information. If the consumer ships to another person, the Debtors also collect the name and shipping information about the other person. If a person enters a sweepstakes, the Debtors collect the information needed to enter the sweepstakes (generally name, email address, and home address).

9. With regard to sharing information collected, the Privacy Policy states:

We may decide, for strategic or other reasons, to sell, buy, merge or otherwise reorganize one or more of our businesses. A transaction of this type may involve the disclosure of personal information to prospective purchasers. In such cases, we will take reasonable measures to protect the personal information we disclose, for example, by requiring the prospective purchaser to sign a non-disclosure agreement limiting the use and protecting the confidentiality of the personal information.

A true and correct copy of the privacy policy is attached hereto as Exhibit A.

10. In addition, as described in the motion entitled Notice of Hearing and Motion for Entry of an Order (I) Granting Expedited Relief and (II) Authorizing the Debtors to Honor and Continue Certain Customer Programs and Customer Obligations in the Ordinary Course of Business, the Debtors offer consumers Gander Mountain credit cards that are administered by Comenity Bank (“Comenity”). In connection with that credit card program, Comenity collects certain consumer information and has issued a privacy policy (the “Comenity Privacy Policy”) on a Comenity Bank controlled website that governs what Comenity may do with that information. The Comenity Privacy Policy does not apply to the Debtors, but even if it did, by its terms the Comenity Privacy Policy allows for the sharing of personal information in connection with a bankruptcy proceeding. A true and correct copy of the Comenity Privacy Policy is attached hereto as Exhibit B.

11. Contemporaneously herewith, the Debtors filed a Notice of Motion and Motion for (A) an Order (I) Approving Bidding Procedures in Connection with the Sale of Substantially All of the Debtors’ Assets, (II) Approving the Form and Manner of Notice; and (III) Setting Further Hearing on the Approval of Sale and (B) An Order Authorizing and Approving (I) the Sale of Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Rights, Encumbrances, and other Interests and (II) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases (the “Sale Motion”).

12. In the Sale Motion the Debtors have requested that the Court, among other things, approve the sale (“Sale”) of substantially all of the Debtors’ assets after competitive bidding and an auction (the “Auction”), if necessary.

13. The proposed Bid Procedures contemplate an auction on April 27, 2017, a hearing to approve the Sale to the successful bidder on May 1, 2017, and a deadline to close the Sale on May 12, 2017.

Relief Requested

14. As set forth above and in the Sale Motion, the Debtors' proposed Sale process is a on a fairly tight schedule. While the Debtors do not believe the appointment of an Ombudsman is required in connection with the Sale, the Debtors seek a determination on an expedited basis on whether an Ombudsman should be appointed now so that if such appointment is required, the Ombudsman may perform his or her duties under section 332(b) of the Bankruptcy Code as soon as possible in order to avoid any delay in the Sale Hearing or the closing of the Sale.

15. Given the expedited Sale process under the proposed Bid Procedures Order, including a Sale Approval Hearing in on or around May 1, 2017, the Debtors request that the Court direct the U.S. Trustee to appoint an Ombudsman, if necessary, as soon as possible so that the Ombudsman can complete his or her duties under section 332(b) of the Bankruptcy Code prior to the Sale Hearing.

16. Pursuant to Local Rule 9013-2(a), this Motion is verified and is accompanied by a Memorandum, a Proposed Order and proof of service.

17. Pursuant to Local Rule 9013-2, Debtors give notice that they may, if necessary call one or more of the following to testify regarding the facts set forth in this Motion: (a) Timothy G. Becker, the Executive Vice President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, whose business address is 900 Long Lake Road, Suite 180, New Brighton, Minnesota, 55112; (b) James A. Bartholomew, the President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, whose business address is 900 Long Lake Road, Suite 180, New Brighton, Minnesota, 55112; or

(c) Eric R. Jacobsen, the Chief Administrative Officer and Chief Legal Officer for Gander Mountain Company and the Director and Secretary of Overton's, Inc., whose business address is 180 East Fifth Street, Suite 1300, St. Paul, Minnesota 55101.

WHEREFORE, the Debtors request entry of an Order authorizing the sale of consumer information as part of the Sale or alternatively, directing the U.S. Trustee to appoint a consumer Ombudsman as soon as possible so that person can complete his/her duties before the Sale; and granting such other and further relief as the Court may deem just and equitable.

Dated: March 10, 2017

/e/ Cynthia A. Moyer

Clinton E. Cutler (#0158094)

Cynthia A. Moyer (#0211229)

Ryan T. Murphy (#0311972)

James C. Brand (#387362)

Sarah M. Olson (#0390238)

Steven R. Kinsella (#0392289)

FREDRIKSON & BYRON, P.A.

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402-1425

Telephone: 612.492.7000

ccutler@fredlaw.com

cmoyer@fredlaw.com

rmurphy@fredlaw.com

jbrand@fredlaw.com

solson@fredlaw.com

skinsella@fredlaw.com

PROPOSED ATTORNEYS FOR DEBTORS

VERIFICATION

I, Timothy G. Becker, the Executive Vice President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, declare under penalty of perjury that the facts set forth in the preceding motion are true and correct according to the best of my knowledge, information, and belief.

Dated: March 10, 2017

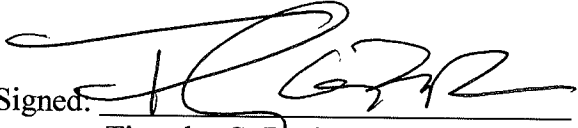
Signed: 
Timothy G. Becker

EXHIBIT A
(PRIVACY POLICY)



SEARCH BY KEYWORD OR ITEM #

FREE SHIPPING
ON ORDERS OVER \$50

Guns Shooting Hunting Archery Apparel Footwear Camping Fishing Boating Clearance

\$20 Off Your \$100 Purchase - Includes Firearms - Use Code: FEB20

Valid 3/5/17 - 3/11/17. Excludes ammo. Additional restrictions may apply. [SEE DETAILS](#)

Help Center

- About My Order
- Shipping & Delivery
- Easy Returns
- Pricing & Promotions
- Product Information
- Authorizations
- Pick Up In-Store FAQs
- Wish List FAQs
- PayPal
- How To Buy A Gun Online

- Terms & Conditions
- Privacy Policy
- Terms of Sale
- Charitable Donations
- Open & Conceal Carry Policy

- About Us
- Corporate Profile
- Executive Management
- Corporate Partners
- Conservation Partners
- Affiliate Program
- Gander Mtn. Credit Card
- News
- Careers

[Help Center](#) > [Privacy Policy](#)

Privacy Policy

This Privacy Policy (this "Policy") explains how Gander Mountain, Overton's, and other members of the Gander Mountain family of businesses (collectively, "the Gander Mountain family of businesses," "we," "us," and "our") protect your privacy when you use the following Web sites (our "Sites"):

[GanderMountain.com](#)

[Overtons.com](#)

[OvertonsOutdoors.com](#)

Gander Mountain Company ("Gander Mountain") owns the Site located at GanderMountain.com. Overton's, Inc. ("Overton's") owns the Sites located at Overtons.com and OvertonsOutdoors.com. Consumers Marine Electronics, Inc. ("Consumers Marine") owns the Site located at ConsumerMarine.com. When we wish to describe how one particular Site uses or shares information you submit to it, we will do so by describing how the "Owner" of the Site uses or shares your information.

This Policy covers the "personal information" we collect through our Sites. "Personal information" is information that identifies you personally, either alone or in combination with other information available to us. Examples of personal information include your name, address, e-mail address, telephone number, and the information you provide when you request a catalog, subscribe to a newsletter, or make a purchase at one of our online stores.

The terms "you" and "your," when used in this Policy, mean any user of our Sites.

This Policy is part of the Terms and Conditions that govern your use of our Sites. To review our Terms and Conditions, [click here](#)

Your Consent to This Policy

Please take a few minutes to review this Policy. By accessing or using our Sites, you are agreeing to the terms of this Policy. IF YOU DO NOT AGREE TO THE COLLECTION, USE AND DISCLOSURE OF YOUR PERSONAL INFORMATION AS SET FORTH IN THIS POLICY, PLEASE EXIT AND DO NOT USE OUR SITES.

Changes to This Policy

As we add new features and functionality to our Sites, we may need to update or revise this Policy. We reserve the right to do so, at any time and without prior notice, by posting the revised version on our Sites. These changes will be effective as of the date we post the revised version on our Sites. They will apply only to the personal information we collect after we have posted the revised version. Your use of one of our Sites following any such change constitutes your consent to the terms of the revised Policy. For this reason, it is important to review this Policy regularly. If we modify this Policy, we will provide a notice at the top of this Policy for at least thirty days after the new effective date.

You may access the current version of this Policy at any time by clicking on the link marked "Privacy Policy" at the bottom of each page of our Sites.

Privacy Notices

This Policy may be supplemented or amended from time to time by privacy notices ("Privacy Notices") provided at the time we collect your personal information. For example, certain pages of our Sites may contain Privacy Notices providing details about the personal information we collect on those pages, why we need that information, and choices you may have about the ways we use that information. Our Privacy Notices are part of this Policy.

Country-Specific Notices

Privacy requirements vary from country to country. To meet these requirements we may include certain "country-specific notices" as part of this Policy. If any of the terms of a country-specific notice are different than the general terms of this Policy, the terms of the country-specific notice will supplement or amend this Policy, but only to the extent that the laws of that country apply to the collection of personal information through our Sites.

What Personal Information Do We Collect When You Use Our Sites?

Information You Provide. We collect the personal information you knowingly provide (using your mouse and keyboard) when you use our Sites. The information we collect depends on how you use our Sites. For example:

If you sign up to receive e-mail communications from us, we collect your name and e-mail address and any related information you provide.

EXHIBIT A

If you make a purchase at one of our online stores, we collect the information you submit when you place your order, including your credit card and shipping information. If you ship an item to another person, we collect the information you provide about that person, such as his/her name, address and other contact information.

If you participate in one of our sweepstakes, we collect the information you submit to enter the sweepstakes.

If you upload photographs, comments or other user generated content ("User Generated Content") to our Sites, including to any "Bragging Board," we collect that information also. All User Generated Content you upload to our Site must comply with our [Terms and Conditions](#).

Information Sent to Us by Your Web Browser. We collect information that is sent to us automatically by your Web browser. This information typically includes your IP address, the name and version of your operating system, the name and version of your browser, the date and time of your visit, and the pages you visit. Please check your browser if you want to learn what information your browser sends or how to change your settings.

This information does not identify you personally. Generally, we use this information to improve our Site and make it more compatible with the technology used by our visitors. In most cases, we do not link the information sent by your browser to information that identifies you personally. However, if you have created a user identity, for example, by signing up to use a password-protected area of our Sites, we may link your IP address to information that identifies you personally. We may also link your IP address to personally identifiable information you submit in placing an order. In addition, when you access our Sites by clicking on a link in an e-mail or other electronic communication you receive from us, your browser tells us that someone has clicked on a particular link in a communication addressed to you. We collect that information to improve the effectiveness of our marketing efforts. We may also review our server logs—which contain visitors' IP addresses—for security purposes, such as detecting intrusions into our network. If we suspect criminal activity, we may share our server logs with the appropriate investigative authorities who could use that information to trace and identify individuals.

Cookies and Similar Technologies. We use "cookies" and other Web technologies to collect information and support certain features of our Sites. For example, we may use these technologies to collect information about the ways visitors use our Sites—which pages they visit, which links they use, and how long they stay on each page; to support the features and functionality of our Sites—for example, to track the items in your shopping cart; to save you the trouble of reentering information already in our database; and to prompt the settings you established on previous visits to our Sites; and to personalize your experience when you use our Sites.

Generally, the information we collect using these Web technologies does not identify you personally. If, however, you have created a user identity, for example, by signing up to use a password-protected area of our Sites, we may link this information we collect using Web technologies to other information that identifies you personally.

If you do not wish to receive cookies, you may set your browser to reject cookies or to alert you when a cookie is placed on your computer. You may also delete our cookies as soon as you leave our Sites. Although you are not required to accept our cookies when you visit our Sites, if you set your browser to reject cookies, you will not be able to use all of the features and functionality of our Sites.

Supplemental Information. From time to time, we may supplement the information you give us with information from other sources, such as information validating your address or demographic information based on your zip code. We may also supplement the information you give us with information we collect from you through other channels. For example, if you shop at one of our stores, we may supplement the information you provide online with information we collect at the store.

How Do We Use Your Personal Information?

Generally, we use the personal information we collect through our Sites to provide the information, products and services you request; for security, credit or fraud prevention purposes; to provide you with effective customer service; to provide you with a personalized experience when you use our Sites; to contact you with special offers and other information we believe will be of interest to you; to contact you with information and notices related to your use of our Sites; to invite you to participate in surveys and provide feedback to us; to better understand your needs and interests; to improve the content, functionality and usability of our Sites; to improve our products and services; to improve our marketing and promotional efforts; and for any other purpose identified in an applicable Privacy Notice, Country-Specific Notice, or other agreement between you and us

Direct Marketing. Before we use or share your personal information for direct marketing purposes, we may offer you the opportunity to "opt out" or "opt in," as required by applicable law. To learn more about the choices you have about the ways we use your personal information, please [click here](#).

Shipping Information If you ship an item to another person, we collect the personal information you provide about him or her and will use that information just as we use your personal information, subject to international restrictions on the use of personal information. For example, we may add that

person to our catalog mailing list. If that person does not wish to receive catalogs or other promotional communications from us, he or she may contact us using the contact information provided in the catalog, on each electronic communication or on our Sites.

Employment Information. Some of our Sites include "careers" areas. When you use our Sites to search for job openings or submit an online employment application, we may ask you to provide certain personal information, such as your name, address, telephone number, e-mail address, educational background and employment history. You may also send us your resume and other information relating to your job search or application. We use the information you submit on the careers areas of our Sites for recruiting, hiring, and employment purposes, we do not use it for direct marketing purposes. More specifically, we use the information we collect through the "careers" areas of our Sites:

- to respond to your searches and inquiries;
- to process your job application and evaluate your qualifications;
- to contact you regarding your application, for example, to arrange an interview;
- to contact you with information about other employment opportunities we believe will be of interest to you;
- to maintain our recruitment, applicant, and employee records;
- to comply with applicable laws, such as equal opportunity laws; and
- to improve our recruiting, hiring, and employment practices

Please note that by submitting personal information to us through the careers area of one of our Sites, you authorize us to transmit and store your information in our recruitment database and to circulate that information within the Gander Mountain family of businesses for the purpose of evaluating your qualifications for job vacancies. We may also use this information in contacting references you provide or to obtain a consumer report regarding your criminal record and other records. If you are hired by one of us, the information you provide during the recruiting process will become part of our employee records and may be used to "populate" or "pre-fill" data fields on password-protected sites used for human resource purposes, such as employee benefit administration sites. The careers areas of our Sites may be "powered" by a third-party service provider.

With Whom Do We Share Your Personal Information?

Service Providers. We may share personal information collected through our Sites with companies and organizations that perform services on our behalf, for example, companies that provide support services to us (such as credit card verification services, online recruiting services, and Web hosting services) or that help us market our products and services (such as third-party web analytics firms and marketing consultants).

With Other Members of the Gander Mountain Family of Businesses. When you provide personal information through one of our Sites, the Owner of that Site may share your personal information with other members of the Gander Mountain family of businesses. Before doing so, however, the Owner of the Site may offer you the opportunity to "opt out" or "opt in," as required by applicable law. Every member of the Gander Mountain family of businesses is required to handle information collected through our Sites in accordance with this Policy and the privacy preferences you have expressed to us. Accordingly, if we share your personal information with other members of the Gander Mountain family of businesses, they will use your information only as permitted under this Policy and will honor the privacy preferences you have expressed to us.

With Carefully Selected Third Parties. From time to time, we may share our mailing lists with carefully selected third parties (outside the Gander Mountain family of businesses) for their own marketing purposes. For example, we exchange our catalog mailing lists with other catalog companies. Before doing so, however, we may offer you the opportunity to "opt out" or "opt in," as required by applicable law.

User Generated Content. Some of our Sites feature "Bragging Boards" or "Get Recognized" boards (collectively "Photo Boards"), which are designed to showcase your outdoor pursuits by allowing you to upload User Generated Content such as photographs (and text describing the photographs). The User Generated Content on these Photo Boards is accessible to visitors of our Sites and to the general public. In addition, we may repurpose User Generated Content you post to Photo Boards for use in advertising campaigns and other promotions. You should have no expectation of privacy with respect to the User Generated Content you or others submit to the Photo Boards. You should not post any User Generated Content on the Photo Boards you do not wish to make available to the general public, and you must take special care to make sure your posts comply with our **Terms and Conditions**. In particular, your posts must not violate the privacy or other rights of others. If, at any time, you wish us to take down User Generated Content that contains your personal information, please **contact us** and we will work with you to remove the User Generated Content from our Photo Boards. Please be aware, however, that if the User Generated Content has already been distributed to other Web sites or published in other media, we will not be able to recapture and delete it.

Business Transactions. We may decide, for strategic or other reasons, to sell, buy, merge or otherwise reorganize one or more of our businesses. A transaction of this type may involve the disclosure of personal information to prospective purchasers. In such cases, we will take reasonable measures to protect the personal information we disclose, for example, by requiring the prospective purchaser to sign a non-disclosure agreement limiting the use and protecting the confidentiality of the personal information.

Compliance With Laws and Protection of Our Rights and the Rights of Others. We may disclose personal information when we, in good faith, believe disclosure is appropriate to comply with the law, a court order or a subpoena. We may also disclose personal information to prevent or investigate a possible crime, such as fraud or identity theft; to enforce or apply our online **Terms and Conditions** or

other agreements; or to protect our own rights or property or the rights, property or safety of our users or others.

As Described in a Privacy Notice. We reserve the right to disclose your personal information as described in any Privacy Notice posted on the Web page where you provide that information. By providing your personal information on that Web page you will be consenting to the disclosure of your personal information as described in that Privacy Notice.

As Described in a Country-Specific Notice. We reserve the right to disclose your personal information as described in any Country-Specific Notice posted on the Web page where you provide that information. By providing your personal information on that Web page you will be consenting to the disclosure of your personal information as described in that Country-Specific Notice.

As Described in a Click-Through Agreement. We reserve the right to disclose your personal information as described in any click-through agreement to which you have agreed.

Your Choices

In General. We respect your right to make choices about the ways we collect, use and disclose your personal information. In most cases, we will ask you to indicate your choices at the time we collect your personal information.

Direct Marketing. Before we share your information with affiliates or third parties for their direct marketing purposes, we may offer you the opportunity to choose (by "opting out" or "opting in," depending on applicable law) whether to have your information shared in this way. In addition, the Owner of a Site to which you submit information may, depending on applicable law, offer you an opportunity to choose (by "opting out") whether to have your information used for that Site's own direct marketing purposes. We will also include an "opt out" link in each electronic newsletter or promotional e-mail we send you, so that you can inform us that you do not wish to receive such communications from us in the future.

Previously Expressed Preferences. You may change previously expressed preferences regarding how we use and share your personal information. If at any time you wish to be taken off our mailing lists, please [contact us](#). Please provide your full name, postal address and e-mail address so that we can find you on our mailing lists. You may ask to be removed from our catalog mailing lists and/or to be removed from our general direct marketing mailing lists. Once we have the information we need, we will remove you from our catalog and/or general direct marketing mailing lists as you have requested. Please give us a reasonable amount of time to honor your request.

Likewise, if at any time you decide you do not want us to share your personal information with third parties for their direct marketing purposes, please [contact us](#). Please provide your full name, postal address and e-mail address so that we can find you on our mailing lists. Please give us a reasonable amount of time to honor your request. Even if we add you to our "do not share" lists, you may still receive information, catalogs and offers from third parties with whom we shared your information before we processed your request. If this happens to you, please contact the third party directly and ask to be removed from its mailing lists.

How Can You Access, Update or Correct Your Personal Information?

Some of our Sites have links that permit you to manage your subscriptions or access and update some of your personal information. In most cases, however, you will need our help. If you wish to access, update or correct your personal information, please [contact us](#). We will respond to you within a reasonable time and, in any case, within the time limits established by applicable law. We may ask you for additional information to verify your identity. In most cases, we will provide access and correct or delete any inaccurate information you discover. In some cases, however, we may limit or deny your request if the law permits or requires us to do so or if we are unable to verify your identity.

Security

How Do We Protect Personal Information? We take reasonable precautions to provide a level of security appropriate to the sensitivity of the personal information we collect. For example, we use SSL encryption to protect your credit card information as it travels over the Internet. Although we use reasonable measures to help protect your personal information against unauthorized use or disclosure, we cannot guarantee the security of information provided over the Internet or stored in our databases.

Password Protected Areas of Our Sites. For your protection, certain areas of our Sites may be password protected. You are responsible for maintaining the confidentiality of your passwords. We have the right to assume that anyone accessing our Sites using a password assigned to you has the right to do so. You will be solely responsible for the activities of anyone accessing our Sites using a password assigned to you, even if the individual is not, in fact, authorized by you. If you have reason to believe that your password has been compromised or used without authorization, you must promptly change it using the functionality provided on our Sites.

Information Collected by Web Analytics Firms and Marketing Consultants

From time to time, we may use third-party Web analytics firms and marketing consultants to collect information that will help us understand the needs and interests of our visitors; improve the content, functionality and usability of our Sites; and improve the effectiveness of our advertising and marketing efforts. We may permit these companies to use Web beacons, cookies and other Web technologies to count and track visitors to our Sites. Using standard Web technologies, these companies can track what links our visitors use, what pages they view, and other information about the ways our visitors use our Sites. This information does not identify you personally and is not combined with information that identifies you personally. If you do not wish to receive cookies, you may set your browser to reject cookies or to alert you when a cookie is placed on your computer. You may also delete our cookies as soon as you leave our Sites. Although you are not required to accept our cookies when you visit our Sites, if you set your browser to reject cookies, you will not be able to use all of the features and functionality of our Sites.

Links to and from Other Web Sites

Links to Other Sites Operated by Members of the Gander Mountain Family of Businesses. Our Sites contain links to Web sites operated by other members of the Gander Mountain family of businesses. If you visit another of our Web sites take a minute to review the privacy policy. GanderMountain.com, Overtons.com, ConsumersMarine.com, and OvertonsOutdoors.com are all governed by this Policy; our other Web sites have their own privacy policies.

Ratings and Reviews. Some of our Sites permit visitors to rate and post reviews of the products offered for sale on those Sites. The rating and review functionality may be "powered by" a third party. This means that if you click on "write a review," you will be transferred directly to a custom Web site operated by that third party. The third party's site is governed by its terms of use and privacy policy. The third party's privacy policy describes what information is collected by it when you rate or review a product, how the third party uses that information, and with whom the third party shares that information. We receive some of the information collected through the rating and review functionality on our Sites.

Site Feedback Surveys. Some of our Sites permit visitors to provide feedback regarding our stores, products, and services by taking surveys. The surveys may be "powered by" a third party. This means that if you click on "Store Feedback Survey," you will be transferred directly to a custom Web site operated by that third party. The Web site is governed by the third party's terms of use and privacy policy. The third party's privacy policy describes what information it collects when you take a survey, how the third party uses that information, and with whom the third party shares that information. We receive some of the information collected through the surveys.

Personalized Gift Cards. Some of our Sites permit visitors to personalize gift cards by uploading photographs or other content. This functionality may be "powered by" a third party. This means that if you personalize a gift card, you will be transferred directly to a custom Web site operated by that third party. The third party's site is governed by its terms of use and privacy policy. The third party's privacy policy describes what information is collected by it when you personalize a gift card, how the third party uses that information, and with whom the third party shares that information. We receive some of the information collected by this third party.

Social Media Sites. Some of our Sites contain links to social media sites such as Facebook and Twitter. For example, some of our Sites contain links to Facebook fan pages for members of the Gander Mountain family of businesses. Facebook and Twitter and other social media sites are governed by their own terms of use and privacy policies, which you should review. You should have no expectation of privacy with respect to material you or others submit to social media sites such as Facebook and Twitter. You should not post to those sites any material you do not wish to make permanently available to the general public, and you must take special care to make sure your postings do not violate the privacy or other rights of others.

Links to Other Third-Party Sites. Our Sites also contain links to Web sites operated by third parties other than those identified above. For example, some of our Sites link to third-party sites where you can apply for a credit card or insurance coverage. Some our Sites also link to third-party sites where you can enter sweepstakes contests. Like Facebook and Twitter and the sites that power our ratings and reviews functionality and our feedback surveys, these third-party Web sites are governed by the third party's terms of use and privacy policies. Before you use any third-party Web site, you should take a few minutes to review the applicable terms of use and privacy policy.

Children

Our Sites are not directed nor targeted to children under the age of thirteen. We do not use the Site to knowingly solicit data from or market to children under the age of thirteen. If you are under the age of thirteen, do not provide us with any personal information. If we learn that someone under thirteen has provided personally identifiable information to our Sites, we will use reasonable efforts to remove such information from our databases.

Information for Visitors Accessing Our Sites from Outside the United States

Gander Mountain, Overton's and Consumers Marine are U.S. corporations headquartered in the United States. Our Sites are currently hosted on servers located in the United States, although we reserve the right to relocate our Sites to other servers elsewhere in the world. Your personal information may be stored on servers located within the United States or in another country. In addition, we may transfer your personal information to our service providers and others located in the United States or another country for the purposes described in this Policy. Different countries have different privacy laws and requirements, and some provide less legal protection for your personal information than others. Please know, however, that no matter where your personal information is collected, used, transferred or stored, if it was collected through this Policy, it will be protected by the terms of this Policy and any Privacy Notices, Country-Specific Notices or other agreements that apply to you.

BY USING THIS WEB SITE, YOU ARE CONSENTING TO THE COLLECTION, USE, AND TRANSFER OF YOUR PERSONAL INFORMATION IN OR TO THE UNITED STATES OR TO ANY OTHER COUNTRY IN THE WORLD SUBJECT TO THE TERMS OF THIS POLICY

Governing Law

This Policy is part of our [Terms and Conditions](#) and, as such, shall be governed under the laws of the State of Minnesota, United States of America, without regard to its conflicts of law provisions.



GANDER 100%
GUARANTEE



GANDER MOUNTAIN
PRICE MATCH POLICY



GANDER MOUNTAIN
CREDIT CARD



BUY ONLINE
PICK UP IN-STORE

EXHIBIT B
(COMENITY PRIVACY POLICY)

[Back to Privacy](#)

Online Privacy Policy

Last Revised: October 2015

This Online Privacy Policy ("Policy") is provided by Comenity LLC and its current and future subsidiaries ("we," "us," or "our"), and applies to all visitors or users ("you") of this website, our Social Media Pages, our downloadable software applications, and any affiliated online interface that links to this Policy (referred to collectively as "Sites"). We provide this Policy to help you understand what information we collect from you online and how we use it.

Your use of our Sites signifies that you agree with all terms of this Policy; please do not use our Sites if you disagree with any part of this Policy.

1. Personal Information We Collect

"Personal Information" refers to information that identifies you directly or can reasonably be linked to you using other information. Such personal information may include your name, Social Security number, date of birth, email address, postal address, or telephone number. Generally, you may provide us with two types of personal information when you interact with our Sites:

Information You Provide Directly To Us

We collect personal information from you online whenever you provide it directly to us. This includes when you send us an email, fill out an application, complete a "Contact Us" form, enter your zip code to find a store, and submit a resume.

We do not knowingly collect, use, or maintain personal information from users under 13.

Information Automatically Collected About Your Device

We, and other parties, such as our analytics and advertising service providers, will automatically collect personal information about your online activities over time and across different websites when you use our Sites. This includes navigational and/or other device-specific information like IP address, browser type, hardware model, and Unique Device Identifier.

Please refer to the "Online Tracking" and "Online Behavioral Advertising" sections of the Policy for additional details.

2. How We Use and Share Your Personal Information

How We Use Your Personal Information

We may use personal information collected at our Sites for servicing, marketing, security, fraud prevention, other internal business purposes, or for any other purpose permitted by law.

How We Share Your Personal Information

We may share your personal information with third party service providers to perform services on our behalf. In addition, we will also share your information throughout our family of companies and with unaffiliated third parties: (i) as required for legal or regulatory

EXHIBIT B

compliance, (ii) to protect our rights and property or the rights and property of other parties, (iii) in the event we sell or transfer all or a portion of our business assets, your information may be one of the business assets that are transferred as part of the transaction, (iv) during a bankruptcy proceeding, (v) for servicing, (vi) for internal business purposes, (vii) for fraud prevention, (viii) for marketing and/or to promote additional products, services, and special offers, as permitted by law, (ix) for any purpose you may request, or (x) for any other purpose that may be required or permitted by law.

3. Online Tracking

We, and certain service providers operating on our behalf, may collect information using tracking technologies, including:

Browser Cookies

Cookies are small text files that are stored directly on your device web browser. We use browser cookies to personalize your visit and improve our Sites and other services. Depending on your browser version, you may be able to block or erase browser cookies. Please be aware that some features of our Sites may be unavailable to you if your browser cookies are blocked or erased.

Pixel Tags

Pixel tags (also known as web beacons, web bugs, or clear GIFs) are nearly invisible pixel-sized graphic images in an email message or on a web page. Pixel tags in emails help us confirm the receipt of and response to our emails, the time our email is viewed, and "click-through" information such as where you click email links. Pixel tags on web pages operate similarly to pixel tags in emails in that they help us understand how you interact with our Sites. Please note that pixel tags are often used in conjunction with browser cookies, which are described above.

"Do Not Track" Browser Signals

Our Sites will continue to operate as described in this Policy, whether or not a "Do Not Track" signal or other similar mechanism is received from your web browser.

Location Based Services

Your IP address is a number assigned to your device by your Internet Service Provider and is captured automatically in our server files. If you consent, we may also collect your actual physical coordinates when a location-based service is used, such as GPS signals sent to us when you are searching for a nearby store on a mobile device. We use location information to improve our Sites and service offerings and administration of our Sites.

Retail Application: Location Based Services

For those customers that choose to utilize our retail applications, Comenity may collect, use, and share precise location data, including the real-time geographic location of your device. This location data is collected anonymously in a form that does not personally identify you and is used by Comenity to provide and improve location-based products and services. For example, we may share geographic location with application providers when you opt in to their location services.

4. Online Behavioral Advertising

Online behavioral advertising ("OBA" or "interest-based advertising") involves the tracking of your online activities in order to deliver tailored advertising of goods and services that are likely to be of interest to you. We permit third party advertising companies to serve advertisements on our behalf on our Sites and those websites and mobile apps not affiliated with us. This Policy does not cover the privacy practices of the third party sites on which we may have advertisements. Please review their privacy policies and terms of service if you have any questions about their privacy practices.

Opting Out of OBA

Behavioral advertisements will feature an AdChoices Icon (also known as the "Advertising Option Icon"), that when clicked, provides more information about how the advertisement was delivered to you and also provides the ability to opt-out from future OBA by the third parties listed. To opt-out of OBA from all Digital Advertising Alliance ("DAA")-participating companies, please visit <http://www.aboutads.info/choices/>.

Please note that if you opt-out of OBA, you may still receive online advertising from us on third party sites. Opting out from third party advertising companies means that the advertisements you receive will not be based on your preferences or behavior. Further, opting out does not prevent other parties from tracking your online activity for other uses as described in this Policy.

5. Social Media Pages

From time to time, we may create and manage social media pages that include, but are not limited to, a Twitter or Instagram account or a Facebook page ("Social Media Pages"). With your consent, personal information like your name, profile picture, gender, networks, user ID, list of friends, birthday, likes, education history, work history, current city, hometown, interests, relationship status, and any other information you have shared on a social media site may be collected by us. This Policy does not cover the privacy practices of the social media sites on which we may have Social Media Pages. Please review their privacy policies and terms of service if you have any questions about their privacy practices.

6. International Users

If you are visiting us from a location outside of the United States, please keep in mind that we are U.S.-based. This Policy governs the information collected by or on behalf of our Sites irrespective of where you are located when you access it, browse it, or interact with it.

With respect to personal information you provide to us on the Social Media Pages, once received from the social media sites, it is maintained and processed by us on servers and internal systems located in the United States. This means your personal information may be stored outside of the province, state, and/or country in which you reside, and processed by us or a third party as described in this Policy. Moreover, governmental bodies that have jurisdiction over us in the United States (e.g., courts and law enforcement agencies) may be entitled to access your personal information.

7. How Your Information is Protected

Your privacy is important to us. We have implemented physical, technical, and administrative security measures to safeguard the personal information that we maintain.

8. Accuracy of Your Personal Information

We strive to maintain accurate personal information about you. If you are a Comenity Bank or Comenity Capital Bank cardholder and believe that our records contain inaccurate or incomplete information about you, please contact the Customer Care phone number listed on your billing statement or on the back of your credit card. Customers with a registered online account may review their personal information by logging in to our secure account management service. For more information, please go to <http://www.comenity.net/comenity/CreditCardPrograms/>.

9. Links to Other Sites

We may provide links on our Sites to external websites not owned or operated by us as a convenience to you. This Policy does not apply to the data collection, use, and protection practices of these websites. Please read and understand a linked website's privacy policy before using such a website.

10. Changes to this Policy

From time to time, we may modify this Policy. Should there be a material change to our information collection, use, or disclosure practices, it will be applied only to personal information collected on a going forward basis, and we will update this Policy accordingly.

11. Contact Us

If you have additional questions about this Policy, please contact us at privacy@comenity.net.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Gander Mountain Company,

Case No.: 17-30673

Chapter 11 Case

Debtor.

In re:

Overton's, Inc.,

Case No.: 17-30675

Chapter 11 Case

Debtor.

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR AN ORDER (A) DETERMINING THAT DEBTORS' PROPOSED SALE OF SUBSTANTIALLY ALL OF THEIR ASSETS INCLUDING PERSONALLY IDENTIFIABLE INFORMATION IS CONSISTENT WITH THE DEBTORS' PRIVACY POLICY PURSUANT TO SECTION 363(B)(1)(A) OF THE BANKRUPTCY CODE, OR ALTERNATIVELY, (B) DIRECTING THE UNITED STATES TRUSTEE TO APPOINT A CONSUMER OMBUDSMAN IMMEDIATELY PURSUANT TO SECTION 332(A) OF THE BANKRUPTCY CODE

Gander Mountain Company and Overton's, Inc. (together the "Debtors") submit this memorandum of law in support of the motion submitted herewith (the "Motion") in accordance with Local Rule 9013-2(a). The Debtors seek the entry of an order substantially in the form filed herewith determining that the proposed sale of substantially all of the Debtors' assets including personally identifiable information is consistent with the Debtors' privacy policy pursuant to Section 363(b)(1)(A) of the Bankruptcy Code or alternatively, directing the United States Trustee to appoint a consumer privacy ombudsman immediately pursuant to section 332(a) of the Bankruptcy Code.

BACKGROUND

The supporting facts are set forth in the verified Motion. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Motion.

LEGAL ANALYSIS

I. The Debtors' Proposed Sale of Personally Identifiable Information Pursuant to the Stalking Horse APA (or Any Other Successful Bid after the Auction) Is Consistent With the Debtors' Privacy Policy.

Section 363(b) states that a trustee may use, sell, or lease property of the estate outside the ordinary course:

except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

- (A) such sale or such lease is consistent with such policy; or
- (B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—
 - (i) giving due consideration to the facts, circumstances and conditions of such sale or such lease; and
 - (ii) finding that no showing was made that such sale or such lease would violate applicable non-bankruptcy law.

11 U.S.C. § 363(b)(1).¹ Stated differently, section 363(b) prohibits the sale or lease of property containing personally identifiable information if the debtor had in effect on the petition date a

¹ Personally identifiable information means—

(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

- (i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;
- (ii) the geographical address of a physical place of residence of such individual;
- (iii) an electronic address (including an e-mail address) of such individual;
- (iv) a telephone number dedicated to contacting such individual at such physical place of residence;
- (v) a social security account number issued to such individual; or
- (vi) the account number of a credit card issued to such individual; or

(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

- (i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

policy prohibiting the transfer of that information unless “such sale or such lease is consistent with such policy” or the court appoints a consumer privacy ombudsman and the sale satisfies other requirements. *See id.*; *see also* 3 COLLIER ON BANKRUPTCY ¶ 363.02[8] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.); *In re Radioshack Corp.*, No. 15-10197, *Report of the Consumer Privacy Ombudsman*, Docket No. 2148 (Bankr. D. Del. May 16, 2015).

While there are few reported decisions on the requirement to appoint an Ombudsman, bankruptcy courts have approved transfers of personally identifiable information if the transfer was consistent with the debtor’s privacy policy. For example, in *In re American Laser Skincare, LLC*, the court approved the trustee’s lease of the debtor’s personally identifiable information of its customers as consistent with the policy. *See In re American Laser Skincare, LLC*, No. 14-12685, Docket Nos. 421 & 442 (Bankr D. Del. Sept. 22, 2015). The debtor’s privacy policy permitted the transferring of the personally identifiable information so long as the customers were given the opportunity to object to the transfer. *Id.* Accordingly, the court approved the sale because the trustee provided the debtor’s customers with opt out notices so they could prevent their information from being leased. *Id.*²

Similarly, in *In re S & K Famous Brands, Inc.*, the bankruptcy court approved the sale of the debtor’s customer information because “the Sale is consistent with the Privacy Policy, as provided in section 5.4 of the Agreement, and, therefore, the [personally identifiable information] may be sold pursuant to § 363 without the necessity of the appointment of a

(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically.
11 U.S.C. § 101(41A).

² Here, the Debtors’ Privacy Policy does not provide an opt-out by customers in the event of a sale.

consumer privacy ombudsman.” *In re S &K Famous Brands, Inc.*, No. 09-30805, Docket No. 562 (Bankr. E.D. Va. Dec. 4, 2009).

As set forth in the Motion, the Debtors’ Privacy Policy disclosed to customers that it was collecting consumer information and that:

We may decide, for strategic or other reasons, to sell, buy, merge or other reorganize one or more of our businesses. A transaction of this type may involve the disclosure of person information to prospective purchasers. In such cases, we will take reasonable measures to protect the personable information we disclose, for example, by requiring the prospective purchaser to sign a non-disclosure agreement limiting the use and protecting the confidentiality of the personal information.

Nowhere in the Privacy Policy does it state that the Debtors would not sell consumer information. Accordingly, as part of the sale process the Debtors will likely seek to sell and transfer personally identifiable information consisting of “any and all customer, supplier, and/or mailing and email lists as well as other proprietary information owned by Seller affiliates associated with and used in the Business,” which is entirely consistent with the Debtors’ Privacy Policy which permits the transfer of such personally identifiable information in connection with a sale.

Thus, the Debtors request a determination by the Court that the proposed Sale by the Debtors to a successful bidder after the auction, which includes personally identifiable information, is consistent with the Debtors’ Privacy Policy pursuant to section 363(b)(I)(A) of the Bankruptcy Code and that the appointment of an Ombudsman pursuant to section 332 of the Bankruptcy Code is not necessary.

II. Alternatively, if the Court Determines an Ombudsman is Necessary, the Court Should Direct the U.S. Trustee to Appoint an Ombudsman Immediately.

If the Court determines that the appointment of an Ombudsman is necessary and appropriate in these cases notwithstanding the foregoing, the Debtors request that the Court direct the U.S. Trustee to appoint an Ombudsman immediately.

Section 332 of the Bankruptcy Code provides that “the court shall order the United States trustee to appoint, not later than 7 days before the commencement of [a sale] hearing, 1 disinterested person ... to serve as the consumer privacy ombudsman.” 11 U.S.C. § 332(a).

Here, given the proposed timeline for the sale process as contemplated by the Debtors, including an auction on April 27, 2017, a hearing to approve the sale to the successful bidder on May 1, 2017, and a deadline to close the sale on May 12, 2017, the Debtors request that the Court direct the U.S. Trustee to appoint an Ombudsman, if necessary, as soon as possible so that the Ombudsman can complete his or her duties under section 332(b) of the Bankruptcy Code prior to the Sale Hearing.

CONCLUSION

For the foregoing reasons, the Debtors respectfully request that the Court grant the relief requested in the Motion.

Dated: March 10, 2017

/e/ Cynthia A. Moyer

Clinton E. Cutler (#0158094)

Cynthia A. Moyer (#0211229)

Ryan T. Murphy (#0311972)

James C. Brand (#387362)

Sarah M. Olson (#0390238)

Steven R. Kinsella (#0392289)

FREDRIKSON & BYRON, P.A.

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402-1425

Telephone: 612.492.7000

ccutler@fredlaw.com

cmoyer@fredlaw.com

jbrand@fredlaw.com

solson@fredlaw.com

skinsella@fredlaw.com

PROPOSED ATTORNEYS FOR DEBTORS

60848040_1.docx

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Gander Mountain Company,

Case No.: 17-30673
Chapter 11 Case

Debtor.

In re:

Overton's, Inc.,

Case No.: 17-30675
Chapter 11 Case

Debtor.

**ORDER DETERMINING THAT DEBTORS' PROPOSED SALE OF
SUBSTANTIALLY ALL OF THEIR ASSETS INCLUDING PERSONALLY
IDENTIFIABLE INFORMATION, IS CONSISTENT WITH DEBTORS' PRIVACY
POLICY PURSUANT TO SECTION 363(B)(1)(A)
OF THE BANKRUPTCY CODE**

These cases came before the court on the debtors' Motion for an Order (A) Determining that Debtors' Proposed Sale of Substantially All of Their Assets Including Personally Identifiable Information is Consistent with Debtors' Privacy Policy Pursuant to Section 363(b)(1)(A) of the Bankruptcy Code, or Alternatively, (B) Directing the United States Trustee to Appoint a Consumer Privacy Ombudsman Immediately Pursuant to Section 332(a) of the Bankruptcy Code (the "Motion"). Capitalized terms not defined in this order have the meanings ascribed to them in the Motion. Based on the Motion, all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Motion is hereby granted.

2. The Court has reviewed the Debtors' privacy policy and determined that an ombudsman pursuant to section 332(a) of the Bankruptcy Code is not required in connection with any sale of substantially all of the debtors' assets, including personally identifiable information.

Dated:

Michael E. Ridgway
United States Bankruptcy Judge