

Hearing Date: May 22, 2008 at 10:00 a.m.
Objection Deadline: May 20, 2008 at 4:00 p.m.

ARNOLD & PORTER LLP
399 Park Avenue
New York, New York 10022-4690
Telephone: (212) 715-1000
Facsimile: (212) 715-1399
Michael J. Canning
Joel M. Gross

*Counsel for the Debtors
and Debtors-in-Possession*

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

In re

Quebecor World (USA) Inc., et al.,

Debtors.

Chapter 11

Case No. 08-10152 (JMP)
Jointly Administered

Honorable James M. Peck

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER PURSUANT TO 11
U.S.C. § 363 AUTHORIZING THE DEBTORS TO ENTER INTO AND PERFORM
OBLIGATIONS UNDER A NEW LEASE FOR CERTAIN REAL PROPERTY
LOCATED AT 4237 CONCORDE ROAD, MEMPHIS, TENNESSEE**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) move this Court (the “Motion”) for the entry of an order substantially in the form of Exhibit A hereto, authorizing the Debtors to enter into and perform obligations under a new lease for certain real property located at 4237 Concorde Road, Memphis, Tennessee. In support of this Motion, the Debtors rely on the Declaration of Jeremy Roberts submitted herewith. In further support of the Motion, the Debtors state as follows:

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.

This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

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

3. The statutory predicate for the relief requested herein is section 363 of title 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the “Bankruptcy Code”), and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

4. On January 21, 2008 (the “Petition Date”), the 53 Debtors filed their voluntary petitions for relief (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

5. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner in these cases.

6. On January 31, 2008, an Official Committee of Unsecured Creditors (the “Creditors’ Committee”) was appointed.

7. On January 20, 2008 the Debtors’ corporate parent, Quebecor World Inc. (“QWI”), together with each of the Debtors, commenced a proceeding before the Superior Court, Commercial Division, for the Judicial District of Montreal (the “Canadian Court”) for a plan of compromise or arrangement (the “Canadian Proceeding”) under the Canadian

Companies' Creditors Arrangement Act ("CCAA").¹ Each of the Debtors was joined in the Canadian Proceeding, in order that each Debtor may obtain the protection of a stay under the CCAA as well as under the Bankruptcy Code.

The Debtors' Business

8. The Debtors collectively operate the second largest commercial printing business in the United States, maintaining approximately 78 facilities in 29 states. QWI is a Canadian corporation and the corporate parent of the Debtors, having been incorporated on February 23, 1989 pursuant to the Canada Business Corporations Act to combine the assets constituting what was then the printing division of Quebecor Inc. (QWI, together with the Debtors and all of QWI's debtor and non-debtor subsidiaries and affiliates are referred to herein as "QW World").

9. QW World's key customers include the largest publishers, retailers and catalogers in the geographic areas in which QW World operates. In the magazine group, QW World prints magazines for publishers, including, for example, 15 magazine titles for Time, Inc.,² *Cosmopolitan* for Hearst Corp., *Elle* for Hachette-Filippachi Magazines US, *ESPN the Magazine* for Walt Disney Corp., *Forbes* for Forbes Inc. and *In Touch Weekly* for Bauer Publishing USA, while QW World's retail insert group includes customers such as CVS, Sears, JC Penney, Kohl's, and Walgreens. QW World's operations also encompass (a) catalogs for customers such as Williams-Sonoma, Oriental Trading Company, Victoria's Secret, IKEA, Cabelas and Bass Pro, (b) books for McGraw-Hill,

¹ The Canadian Court appointed Ernst & Young, Inc. to serve as Monitor for the Canadian Proceeding, and UBS Investment Bank is serving as QWI's financial advisor.

² These include *Time*, *Fortune*, *Money*, *Sports Illustrated*, *People*, *Entertainment Weekly*, *Southern Living*, *Cooking Light* and *Coastal Living*.

Scholastic, Simon & Schuster, Thomas Nelson, Time-Warner and Pearson Education, (c) directories for Yellow Book USA, RH Donnelly, Windstream and Frontier in the United States, the Yellow Pages Group in Canada, as well as Telemex and Telefonica in Latin America and (d) direct mail services.

Entry into New Lease of Real Property Located in Memphis, Tennessee

10. Debtor Quebecor World Olive Branch, Inc. (“QW Olive Branch”) operates one of the Debtors’ printing facilities located in Olive Branch, Mississippi, and currently lacks sufficient available space to store all of its required paper inventory onsite at its Mississippi manufacturing plant. To meet its inventory storage needs, QW Olive Branch currently has an arrangement to store up to approximately 25 million pounds of paper inventory at a site leased by its affiliate Quebecor World Logistics Inc. (“QWL”), also a Debtor in these Chapter 11 Cases. Access to the premises leased by QWL (the “QWL Site”) is advantageous for QW Olive Branch because of its proximity to rail service, which is essential for QW Olive Branch, as most paper shipments are transported by rail.

11. QWL’s lease for the QWL Site will expire on June 30, 2008, and QWL has determined, based on its own needs, that it will not renew its lease for the QWL Site and will relocate its operations to another site. Accordingly, QW Olive Branch has an immediate need to enter into a new lease for inventory storage space with proximity to its Olive Branch, Mississippi facility and with access to rail service in order to replace the QWL Site. Having reviewed property available for lease in or around Olive Branch, Mississippi and in nearby Memphis and/or Shelby County Tennessee, QW Olive Branch

has determined that the best available option is to enter into the Lease (defined below). In making this determination, QW Olive Branch considered a number of factors, including

- The need for a minimum of 75,000 to 100,000 square feet;
- Immediate availability in light of the impending termination of the lease for the QWL Site and QW Olive Branch's need to relocate its inventory while continuing ongoing operations;
- The requisite proximity to rail service and the need for a minimum of five (5) rail doors and eight (8) truck doors with dock levelers and canopies; and
- Restroom facilities and minimal office space.

12. QW Olive Branch has succeeded in locating premises that satisfy these requirements, and accordingly seeks approval of its entry into a Lease Agreement (the "Lease") dated May 9, 2008 between QW Olive Branch, as Lessee, and ProLogis-North Carolina Limited Partnership ("Landlord"), as Landlord, for the lease of approximately 100,000 rentable square feet located at Airport Distribution Center #5, 4237 Concorde Road, Memphis, Tennessee (the "Premises"). A copy of the Lease is attached hereto as Exhibit B.

13. As noted above, QW Olive Branch and the Debtors will use the Premises in connection with receiving, storing, shipping and wholesale sales of materials produced or distributed by the Debtors. The term of the Lease is 24 months, ending on or about May 31, 2010. For a period of 60 days beginning on the Commencement Date (as defined in the Lease) (the "Free Rent Period"), QW Olive Branch will not be required to pay monthly Base Rent under the Lease, although it will be responsible for Operating Expenses (as

defined in the Lease) during that period, which are estimated to be approximately \$6,833.33 per month. Following the expiration of the Free Rent Period and through May 31, 2010, QW Olive Branch will pay monthly Base Rent in the amount of \$16,583.33 per month, for an aggregate estimated monthly rental payment of \$23,416.66. QW Olive Branch will also provide the Landlord with a security deposit in the form of an unconditional, irrevocable letter of credit from a nationally-rated bank in the amount of \$47,499.99.

14. The Landlord conditioned its entry into the Lease upon, among other things, the Debtors obtaining Court approval of the Lease no later than 60 days after execution of the Lease. Accordingly, the Debtors are seeking approval of QW Olive Branch's entry into the Lease pursuant to section 363 of the Bankruptcy Code.

Relief Requested

15. In light of the impending loss of inventory storage capacity at the QWL Site, the Debtors request authorization to use property of the estate and to take all actions required to enter into and perform obligations under the Lease. Section 363(b)(1) of the Bankruptcy Code permits a debtor in possession to "use, sell, or lease, other than in the ordinary course of business, property of the estate" with court approval. 11 U.S.C. § 363(b)(1). A debtor in possession's decision to use, sell, or lease assets outside the ordinary course of business must be based upon its sound business judgment. See Official Comm. of Unsecured Creditors of LTV Aerospace and Defense Co. v. The LTV Corp. (In re Chateaugay Corp.), 973 F.2d 141, 143 (2d Cir. 1992) (holding that court considering a section 363(b) application must find a good business reason to grant such application); see

also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1071 (2d Cir. 1983) (same); In re Global Crossing Ltd., 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003) (same); In re Ionosphere Clubs, Inc., 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989) (noting that standard for determining a section 363(b) motion is “good business reason”).

16. The business judgment rule is satisfied where “the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992), appeal dismissed, 3 F.3d 49 (2d Cir. 1993) (quoting Smith v. Van Gorkom, 488 A.2d 858, 872 (Del. 1985)). Indeed, “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts generally will not entertain objections to the debtor’s conduct.” Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). Courts in this district consistently and appropriately have been reluctant to interfere with corporate decisions absent a showing of bad faith, self-interest or gross negligence, and have upheld such decisions as long as they are attributable to any “rational business purpose.” In re Integrated Res., 147 B.R. at 656.

17. The Debtors have determined that entry into the Lease is in their best interests and is essential to their business operations. As noted above, QW Olive Branch has an immediate need to relocate its inventory storage space in light of the pending expiration of the lease for the QWL Site. The Premises satisfy the most important factors

required by QW Olive Branch for a new inventory storage facility: (i) proximity to rail service, (ii) proximity to QW Olive Branch's Mississippi facility, (iii) a minimum of 75,000 to 100,000 square feet and (iv) immediate availability.

18. Moreover, the terms of the Lease are fair and reasonable. The relatively short term of the Lease offers QW Olive Branch flexibility in the event that QW Olive Branch reassesses or changes its inventory storage needs in the future. In addition, the monthly rental payments are reasonable, especially in light of the Landlord's agreement to abate monthly Base Rent for the first 60 days of the Lease's term. Finally, the remaining terms of the Lease are reasonable and customary.

19. For the foregoing reasons, the Debtors request entry of an order authorizing and approving QW Olive Branch's entry into the Lease and performance of its obligations thereunder.

Abrogation of Stay Pursuant to Rule 6004(h)

20. The Debtors request relief from the ten day stay imposed on orders approving the sale, use or lease of property under section 363 pursuant to Rule 6004(h). As stated above, the lease for the QWI Site expires on June 30, 2008 and time is of the essence with respect to QW Olive Branch's entry into the Lease. Accordingly, the Debtors request a waiver of the stay approving QW Olive Branch's entry into the Lease pursuant to Rule 6004(h).

Memorandum Of Law

21. This Motion includes citations to the applicable authorities and a discussion of their application to this Motion. Accordingly, the Debtors respectfully submit that such

citations and discussion satisfy the requirement that the Debtors submit a separate memorandum of law in support of this Motion pursuant to Rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York.

Notice

22. Notice of this Motion has been provided to the Landlord and all parties on the Notice List as set forth in the Case Management Order. A copy of the Motion is also freely available on the website of the Debtors' claim and noticing agent, Donlin, Recano & Company, Inc. at www.donlinrecano.com.

No Prior Request

23. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request an entry of an order, substantially in the form attached hereto as Exhibit A, (i) authorizing the Debtors to enter into and perform obligations under the Lease and (ii) granting such other and further relief as the Court deems just and appropriate.

Dated: May 12, 2008
New York, New York

Respectfully submitted,

/s/ Michael J. Canning
Michael J. Canning
ARNOLD & PORTER LLP
399 Park Avenue
New York, New York 10022-4690
Telephone: (212) 715-1000
Facsimile: (212) 715-1399
*Counsel for the Debtors
and Debtors In Possession*

EXHIBIT A

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

In re

Quebecor World (USA) Inc., et al.,

Debtors.

Chapter 11

Case No. 08-10152 (JMP)
Jointly Administered

Honorable James M. Peck

**ORDER PURSUANT TO 11 U.S.C. § 363 AUTHORIZING THE DEBTORS
TO ENTER INTO AND PERFORM OBLIGATIONS UNDER A NEW
LEASE FOR CERTAIN REAL PROPERTY LOCATED AT 4237
CONCORDE ROAD, MEMPHIS, TENNESSEE**

Upon the motion (the “Motion”)* of the above-captioned debtors (collectively, the “Debtors”) for entry of an Order authorizing the Debtors to enter into and perform obligations under a new lease for certain real property located at 4237 Concorde Road, Memphis, Tennessee; the Court having reviewed the Motion and considered the statements of counsel at a hearing before the Court (the “Hearing”); and the Court having found that (a) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (c) venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409, (d) notice of the Motion was appropriate under the circumstances, (e) the terms of the Lease are fair and reasonable and (f) entry into and performance of obligations under the Lease is an exercise of the Debtors’ sound business judgment and is in the best interests of the Debtors and their bankruptcy estates; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish grounds for the relief granted herein;

* Capitalized terms not defined in this Order shall have the meaning ascribed to them in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Pursuant to section 363 of the Bankruptcy Code, QW Olive Branch is authorized to execute and enter into the Lease and to perform all of the agreements, covenants and obligations of QW Olive Branch set forth in the Lease and take such additional actions as may be necessary in connection with entry into the Lease.
3. The ten day stay set forth in Bankruptcy Rule 6004(h) is hereby abrogated and this order shall be effective immediately upon entry.
4. The requirement set forth in Rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York that any motion or other request for relief be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.
5. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.
6. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: May _____, 2008

United States Bankruptcy Judge