

Hearing Date: **July 17, 2008 at 10:00 a.m.**  
Objection Deadline: **July 15, 2008 at 4:00 p.m.**

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**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

**DEBTORS' MOTION PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE  
AND BANKRUPTCY RULE 6006 FOR AN ORDER AUTHORIZING THE REJECTION  
OF A CERTAIN UNEXPIRED REAL PROPERTY LEASE**

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 rejection of the unexpired real property lease set forth on Exhibit B hereto.

In support of this Motion, the Debtors rely on the Declaration of Joseph Pannunzio 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 365 of title 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), and Rule 6006 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 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 was appointed (the “Creditors’ Committee”).
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”).<sup>1</sup> Each of the Debtors was joined in the Canadian

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<sup>1</sup> The Canadian Court appointed Ernst & Young, Inc. to serve as Monitor for the Canadian Proceeding, and UBS Investment Bank is serving as a financial advisor to the Canadian Affiliates.

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.,<sup>2</sup> *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, 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.

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

## **The Debtors' Review of Unexpired Real Property Leases**

10. Since the Petition Date, the Debtors have initiated a review of their unexpired nonresidential real property leases to identify those leases that, in the Debtors' business judgment, are not necessary to their ongoing business operations or restructuring efforts.

11. As a result of their review, on March 10, 2008, the Debtors filed a Motion to Authorize the Debtors' First Omnibus Motion Pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 for an Order Authorizing the Rejection of Certain Unexpired Real Property Leases (the "First Omnibus Lease Rejection Motion"). As part of the First Omnibus Lease Rejection Motion, the Debtors rejected two nonresidential real estate leases that the Debtors determined were not necessary to their ongoing business operations or restructuring efforts.

12. The Debtors have continued to review their unexpired nonresidential leases and determined that the certain nonresidential real property lease, dated December 6, 2002, by and between Agatha D. Cha, as the lessor, and Andrew Cha International, Inc., as the lessee, for the property at 1100 Corporate Center Drive, Monterey Park, California (the "Lease"), identified on Exhibit B, which the Debtors acquired as part of Debtor Quebecor World (USA) Inc.'s ("QWUSA") 2007 purchase of certain assets of Andrew Cha International, Inc., d/b/a Colorscope and Korolary Networks, Inc., is not necessary to their ongoing business operations or restructuring efforts.

13. Specifically the Debtors will vacate the premises that are the subject of the Lease on or before July 31, 2008, the date through which the Debtors have paid rent due under the Lease. Accordingly, the Lease should be rejected in order to prevent the Debtors from incurring any additional postpetition obligations thereunder, as the payment of monthly base rent in the

approximate amount of \$19,747.20 is economically burdensome and would constitute an unnecessary drain on the assets of the Debtors' estates.

14. The Lease is an "unexpired lease" within the meaning of section 365 of the Bankruptcy Code, capable of being rejected by the Debtors.

#### **Relief Requested**

15. Pursuant to section 365 of the Bankruptcy Code and Bankruptcy Rule 6006, the Debtors seek entry of an order authorizing the rejection of the Lease, with such rejection effective as of August 1, 2008.

#### **Basis For Relief Requested**

16. Section 365 of the Bankruptcy Code authorizes a debtor to reject its unexpired leases subject to the approval of the Court. The relevant provisions of section 365 state as follows:

(a) Except as provided in . . . subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

See 11 U.S.C. §§ 365(a). Accordingly, section 365 of the Bankruptcy Code authorizes rejection of the Leases upon approval of the Court.

17. Courts approve motions to assume, assume and assign or reject executory contracts or unexpired leases where the debtor shows that its decision to take such action will benefit the debtor's estate and is an exercise of sound business judgment. See Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.), 4 F.3d 1095, 1099 (2d Cir. 1993) (section 365 of the Bankruptcy Code "permits the trustee or debtor-in-possession, subject to the approval of the bankruptcy court, to go through the inventory of executory contracts of the debtor and decide which ones it would be beneficial to adhere to and which ones it would be

beneficial to reject”); see also NLRB v. Bildisco & Bildisco, 465 U.S. 513, 523 (1984) (stating that the traditional standard applied by courts under section 365 is that of “business judgment”); In re Gucci, 193 B.R. 411, 415 (S.D.N.Y. 1996) (“A bankruptcy court reviewing a trustee’s decision to assume or reject an executory contract should apply its ‘business judgment’ to determine if it would be beneficial or burdensome to the estate to assume it.”).

18. Courts generally will defer to a debtor’s business judgment concerning the assumption or rejection of an executory contract or unexpired lease. See In re Dana Corp., 358 B.R. 567, 581 n.20 (Bankr. S.D.N.Y. 2007) (“A court may approve motions to assume, assume and assign or reject executory contracts upon a showing that the debtor’s decision to take such action will benefit the debtor’s estate and is an exercise of sound business judgment.”); In re Helm, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 2006) (“The decision to assume or reject an executory contract is within the sound business judgment of the debtor-in-possession . . . and in reviewing such a decision the bankruptcy court merely ‘reviews the trustee’s or debtor’s decision to adhere to or reject a particular contract in the course of the swift administration of the bankruptcy estate.’”) (citing In re Orion Pictures Corp., 4 F.3d 1095, 1099 (2d Cir. 1993)); In re Footstar, Inc., 323 B.R. 566, 568 (Bankr. S.D.N.Y. 2005) (“The standard to be applied by a court in determining whether an executory contract or unexpired lease should be assumed is the ‘business judgment’ test, which is premised upon the debtor’s business judgment that assumption would be beneficial to the estate.”); In re Riodizio, Inc., 204 B.R. 417, 424 (Bankr. S.D.N.Y. 1997) (“[A] court will ordinarily defer to the business judgment of the debtor’s management”).

19. The “business judgment” test is not a strict standard; it merely requires a showing that either assumption or rejection of the executory contract or unexpired lease will benefit the debtor’s estate. See, e.g., Westbury Real Estate Ventures, Inc. v. Bradlees, Inc. (In re Bradlees

Stores Inc.), 194 B.R. 555, 558 n.1 (Bankr. S.D.N.Y. 1996) (“In reviewing a debtor’s decision to assume or reject an executory contract, the court must examine the contract and circumstances and apply its best ‘business judgment’ to determine if the assumption or rejection would be beneficial or burdensome to the estate.”); see also In re Helm, 335 B.R. 528,538 (Bankr. S.D.N.Y 2006) (“To meet the business judgment test, the debtor in possession must establish that rejection will benefit the estate”) (internal citations omitted).

20. The Debtors have met the requirements for rejection of the Lease. Based on a review of their leases, the Debtors have determined that the Lease is not necessary to their continued business operations and that continuing to incur obligations under the Lease would provide no corresponding benefit to the Debtors’ bankruptcy estates. Accordingly, rejection of the Lease is a sound business decision and the Debtors request entry of an order granting the relief requested in this Motion.

#### **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 (i) all parties listed on Exhibit B hereto and (ii) 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](http://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, (a) authorizing the Debtors to reject the Lease set forth on Exhibit B hereto; and (b) granting such further relief as is just and proper.

Dated: July 7, 2008  
New York, New York

Respectfully submitted,

/s/  
\_\_\_\_\_  
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ARNOLD & PORTER LLP  
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*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. § 365 GRANTING DEBTORS'  
MOTION TO REJECT A CERTAIN UNEXPIRED  
REAL PROPERTY LEASE**

Upon the motion (the “Motion”) of the above-captioned debtors (collectively, the “Debtors”) for entry of an Order authorizing the Debtors to reject a certain unexpired real property lease (the “Lease”), which is described in Exhibit B to the Motion and in Schedule 1 to this Order; 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 and (e) rejection of the Lease pursuant to section 365 of the Bankruptcy Code is in the best interests of the Debtors’ 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;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Debtors are authorized pursuant to 11 U.S.C. § 365 to reject the Lease set forth on Schedule 1 hereto pursuant to section 365(a) of the Bankruptcy Code and Bankruptcy Rule 6006. The Lease shall be deemed rejected as of August 1, 2008.
3. 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.
4. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.
5. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: July \_\_\_\_\_, 2008

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United States Bankruptcy Judge

**SCHEDULE 1**

**LEASE TO BE REJECTED PURSUANT TO DEBTORS' MOTION TO REJECT A  
CERTAIN UNEXPIRED REAL PROPERTY LEASE**

<b><u>Description and Location of Premises</u></b>	<b><u>Lessor Name and Address</u></b>	<b><u>Name of Debtor Party to Lease/Sublease</u></b>	<b><u>Relinquishment of Property Date</u></b>
Pursuant to the Lease dated December 6, 2002, approximately 11,968 square feet in the building located at 1100 Corporate Center Drive, Suite 100, Monterey Park in Los Angeles, California, 91754	Agatha D. Cha P.O. Box 1588 Pacific Palisades, CA 90272	Quebecor World (USA) Inc., as part of QWUSA's 2007 purchase of certain assets of Andrew Cha International, Inc., d/b/a Colorscope and Korolary Networks, Inc. (Andrew Cha International, Inc. is the lessee under the original Lease)	August 1, 2008

**EXHIBIT B**

<b><u>Description and Location of Premises</u></b>	<b><u>Lessor Name and Address</u></b>	<b><u>Name of Debtor Party to Lease/Sublease</u></b>	<b><u>Monthly Base Rent/ Terms of Lease</u></b>	<b><u>Relinquishment of Property Date</u></b>
Pursuant to the Lease dated December 6, 2002, approximately 11,968 square feet in the building located at 1100 Corporate Center Drive, Suite 100, Monterey Park in Los Angeles, California, 91754	Agatha D. Cha P.O. Box 1588 Pacific Palisades, CA, 90272	Quebecor World (USA) Inc., as part of QWUSA's 2007 purchase of certain assets of Andrew Cha International, Inc., d/b/a Colorscope and Korolary Networks, Inc. (Andrew Cha International, Inc. is the lessee under the original Lease)	\$19,747.20 /  January 1, 2003- December 31, 2013	August 1, 2008