

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE
JUSTICE CAVANAGH

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FRIDAY, THE 24th
DAY OF NOVEMBER, 2023

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MAV
BEAUTY BRANDS INC., MARC ANTHONY COSMETICS LTD., MARC ANTHONY US
HOLDINGS, INC., MARC ANTHONY COSMETICS USA, INC., MAC PURE HOLDINGS, INC.,
MAV MIDCO HOLDINGS, LLC, RENPURE, LLC, ONESTA HAIR CARE, LLC, and
THE MANE CHOICE HAIR SOLUTION LLC

Applicants

ASSIGNMENT ORDER

THIS MOTION, made by MAV Beauty Brands Inc., Marc Anthony Cosmetics Ltd., Marc Anthony US Holdings, Inc., Marc Anthony Cosmetics USA, Inc., MAC Pure Holdings, Inc., MAV Midco Holdings, LLC, Renpure, LLC, Onesta Hair Care, LLC, and The Mane Choice Hair Solution, LLC (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for, among other things, an order assigning to MAV USA, LLC (the "**US Purchaser**"), and MAV Beauty Canada, Inc. (the "**Canadian Purchaser**"), and together with the US Purchaser, the "**Purchasers**"), MAV Beauty Brands Inc., and Marc Anthony Cosmetics Ltd. (together, the "**Canadian Sellers**"), Marc Anthony Cosmetics USA, Inc., MAV Midco Holdings, LLC, Renpure, LLC and The Mane Choice Hair Solution LLC (collectively, the "**US Sellers**", and with the Canadian Sellers, the "**Sellers**"), right, title and interest in and to the contracts including real property leases ("**Leases**") set out in **Schedule "A"** hereto (collectively, the "**Assigned Contracts**"), was heard this day by judicial videoconference via Zoom.

ON READING affidavits of Laurel MacKay-Lee sworn November 13 and 17, 2023 (together, the "**MacKay-Lee Affidavits**"), the affidavit of Mike Genereux sworn November 16,

2023, the affidavit of Kayla Dean Obia sworn November 16, 2023, the first report of Alvarez & Marsal Canada Inc. in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), dated November 20, 2023, and on hearing the submissions of counsel for the Applicants, counsel for the Purchasers, counsel for the Monitor, counsel for the Lenders, and such other parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Rania Hammad, as filed,

SERVICE AND CAPITALIZED TERMS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in the MacKay-Lee Affidavits, the Purchase Agreement, or the Approval, Vesting and Distribution Order issued in the within proceedings and dated the date hereof (the "**Approval, Vesting and Distribution Order**"), as applicable.

APPROVAL OF ASSIGNMENT OF ASSIGNED CONTRACTS

3. **THIS COURT ORDERS** that upon delivery of the Monitor's Certificate:

- (a) all of the rights and obligations of the US Sellers under the Assigned Contracts and as set forth in **Schedule "A"** shall be assigned, conveyed, transferred and assumed by the US Purchaser pursuant to section 11.3 of the CCAA and such assignment is valid and binding upon all of the counterparties to the respective Assigned Contracts notwithstanding any restriction or prohibition, if any, contained in any such Assigned Contract relating to the assignment thereof, including but not limited to, provisions, if any, relating to a change of control or requiring the consent of or notice for any period in advance of the assignment to any party to any such Assigned Contract;
- (b) all of the rights and obligations of the Canadian Sellers under the Assigned Contracts and as set forth in **Schedule "A"** shall be assigned, conveyed, transferred and assumed by the Canadian Purchaser pursuant to section 11.3 of the CCAA and such assignment is valid and binding upon all of the counterparties to the respective Assigned Contracts notwithstanding any restriction or prohibition,

if any, contained in any such Assigned Contract relating to the assignment thereof, including but not limited to, provisions, if any, relating to a change of control or requiring the consent of or notice for any period in advance of the assignment to any party to any such Assigned Contract;

- (c) the Assigned Contracts shall remain in full force and effect and the counterparties under the respective Assigned Contracts are prohibited from exercising any rights or remedies (including, without limitation, any right of set-off) under the Assigned Contracts, and shall be forever barred, enjoined and estopped from taking such action, by reason of:
 - (i) any defaults arising from the fact the Sellers or any of their affiliates were declared insolvent;
 - (ii) the commencement of this CCAA proceeding;
 - (iii) any defaults that arise solely upon the assignment of the Assigned Contracts to the Purchasers;
 - (iv) any change of control of the Sellers or their affiliates arising from the implementation of the Purchase Agreement and/or the Transaction and its implementation shall be deemed not to constitute a change in ownership or change in control under any Assigned Contract; or
 - (v) the Sellers having breached a non-monetary obligation under the Assigned Contract, except to the extent such non-monetary breach continues after the delivery of the Monitor's Certificate,

and the counterparties under the respective Assigned Contracts are hereby deemed to waive any and all defaults relating thereto any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under an Assigned Contract shall be deemed to have been rescinded and of no further force or effect. For greater certainty: (A) without limiting the foregoing, no counterparty under an Assigned Contract shall rely on a notice of default sent prior to the filing of the Monitor's Certificate to terminate an Assigned Contract as against the Purchasers; and (B) nothing herein shall limit or exempt

the Purchasers in respect of obligations accruing, arising or continuing after the Closing of the Transaction under the Assigned Contracts other than in respects of items (i) to (v) above.

4. **THIS COURT ORDERS** that the assignment of the Assigned Contracts shall be subject to the provisions of the Approval, Vesting and Distribution Order directing that the Sellers' rights, title and interests in the Assigned Contracts shall vest absolutely in the applicable Purchaser free and clear of all Claims and Encumbrances other than as specifically exempted in the Approval, Vesting and Distribution Order and the Permitted Encumbrances referenced in the Approval, Vesting and Distribution Order.

5. **THIS COURT ORDERS** that if an Assigned Contract is removed from the Purchased Assets prior to the Closing pursuant to the Purchase Agreement, such contract shall cease to be an Assigned Contract for purposes of this Order.

6. **THIS COURT ORDERS** that no Assigned Contract may be assigned hereunder unless all amounts owing in respect of monetary defaults under the Assigned Contract, other than those arising by reason only of the Sellers' insolvency, the commencement of this CCAA proceeding, or the Sellers' failure to perform a non-monetary obligation, are paid to the applicable counterparty on or by the Closing Date, or such later date as may be agreed to by the applicable Purchaser and the applicable counterparty under the Assigned Contract on prior written notice to the Monitor.

7. **THIS COURT ORDERS** that upon delivery of the Monitor's Certificate contemplated by the Approval, Vesting and Distribution Order, except as expressly set out to the contrary in any agreement among the Sellers, the applicable Purchaser and the applicable counterparty under the Assigned Contract, the Purchasers shall be entitled to all of the rights and benefits and subject to all of the obligations pursuant to the terms of the applicable Assigned Contracts.

8. **THIS COURT ORDERS** that notwithstanding anything contained in this Order and subject to paragraph 5 hereof, nothing shall derogate from the obligations of the Purchasers to assume the Assigned Contracts and to perform the Purchasers' obligations under the Assigned Contracts, and save as specifically set out in this Order, nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of any of the Leases which are assigned to the Canadian Purchaser except as expressly set out to the contrary in any agreement among the Sellers, the Purchasers and the applicable counterparty under the Assigned Contract.

9. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy or receivership now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"), in respect of the Sellers or its property, and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Sellers; and
- (d) the provision of any federal or provincial statute,

the assignment of the Assigned Contracts to the Purchasers in accordance with this Order and the Purchase Agreement shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Sellers or their property and shall not be void or voidable by creditors of the Sellers, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. **THIS COURT DIRECTS** the Sellers to send a copy of this Order to the service list and to all of the counterparties to the Assigned Contracts.

GENERAL

11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

14. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this Order without the need for entry or filing.

SCHEDULE “A”

I. Assigned Contracts assigned to the US Purchaser

1. Administrative Service Agreement between Paychex, Inc. and its affiliates and Marc Anthony Cosmetics dated February 24, 2017.
2. Shopify Plus Agreement between Shopify Inc. and The Mane Choice dated effective August 24, 2017.
3. Walmart General Merchandise Agreement between Walmart Inc. and Renpure, LLC, dated October 2, 2020, Agreement Number 524793-46-1.
4. SAM'S CLUB Sam's General Merchandise Agreement between Walmart Inc. and The Mane Choice dated April 30, 2021, Agreement Number 743542-61-0.
5. Walmart General Merchandise Agreement between Walmart Inc. and Mane Choice dated October 28, 2020, Agreement Number 743542-46-1.
6. Supplier Agreement between Renpure, LLC and Wal-Mart Stores, Inc., Wal-Mart Stores East, LP, Wal-Mart Stores East, Inc., Wal-Mart Stores Texas, LP, Sam's West, Inc., Sam's East, Inc. and affiliates dated August 12, 2010.
7. Vendor Terms and Conditions between Amazon.com Services LLC and any person or entity who wants to supply all goods provided by Amazon.
8. Marketing Development Funds / Co-Op Activities Agreement #62271565 between Renpure, LLC and Amazon.com Services LLC and its affiliates dated April 1, 2023.
9. Marketing Development Funds / Co-Op Activities Agreement #58676125 between Renpure, LLC and Amazon.com Services LLC and its affiliates dated January 1, 2023.
10. Marketing Development Funds / Co-Op Activities Agreement #58663710 between Renpure, LLC and Amazon.com Services LLC and its affiliates dated January 1, 2023.
11. Whole Foods Market's Supplier Chargeback Agreement between Whole Foods Market Services Inc. and Renpure dated February 22, 2019.
12. Agreement to the standardized terms and conditions of purchase between The Mane Choice and Sally Beauty Supply LLC dated February 17, 2021.
13. Purchase Order between Mane Choice Hair Solution LLC and Yotpo Inc. dated September 13, 2023, in the amount of \$8,388.00.
14. Purchase Order between Marc Anthony and CVS, Inc. dated October 12, 2023, in the amount of \$1,542.57.
15. Purchase Order between Renpure, LLC and Walmart dated October 23, 2023, in the amount of \$3,245.30.

II. Assigned Contracts assigned to the Canadian Purchaser

1. Payment Plan Agreement (No. 25851) and Payment Schedule (Contract No. 180639) between Marc Anthony Cosmetics Ltd. and Oracle Canada ULC dated February 28, 2023.
2. Notification of Assignment dated April 28, 2023 of the Payment Plan Agreement and Payment Schedule between Marc Anthony Cosmetics Ltd. and Oracle Canada ULC dated February 28, 2023, Contract No. 180639, to BAL Global Finance Canada Corporation.
3. Shopify Plus Agreement between Shopify Inc. and Cake Beauty Inc. dated October 31, 2017.
4. Walmart General Merchandise Agreement between Walmart Inc. and Marc Anthony Cosmetics Ltd. dated October 2, 2020, Agreement Number 671461-46-1.
5. Vendor Terms and Conditions between Amazon.com Services LLC and any person or entity who wants to supply all goods provided by Amazon.
6. Marketing Development Funds / Co-Op Activities Agreement #58701065 between Cake Beauty and Amazon.com Services LLC and its affiliates dated January 1, 2023.
7. Freight Allowance Agreement #58647065 between Cake Beauty and Amazon.com Services LLC and its affiliates dated January 1, 2023.
8. Marketing Development Funds / Co-Op Activities Agreement #58647080 between Cake Beauty and Amazon.com Services LLC and its affiliates dated January 1, 2023.
9. Marketing Development Funds / Co-Op Activities Agreement #58700695 between MAV Beauty Brands and Amazon.com Services LLC and its affiliates dated January 1, 2023.
10. Marketing Development Funds / Co-Op Activities Agreement #58700760 between MAV Beauty Brands and Amazon.com Services LLC and its affiliates dated January 1, 2023.
11. Freight Allowance Agreement #58700730 between MAV Beauty Brands and Amazon.com Services LLC and its affiliates dated January 1, 2023.
12. General Trade and Electronic Data Interchange Agreement between Walgreen Co. and Marc Anthony Cosmetics Ltd. dated October 9, 2023.
13. Whole Body EDLC Agreement between WFM Purchasing, L.P. and Marc Anthony Cosmetics Ltd. & Affiliates, dated January 11, 2021.
14. Supplier Agreement between Marc Anthony Cosmetics Ltd. and United Natural Foods, Inc., dated April 1, 2020.
15. Contact Centre Services Agreement between Marc Anthony Cosmetics Ltd. and Call Centre Guys Inc. dated April 21, 2021.
16. Order Confirmation and Agreement for One-Year Subscription between Marc Anthony Cosmetics, Ltd. and Nielsen Consumer LLC dated July 7, 2023, in the amount of \$110,674.
17. Order Confirmation and Agreement for One-Year Subscription between Marc Anthony Cosmetics, Ltd. and Nielsen Consumer LLC dated August 14, 2023, in the amount of \$4,334.39.

18. Office Lease between Penguin-Calloway (Vaughan) Inc., Marc Anthony Cosmetics Ltd. and MAV Beauty Brands Inc. dated July 27, 2018, as amended by the Lease Amending Agreement dated October 19, 2018 (Municipally known as 100 New Park Place, Vaughan, Ontario, L4K 0H9).

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BRANDS INC., MARC ANTHONY COSMETICS LTD., MARC ANTHONY US HOLDINGS, INC.,
MARC ANTHONY COSMETICS USA, INC., MAC PURE HOLDINGS, INC., MAV MIDCO
HOLDINGS, LLC, RENPURE, LLC, ONESTA HAIR CARE, LLC, and THE MANE CHOICE HAIR
SOLUTION LLC

**ONTARIO
SUPERIOR COURT OF JUSTICE
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PROCEEDING COMMENCED AT TORONTO

ASSIGNMENT ORDER

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