

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
GNC HOLDINGS, INC., <i>et al.</i> ,)	Case No. 20-11662 (KBO)
)	
Debtors. ¹)	
)	Re: Docket Nos. 4, 116, and 498
)	

**NOTICE OF (I) NOTIFICATION PROCEDURES APPLICABLE TO
SUBSTANTIAL SHAREHOLDERS AND 50-PERCENT SHAREHOLDERS OF GNC
HOLDINGS, INC. COMMON STOCK AND CONVERTIBLE PREFERRED STOCK,
(II) NOTIFICATION AND HEARING PROCEDURES FOR TRANSFERRING
GNC HOLDINGS, INC. COMMON STOCK AND CONVERTIBLE PREFERRED
STOCK, (III) NOTIFICATION AND HEARING PROCEDURES FOR TAKING A
WORTHLESSNESS DEDUCTION WITH RESPECT TO GNC HOLDINGS, INC.
COMMON STOCK AND CONVERTIBLE PREFERRED STOCK, AND
(IV) ALLOWING A HEARING ON THE PROSPECTIVE APPLICATION THEREOF**

**TO: CERTAIN PERSONS OR ENTITIES WITH COMMON STOCK AND
CONVERTIBLE PREFERRED STOCK IN GNC HOLDINGS, INC.**

PLEASE TAKE NOTICE that on June 23, 2020 (the “*Petition Date*”), GNC Holdings, Inc. (“*GNC*”) and its above-captioned affiliates (collectively, the “*Debtors*”), commenced chapter 11 cases (the “*Chapter 11 Cases*”) under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “*Bankruptcy Code*”). Subject to certain exceptions, Bankruptcy Code Section 362 operates as a stay of any act to obtain possession of property of the Debtors’ estates or to exercise control over property of the Debtors’ estates.

PLEASE TAKE FURTHER NOTICE that on June 24, 2020, the Debtors filed a motion seeking entry of an order pursuant to Bankruptcy Code Sections 105(a), 362(a)(3), and 541 establishing certain notice and hearing procedures that must be satisfied before certain

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor’s United States federal tax identification number, if applicable, or other applicable identification number, are: GNC Holdings, Inc. (6244); GNC Parent LLC (7572); GNC Corporation (5170); General Nutrition Centers, Inc. (5168); General Nutrition Corporation (4574); General Nutrition Investment Company (3878); Lucky Oldco Corporation (7141); GNC Funding, Inc. (7837); GNC International Holdings, Inc. (9873); GNC China Holdco, LLC (0004); GNC Headquarters LLC (7550); Gustine Sixth Avenue Associates, Ltd. (0731); GNC Canada Holdings, Inc. (3879); General Nutrition Centres Company (0939); GNC Government Services, LLC (2295); GNC Puerto Rico Holdings, Inc. (4559); and GNC Puerto Rico, LLC (7234). The debtors’ mailing address is 300 Sixth Avenue, Pittsburgh, Pennsylvania 15222.

Error! Unknown document property name.

shareholders may make transfers of, or take worthlessness deductions with respect to, common stock and Series A convertible preferred stock in GNC (respectively, the “*Common Stock*” and the “*Convertible Preferred Stock*”) (the “*Motion*”).

PLEASE TAKE FURTHER NOTICE that on July 21, 2020, the United States Bankruptcy Court for the District of Delaware (the “*Bankruptcy Court*”) entered a final order approving the procedures set forth in the Motion and below order to preserve the Debtors’ ability to fully utilize their Tax Attributes (as defined in the Motion) pursuant to Bankruptcy Code Sections 105(a), 362(a)(3), and 541 (the “*Final Order*”). Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Final Order, unless otherwise stated. Any purchase, sale, or other transfer of, or the taking of any worthlessness deduction with respect to, Common Stock and Convertible Preferred Stock in violation of the procedures set forth below shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Sections 362 and 105(a).

PLEASE TAKE FURTHER NOTICE that, pursuant to the Final Order, the following procedures shall apply to owning and transferring Common Stock and Convertible Preferred Stock (the “*Equity Transfer Procedures*”):²

- (a) Any person or entity (as defined in Treasury Regulations Section 1.382-3(a)) who currently is or hereafter becomes a Substantial Shareholder (as such term is defined in paragraph (e) below) must file with the Bankruptcy Court, and serve upon (i) the Debtors and counsel for the Debtors and (ii) counsel to the Ad Hoc Group of Crossover Lenders, a notice of such status (each a “*Notice of Status as a Substantial Shareholder*”) on or before the later of (i) twenty (20) calendar days after entry of the Interim Order or (ii) ten (10) days after becoming a Substantial Shareholder.
- (b) At least twenty (20) calendar days prior to effectuating any transfer³ of Common Stock (including options to acquire Common Stock, as defined in paragraph (e) below) or Convertible Preferred Stock that would result in an increase in the amount of Common Stock or Convertible Preferred Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity becoming a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Bankruptcy Court, and serve upon the Debtors and counsel for the Debtors, an advance written notice of the intended transfer of Common Stock or Convertible Preferred Stock (each a “*Notice of Intent to Purchase, Acquire, or Otherwise*”).

² This summary is qualified in its entirety by reference to the provisions of the Final Order. To the extent any inconsistency exists between this Notice and the Final Order, the terms of the Final Order shall govern and control.

³ For purposes of this Notice, a “*transfer*” includes any conversion of shares of Convertible Preferred Stock into shares of Common Stock.

Accumulate”).

- (c) At least twenty (20) calendar days prior to effectuating any transfer of Common Stock (including options to acquire Common Stock) or Convertible Preferred Stock that would result in a decrease in the amount of Common Stock or Convertible Preferred Stock beneficially owned by a Substantial Shareholder, or would result in a person or entity ceasing to be a Substantial Shareholder, such Substantial Shareholder, person or entity must file with the Bankruptcy Court, and serve upon the Debtors and counsel for the Debtors, an advance written notice of the intended transfer of Common Stock or Convertible Preferred Stock (each a “*Notice of Intent to Sell, Trade, or Otherwise Transfer*” and, collectively with each Notice of Intent to Purchase, Acquire, or Otherwise Accumulate, a “*Notice of Proposed Transfer*”).
- (d) The Debtors shall have fifteen (15) calendar days after receipt of a Notice of Proposed Transfer, and after consultation with the Ad Hoc Group of Crossover Lenders, to file with the Bankruptcy Court and serve upon such Substantial Shareholder, person or entity an objection to any proposed transfer of Common Stock or Convertible Preferred Stock described in the Notice of Proposed Transfer on the grounds that such transfer might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors file an objection, such transfer would not be effective unless approved by a final and non-appealable order of the Bankruptcy Court. If the Debtors do not object within such 15-day period, such transfer shall be permitted to proceed solely as set forth in the Notice of Proposed Transfer. Further transfers within the scope of this paragraph (d) shall be the subject of additional notices as set forth herein, with additional 15-day waiting periods.
- (e) For purposes of these procedures: (i) a “*Substantial Shareholder*” is any person or entity that beneficially owns in excess of: (A) 4,018,926 shares of Common Stock (representing approximately 4.75% of all issued and outstanding shares of Common Stock); (B) 14,247 shares of Convertible Preferred Stock (representing approximately 4.75% of all issued and outstanding shares of Convertible Preferred Stock); or (C) 4.75% of all issued and outstanding shares of stock of GNC, based on value, taking into account all shares of Common Stock and Convertible Preferred Stock owned by such person or entity, (ii) “*beneficial ownership*” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Internal Revenue Code of 1986, as amended (the “*Tax Code*”), Treasury Regulations promulgated thereunder (other than Treasury Regulations Section 1.382-

2T(h)(2)(i)(A)) and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder's family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire, and (iii) an "*option*" to acquire stock includes all interests described in Treasury Regulations Section 1.382-4(d)(9), including any option, contingent purchase, right, warrant, convertible debt, put, call, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

- (f) Effective as of the Petition Date and until further order of the Court to the contrary, any purchase, sale, or other transfer of beneficial ownership of Common Stock, including options to acquire Common Stock, or Convertible Preferred Stock in violation of these procedures shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Sections 362 and 105(a).

PLEASE TAKE FURTHER NOTICE that, pursuant to the Final Order, the following procedures shall apply to taking worthlessness deductions, for income tax purposes, with respect to GNC common stock (the "**Worthless Stock Deduction Procedures**"): ⁴

- (a) Any person or entity that currently is or becomes a 50-percent Shareholder (as such term is defined in paragraph (d) below) must file with the Bankruptcy Court, and serve upon (i) the Debtors and counsel for the Debtors and (ii) counsel to the Ad Hoc Group of Crossover Lenders, a notice of such status (each a "**Notice of Status as a 50-percent Shareholder**") on or before the later of (i) twenty (20) calendar days after entry of the Interim Order or (ii) ten (10) days after becoming a 50-percent Shareholder.
- (b) At least twenty (20) calendar days prior to filing any income tax return, or any amendment to such a return, taking any worthlessness deduction with respect to Common Stock or Convertible Preferred Stock for a tax year ending before the Debtors' emergence from chapter 11 protection, such 50-percent Shareholder must file with the Bankruptcy Court, and serve upon (i) the Debtors and counsel for the Debtors and (ii) counsel to the Ad Hoc Group of Crossover Lenders, an advance written notice of the intended worthlessness

⁴ This summary is qualified in its entirety by reference to the provisions of the Final Order. To the extent any inconsistency exists between this Notice and the Final Order, the terms of the Final Order shall govern and control.

deduction (each a “*Notice of Intent to Take a Worthless Stock Deduction*”).

- (c) The Debtors shall have fifteen (15) calendar days after receipt of a Notice of Intent to Take a Worthless Stock Deduction, and after consultation with the Ad Hoc Group of Crossover Lenders, to file with the Bankruptcy Court and serve upon such 50-percent Shareholder an objection to any proposed worthlessness deduction described in the Notice of Intent to Take a Worthless Stock Deduction on the grounds that such deduction might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors file an objection, the filing of the income tax return with such deduction would not be permitted or effective unless approved by a final and non-appealable order of the Bankruptcy Court. If the Debtors do not object within such 15-day period, the filing of the income tax return with such deduction shall be permitted as set forth in the Notice of Intent to Take a Worthless Stock Deduction. Additional income tax returns within the scope of this paragraph (c) shall be the subject of additional notices as set forth herein, with additional 15-day waiting periods.
- (d) For purposes of these procedures: (i) a “*50-percent Shareholder*” is any person or entity that at any time during the three-year period ending on the Petition Date has had beneficial ownership of 50% or more of Common Stock or Convertible Preferred Stock or is otherwise considered a 50-percent shareholder of GNC within the meaning of Section 382(g)(4)(D) of the Tax Code and the applicable Treasury Regulations thereunder; (ii) “*beneficial ownership*” of equity interests means beneficial ownership for U.S. federal income tax purposes as determined in accordance with applicable rules under Section 382 of the Tax Code, Treasury Regulations promulgated thereunder (other than Treasury Regulations Section 1.382-2T(h)(2)(i)(A)) and rulings issued by the Internal Revenue Service, and thus, to the extent provided therein, from time to time shall include, without limitation, (A) direct and indirect, actual and constructive, beneficial ownership (for example, a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries), (B) ownership by such holder’s family members and other related persons and persons acting in concert with such holder to make a coordinated acquisition of stock, and (C) ownership of shares which such holder has an option to acquire, and (iii) an “*option*” to acquire stock includes all interests described in Treasury Regulations Section 1.382-4(d)(9), including any option, contingent purchase, right, warrant, convertible debt, put, call, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

- (e) In the event that a 50-percent Shareholder takes a worthlessness deduction with respect to Common Stock or Convertible Preferred Stock in violation of these procedures, such worthlessness deduction shall be null and void *ab initio* as an act in violation of the automatic stay under Bankruptcy Code Sections 362 and 105(a), and such 50-percent Shareholder shall be required to file an amended income tax return, as applicable, revoking such worthlessness deduction.

PLEASE TAKE FURTHER NOTICE that, upon written request, the Debtors' notice and claims agent, Prime Clerk LLC ("**Prime Clerk**"), will provide a form of each of the required notices described above.

PLEASE TAKE FURTHER NOTICE that Prime Clerk can be contacted online at <https://cases.primeclerk.com/GNC>, or by calling 1-844-974-2132 (for domestic callers) or 1-347-505-7137 (for international callers).

FAILURE TO FOLLOW THE PROCEDURES SET FORTH IN THIS NOTICE OF ORDER OR THE FINAL ORDER SHALL CONSTITUTE A VIOLATION OF THE AUTOMATIC STAY PROVISIONS OF BANKRUPTCY CODE SECTION 362.

ANY PROHIBITED PURCHASE, SALE, TRADE, OR OTHER TRANSFER OF, OR THE TAKING OF ANY WORTHLESSNESS DEDUCTION WITH RESPECT TO, COMMON STOCK AND CONVERTIBLE PREFERRED STOCK IN VIOLATION OF THE FINAL ORDER SHALL BE NULL AND VOID *AB INITIO* AND MAY BE PUNISHED BY CONTEMPT OR OTHER SANCTIONS IMPOSED BY THE BANKRUPTCY COURT.

PLEASE TAKE FURTHER NOTICE that the requirements set forth in this Notice of Order are in addition to the requirements of Bankruptcy Rules 3001 and 3002 and all applicable securities, corporate and other laws, and do not waive compliance or excuse non-compliance therewith.

Dated: July 22, 2020

**YOUNG CONAWAY STARGATT &
TAYLOR, LLP**

/s/ Joseph M. Mulvihill

Michael R. Nestor (No. 3526)
Kara Hammond Coyle (No. 4410)
Andrew L. Magaziner (No. 5426)
Joseph M. Mulvihill (No. 6061)
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: mnestor@ycst.com
kcoyle@ycst.com
amagaziner@ycst.com
jmulvihill@ycst.com

LATHAM & WATKINS LLP

Richard A. Levy (*pro hac vice* pending)
Caroline A. Reckler (*pro hac vice* pending)
Asif Attarwala (*pro hac vice* pending)
Brett V. Newman (*pro hac vice* pending)
330 North Wabash Avenue, Suite 2800
Chicago, Illinois 60611
Telephone: (312) 876-7700
Facsimile: (312) 993-9767
Email: richard.levy@lw.com
caroline.reckler@lw.com
asif.attarwala@lw.com
brett.newman@lw.com

- and -

George A. Davis (*pro hac vice* pending)
Jeffrey T. Mispagel (*pro hac vice* pending)
885 Third Avenue
New York, New York 10022
Telephone: (212) 906-1200
Facsimile: (212) 751-4864
Email: george.davis@lw.com
jeffrey.mispagel@lw.com

Counsel to the Debtors and Debtors in Possession