



Order Filed on May 3, 2016
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

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In re:

ASHLEY STEWART HOLDINGS, INC., et al.,¹

Debtors-in-Possession.

Case No. 14-14383 (MBK)
Judge: Honorable Michael B. Kaplan
Chapter 11
(Jointly Administered)

**ORDER GRANTING JOINT MOTION OF THE DEBTORS AND THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS FOR ENTRY OF AN ORDER,
PURSUANT TO 11 U.S.C. §§ 105(a), 305(a), 349, AND 1112(b) AND FED. R. BANKR.
P. 1017(a), (I) APPROVING PROCEDURES FOR DISTRIBUTION OF SUMS
PURSUANT TO THE GLOBAL SETTLEMENT AND FOR DISMISSING THE
DEBTORS' CHAPTER 11 CASES, AND (II) GRANTING RELATED RELIEF**

DATED: May 3, 2016

Honorable Michael B. Kaplan
United States Bankruptcy Judge

Page: 1
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The relief set forth on the following pages, numbered two (2) through seven (7), is hereby ORDERED.

Page: 2
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Upon the motion (the "Motion")¹ of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") for entry of an order (this "Order") and the Official Committee of Unsecured Creditors (the "Committee") seeking entry of an order, pursuant to sections 105(a), 305(a), 349, and 1112(b) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 1017(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (i) approving procedures for distributions of sums pursuant to the Global Settlement and for dismissing the Chapter 11 Cases, and (ii) granting related relief; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* dated as of September 18, 2012; and it appearing that the Motion is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2); and it appearing that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other or further notice need be provided; and appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.

¹ Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Motion.

Page: 3
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2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits and denied with prejudice.

3. Each of the Chapter 11 Cases shall be dismissed upon a certification filed jointly by the Debtors and the Committee certifying that (a) the Debtors and the Committee have completed the claims reconciliation process, (b) all U.S. Trustee fees attributable to the Debtors have been paid in full, (c) the Debtors and the Committee have distributed the "Aggregate Net Sale Proceeds" and the Excess Cash in accordance with the terms of the Settlement Agreement and the Motion, (d) the Court has entered orders with respect to final fee applications for estate professionals, (e) the Debtors have disbursed funds to or caused to be disbursed funds to creditors pursuant to a schedule filed with the Court.

4. The Utility Deposit (as such term is defined in the *Final Order Determining Adequate Assurance of Payment for Future Utility Services*, entered by the Court on April 2, 2014 [Docket No. 200]) shall be treated as Excess Cash.

5. The Excess Cash shall be distributed first, to the payment of \$96,744.99 for the Tax Claims owed pursuant to the claim settlement agreements with certain state taxing authorities filed on February 24, 2016 at Docket Nos. 734, 735, 736, 737, and 738; second, to the payment of (i) approximately \$360,000 for Additional Professional Fees; (ii) approximately \$225,000 for Allowed unpaid Claims under section 503(b)(9) of the Bankruptcy Code and Allowed unpaid stub-rent Claims (as such terms are defined in the Global Settlement); and (iii)

Page: 4
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\$100,000 to the GBG Parties (as such term is defined in the Global Settlement) or, if later agreed upon by the Debtors and the GBG Parties, such lesser amount to the GBG Parties as is needed to fully satisfy (i) and (ii) above

6. The Tier 2 KEIP Payments shall be reallocated to share pro rata with the Additional Professional Fees funded by the Excess Cash.

7. Notwithstanding Bankruptcy Rule 3007, the Debtors and the Committee are permitted to file omnibus objections to proofs of claims on any grounds including but not limited to those grounds specified in Bankruptcy Rule 3007(d).

8. Notwithstanding dismissal of the Chapter 11 Cases, all provisions of the Global Settlement Order, including the releases provided for in paragraph 3 of such order, shall remain in full force and effect.

9. To the extent that there is a distribution to holders of claims as of the dismissal date of these Chapter 11 Cases from the GUC Account (as defined in the Global Settlement Order), any claim against the Debtors or the Debtors' estates that receives a distribution in connection with the waterfall set forth in the Global Settlement shall be deemed disallowed and released as to the Debtors and the Debtors' estates.

10. None of the Debtors, the Committee, or any of their respective members, officers, directors, employees, advisors, professionals or agents shall have or incur any liability to any holder of a Claim or Equity Interest for any act or omission in connection with, related to, or arising out of, the Chapter 11 Cases, except for willful misconduct or gross negligence, and, in

Page: 5
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all respects, the Debtors, the Committee, and each of their respective members, officers, directors, employees, advisors, professionals, and agents shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities in the Chapter 11 Cases.

11. Notwithstanding the dismissal of the case or anything else to the contrary, the Sale Order and the Purchase Agreement (as defined in the Sale Order) remain in full force and effect. Without limiting the generality of the foregoing, Section 2.1(k) of the Purchase Agreement providing for the transfer of all claims and causes of action of the Debtors and their estates to the Buyer (including those under Chapter 5 of the Bankruptcy Code) remains in full force and effect and is unaffected by this Order. All avoidance actions and other claims that could have been asserted by or through the Debtors or their estates (including pursuant to Sections 544(a) and (b) of the Bankruptcy Code) remain the exclusive property of the Buyer under the Purchase Agreement and the Sale Order. All creditors, shareholders and parties in interest are and remain enjoined from asserting any claim or cause of action conveyed to the Buyer under the Sale Order and the Purchase Agreement, notwithstanding the dismissal of the case.

12. The Debtors and their estates ratify their prior releases set forth in the Global Settlement Agreement and hereby confirm their release of the Released Parties (as defined in the Global Settlement Agreement) from any and all claims and causes of action, in law or in equity, that may be asserted by them or through them by any creditor, shareholder or party in interest, whether such claims and causes of action are known or unknown, liquidated or

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unliquidated, or contingent or non-contingent. All creditors, shareholders and parties in interest are and remain enjoined from asserting any claim or cause of action released hereunder or under the Global Settlement Agreement, including any derivative claim that would have been released if asserted by the Debtors or their estates directly, notwithstanding the dismissal of the case.

13. Notwithstanding section 349 of the Bankruptcy Code, all orders of this Court entered in the Chapter 11 Cases shall remain in full force and effect and shall survive the dismissal of the Chapter 11 Cases.

14. Notwithstanding anything contained in their respective organizational documents to the contrary, the Debtors are authorized, but not directed, to take such actions and expend such funds as may be necessary or appropriate to wind up and/or dissolve as corporate entities under applicable state law without the approval of, or any further action by, a board of directors, shareholders or any other party. The authorized representative of the Debtors is hereby authorized to file, as and when such representative determines to do so, with any necessary state entities, a copy of this Order and such other documents as may be necessary to effect such winding up or dissolution.

15. Upon dismissal of the Chapter 11 Cases, Curtis, Mallet-Prevost, Colt & Mosle LLP ("Curtis") and Cole Schotz P.C. ("Cole Schotz") shall be discharged as Debtors' counsel. Upon such occurrence, absent an objection received by December 31, 2016, Curtis, Cole Schotz and the Debtors are authorized to destroy all documents relating to the Chapter 11 Cases, including physical documentation to be shredded or otherwise disposed and electronic

Page: 7
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documentation to be deleted permanently. Also upon dismissal of the Chapter 11 Cases, the Committee shall be disbanded and Pachulski Stang Ziehl & Jones LLP shall be discharged as Committee counsel.

16. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of the Order shall be immediately effective and enforceable upon its entry, and the Debtors and the Committee shall be, and hereby are, authorized to take such actions as are necessary and appropriate to effectuate the terms of this Order.

17. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

18. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order and any other order entered in the Chapter 11 Cases.

19. A true copy of this Order shall be served on the Notice Parties by regular U.S. mail within three (3) days hereof.

Form 148 – ntcsmcs

UNITED STATES BANKRUPTCY COURT

District of New Jersey
MLK Jr Federal Building
50 Walnut Street
Newark, NJ 07102

Case No.: 14–14383–MBK
Chapter: 11
Judge: Michael B. Kaplan

In Re: Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Ashley Stewart Holdings, Inc.
100 Metro Way
Secaucus, NJ 07094

Social Security No.:

Employer's Tax I.D. No.:
27–3626790

NOTICE OF ORDER DISMISSING CASE

NOTICE IS HEREBY GIVEN that an Order Dismissing the above captioned Case was entered on 5/3/16.

Any discharge which was granted in this case is vacated. All outstanding fees to the Court incurred by the dismissed debtor(s) are due and owing and must be paid within seven (7) days from the date of this Order.

Dated: May 3, 2016
JJW: wir

James J. Waldron
Clerk