

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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	:	
In re	:	Chapter 11
	:	
BROOKS BROTHERS GROUP, INC., et al.,	:	Case No. 20-11785 (CSS)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
	x	Re: D.I. 154

**DECLARATION OF DEREK PITTS IN SUPPORT OF
MOTION OF DEBTORS FOR ENTRY OF ORDERS (I) APPROVING (A) BIDDING
PROCEDURES, (B) FORM AND MANNER OF NOTICE OF SALE, AUCTION,
AND HEARING, AND (C) ASSUMPTION AND ASSIGNMENT PROCEDURES,
(II) SCHEDULING AUCTION AND SALE HEARING, (III) APPROVING (A) SALE OF
SUBSTANTIALLY ALL OF DEBTORS’ ASSETS FREE AND CLEAR OF LIENS,
CLAIMS, INTERESTS, AND ENCUMBRANCES, AND (B) ASSUMPTION AND
ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND
(IV) GRANTING RELATED RELIEF, AND THE SUPPLEMENT RELATED THERETO**

I, Derek Pitts, make this declaration under 28 U.S.C. §1746:

1. I am over the age of 18 and competent to testify.
2. I am a Managing Director and Head of the Debt Advisory & Restructuring

Practice at PJ Solomon, L.P. (“**PJ Solomon**”), an investment banking and financial advisory firm with its principal office at 1345 Avenue of the Americas, 31st Floor, New York, New York 10105. PJ Solomon has been engaged by the Company (as defined below) for a variety of mandates dating back to October 2013. Most recently, in March 2020, PJ Solomon was engaged to serve as investment banker to Brooks Brothers Group Inc. (“**Brooks Brothers**”), and its debtor affiliates,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are Brooks Brothers Group, Inc. (8883); Brooks Brothers Far East Limited (N/A); BBD Holding 1, LLC (N/A); BBD Holding 2, LLC (N/A); BBDI, LLC (N/A); Brooks Brothers International, LLC (N/A); Brooks Brothers Restaurant, LLC (3846); Deconic Group LLC (0969); Golden Fleece Manufacturing Group, LLC (5649); RBA Wholesale, LLC (0986); Retail Brand Alliance Gift Card Services, LLC (1916); Retail Brand Alliance of Puerto Rico, Inc. (2147); and 696 White Plains Road, LLC (7265). The Debtors’ corporate headquarters and service address is 346 Madison Avenue, New York, New York 10017.

as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively with Brooks Brothers, the “**Debtors**,” and, together with their non-Debtor affiliates, the “**Company**”). I submit this declaration in support of (i) the *Motion of Debtors for Entry of Orders (I) Approving (A) Bidding Procedures, (B) Form and Manner of Notice of Sale, Auction, and Hearing, and (C) Assumption and Assignment Procedures, (II) Scheduling Auction and Sale Hearing, (III) Approving (A) Sale of Substantially All of Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, and (B) Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [D.I. No. 154] (the “**Motion**”),² and (ii) the *Supplement to Motion of Debtors for Entry of Orders (I) Approving (A) Bidding Procedures, (B) Form and Manner of Notice of Sale, Auction, and Sale Hearing, and (C) Assumption and Assignment Procedures, (II) Scheduling Auction and Sale Hearing, (III) Approving (A) Sale of Substantially All of Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, and (B) Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief*, which summarized and attached that certain *Asset Purchase Agreement* (the “**Stalking Horse Agreement**”) by and among Brooks Brothers , 696 White Plains Road, LLC, Brooks Brothers International, LLC, Brooks Brothers Restaurant, LLC, RBA Wholesale, LLC, Retail Brand Alliance Gift Card Services, LLC, Retail Brand Alliance Of Puerto Rico, Inc., Brooks Brothers Canada Ltd., BBD Holding 1, LLC, BBD Holding 2, LLC, and BBDI, LLC and SPARC Group LLC.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion or the Bidding Procedures, as applicable.

Qualifications

3. During my career, I have participated in a wide variety of in-court and out-of-court restructuring, recapitalization, financing, and sale transactions across a broad range of industries and geographies. Further, the current managing directors, directors, vice presidents, and associates of PJ Solomon have extensive experience working with financially troubled companies in complex financial restructurings, both out-of-court and in chapter 11 proceedings. PJ Solomon and its principals have been involved as advisor to debtors, creditors, equity constituencies, and government agencies in many reorganization cases.

4. PJ Solomon provides a broad range of financial advisory and investment banking services to its clients, including in large mergers and acquisitions assignments and in the reorganization and restructuring of distressed companies. PJ Solomon and its professionals have extensive experience in the retail industry, including in providing financial and strategic advice to clients such as Payless ShoeSource, Sears Hometown and Outlet, Stage Stores, Tailored Brands, PVH, Tractor Supply Company, Genesco, Stein Mart, Hudson's Bay Company, Home Depot, Five Below, Kenneth Cole Productions, VF Corporation, Barnes & Noble, Office Depot, Hibbett Sports, Perry Ellis International, and The Finish Line, among many others.

5. In addition, PJ Solomon and its professionals have assisted and advised numerous financially troubled companies from a variety of industries in complex financial restructurings, both out of court and in chapter 11 cases. PJ Solomon and its professionals are providing, or have provided, investment banking, financial advisory, and other services in connection with the following recent cases: *In re Lucky's Mkt. Parent Co.*, Case No. 20-10166 (JTD) (Bankr. D. Del Feb. 26, 2020) [D.I. 279]; *In re Fairway Grp. Holdings Corp.*, Case No. 20-10161 (JLG) (Bankr. S.D.N.Y. Mar. 4, 2020) [D.I. 252]; *In re iPic-Gold Class Entm't, LLC*, Case No. 19-11739 (LSS) (Bankr. D. Del. Sept. 11, 2019) [D.I. 254]; *In re Payless Holdings LLC*, Case

No. 19-40883 (Bankr. E.D. Mo. Mar. 19, 2019) [D.I. 606]; *In re Marsh Supermarkets Holding, LLC*, Case No. 17-11066 (BLS) (Bankr. D. Del. June 5, 2017) [D.I. 224]; *In re Quiksilver, Inc.*, Case No. 15-11880 (BLS) (Bankr. D. Del. Oct. 28, 2015) [D.I. 381]; *In re Dolan Co.*, Case No. 14-10614 (BLS) (Bankr. D. Del. Apr. 15, 2014) [D.I. 155].

6. PJ Solomon has been advising the Debtors for nearly a decade. In that capacity, PJ Solomon has become intimately familiar with the Debtors and their operations, and members of the PJ Solomon team and I have been directly involved in the matters leading up to the Debtors' chapter 11 filings.

7. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge of the Company's operations and finances, personal knowledge gleaned during the course of my engagement with the Company, my discussions with the Company's senior management or members of the PJ Solomon team, my review of relevant documents, or my opinion based upon experience, knowledge, and information concerning the Company's operations and financial affairs. I am authorized to submit this declaration. If called upon to testify, I could and would testify competently to the facts set forth herein.

Marketing Process

8. PJ Solomon has advised the Company on a number of matters for nearly a decade, and, in early 2019, the Company asked PJ Solomon to advise it on multiple strategic investment initiatives and transactions, including a potential sale (the "**Prepetition Sale Process**"). In April 2019, PJ Solomon contacted a significant number of potential domestic and international investors, including both strategic and financial investors, to solicit interest in the Company. During this process, interested investors executed confidentiality agreements and were provided with diligence access and a Confidential Information Memorandum ("**CIM**"). A number of parties submitted indications of interest ("**IOI**"). The Debtors engaged in extensive discussions

and negotiations with bidders and provided significant diligence to assist bidders in their evaluation of the Company.

9. As the diligence process progressed from late 2019 into 2020, the impact of COVID-19 began to materialize. As the COVID-19 pandemic rapidly intensified, the Debtors were forced to shut-down all of their North American stores on March 17, 2020. This severely jeopardized the Debtors' ability to consummate any previously contemplated transaction.

10. After further discussions with parties, in May 2020, PJ Solomon contacted approximately nine (9) parties that had previously executed non-disclosure agreements and had data room access, requesting that each party submit an IOI to act as a stalking horse bidder in connection with a potential chapter 11 case. In late-May 2020, several parties (approximately four (4)) submitted IOIs.

11. Following the receipt of such IOIs, PJ Solomon negotiated extensively with interested parties in an effort to develop and enhance their non-binding proposals. The Debtors continued negotiations with such parties, although the Debtors' liquidity constraints prior to the Petition Date required them to seek relief in Chapter 11 prior to being able to secure a value-maximizing agreement. Accordingly, after the Petition Date, and after securing postpetition financing, the Debtors continued to engage and negotiate with such parties, and engaged in advanced negotiations with multiple parties with respect to a potential stalking horse bid. During this process, press articles appeared in certain major publications disclosing the Debtors' marketing process and the existence of the negotiations.

12. After such negotiations, the Debtors, overseen by the Special Committee, determined that the bid provided by the Stalking Horse Bidder was the best transaction available to the Debtors and that entering into the Stalking Horse Agreement was in the best interests of the Debtors' estates.

13. The goal of the Debtors' continued postpetition sale process is now to leverage the Stalking Horse Agreement to have new or existing bidders submit offers for the Company's assets (and/or equity interests) in accordance with the Bidding Procedures. I believe that this process is the best option reasonably available given the circumstances to generate the greatest level of interest in purchasing the Assets and to reach the Company's objective of maximizing value for its stakeholders.

The Bidding Procedures and Marketing Process

14. The Bidding Procedures, if approved, including the timeline proposed, and the Company's marketing efforts will help facilitate a competitive sale process. The Company's business has been marketed to a substantial number of strategic and financial investors for over fifteen (15) months—since April 2019, including more than 90 potential investors across the globe. Many of the potential buyers that I believe are most likely to make Qualified Bids on the Company's assets were already contacted by PJ Solomon and the Company prior to the Petition Date in connection the Company's prepetition sales process, had the opportunity to make proposals prepetition, and are aware of the Company's goal of effectuating a prompt sale process to achieve the highest value available. To ensure these potential buyers were formally notified of the proposed process and timeline and were in a position to formulate bids, PJ Solomon sent a teaser and the Motion to all such known potential purchasers to solicit bids on the Assets in conjunction with the filing of the Motion.

15. The Debtors believe that the time periods set forth in the Bidding Procedures are reasonable and necessary under the circumstances and will provide all parties with sufficient time and information to submit a bid for all or part of the Debtors' businesses. In formulating the Bidding Procedures and the time periods set forth therein, the Debtors balanced the desire to provide notice to parties in interest and potential bidders with the need to quickly and

efficiently run a sale process with the Debtors' available liquidity to maximize value. To that end, the Debtors have encouraged, and the Bidding Procedures are designed to encourage, all prospective bidders to submit bids to provide the highest or otherwise best available recoveries to the Debtors' stakeholders.

16. Specifically, the Bidding Procedures establish the following key dates and deadlines for the sale process:

Key Event	Deadline
Deadline to Submit Bids	August 5, 2020 at 10:00 a.m. (prevailing Eastern Time)
Deadline for Debtors to Notify Bidders of Status as Qualified Bidders	August 6, 2020 at 4:00 p.m. (prevailing Eastern Time)
Auction to be Held if the Debtors Receive More Than One Qualified Bid	August 7, 2020 at 10:00 a.m. (prevailing Eastern Time)
Deadline to File Objections to Sale Transaction	August 7, 2020 at 4:00 p.m. (prevailing Eastern Time)
Deadline to (i) File Notice and Identities of Successful Bid(s) and Back-Up Bid(s) and (ii) Provide Affected Counterparties With the Successful Bidder's Proposed Form of Adequate Assurance of Future Performance With Respect to Proposed Assigned Contracts, if Applicable	August 9, 2020 at 4:00 p.m. (prevailing Eastern Time) or as soon as is practicable after the Auction
Deadline to File Objections to (i) Identity of Successful Bidder, (ii) Conduct of Auction, (iii) Cure, and (iv) Adequate Assurance	August 10, 2020 at 11:59 p.m. (prevailing Eastern Time)
Deadline to Reply to Objections to (i) Sale Transaction, (ii) Identity of Successful Bidder, (iii) Conduct of Auction, (iv) Cure, and (v) Adequate Assurance	August 11, 2020 at 11:59 a.m. (prevailing Eastern Time)
Sale Hearing	August 11, 2020 at 2:00 p.m. (prevailing Eastern Time)

17. An orderly but expeditious sale of the Assets is critical to both preserving and realizing the Company's going-concern value and maximizing recovery for the Debtors' economic stakeholders and also is required under the express terms of the DIP Credit Agreement.

Proceeding with the sale process on the proposed timeline will help ensure that the Debtors are able to secure a value-maximizing sale transaction while parties are interested.

18. This timeline is appropriate for several reasons. *First*, the Company's formulation of the Bidding Procedures was informed by the existence of a robust prepetition sales process. *Second*, this timeline will allow the Company to solicit and identify bids from potential bidders on a timeline that is consistent with the milestones in the debtor-in-possession financing facility. *Third*, the time periods set forth in the Bidding Procedures will provide parties with sufficient time to formulate bids to purchase the Assets. Any new potential bidders that enter the process postpetition will have sufficient time to consider a transaction and develop a bid, (i) given the approximately twenty-one (21) days between the filing of the Motion and the Bid Deadline (particularly because the Debtors announced their intention to commence a postpetition sales process on the Petition Date), and (ii) in light of the Stalking Horse Bid, which provides the market with material information with which to formulate a competing bid. Even more time will have passed since the Debtors announced their intention to commence a postpetition sales process in connection with their first day filings. All potential bidders will have an ability to have immediate access, subject to the execution of an appropriate confidentiality agreement, to a substantial body of information regarding the Debtors' assets and liabilities, including information gathered based upon countless, specific due diligence requests of various prepetition and postpetition bidders who participated in the sales process to date.

The Stalking Horse Bid

19. Pursuant to the Stalking Horse Agreement, the Stalking Horse Bidder will acquire (or have the right to acquire) substantially all of the Company's assets (the "**Acquired Assets**") on a going concern basis. The consideration offered by the Stalking Horse Bidder includes (i) an aggregate Dollar amount equal to (A) \$305,000,000, *minus* (B) the amount of the

Credit Bid (if any), *plus* (C) the Estimated Inventory Adjustment Amount, *minus* (D) the Customer Deposit Balance, (ii) at the option of the DIP Lenders, an aggregate credit bid of all or any portion of the DIP Obligations, and (iii) Buyer's assumption of the Assumed Liabilities.

20. The Stalking Horse Bid constitutes the best offer reasonably available for the Acquired Assets at this time. It is my opinion that subjecting the Stalking Horse Bid to the competitive bidding and auction process established by the Bidding Procedures will enable the Company to solicit higher or otherwise better bids for the benefit of all stakeholders.

The Stalking Horse Bid Protections

21. The Bidding Procedures and the Stalking Horse Agreement contain standard stalking horse bid protections. In particular, the Stalking Horse Agreement provides for (i) the payment of a break-up fee in an amount equal to three percent (3%) of the Stalking Horse Cash Consideration (i.e. \$9,150,000 million) and (ii) an Expense Reimbursement up to \$1,000,000 (collectively, the "**Termination Payment**") as a superpriority administrative expense in the event that the Stalking Horse Bid is not selected as the winning bidder or the Company consummates one or more sale transactions for the Assets with one or more other bidders.

22. The Stalking Horse Bidder was unwilling to hold open its offer without assurance of payment of the Termination Payment under the conditions set forth in the Stalking Horse Agreement and the Bidding Procedures. But the Company reasonably determined in its business judgment that such bid was important, if not essential, to help support the foundation for the final phase of the Company's sale process, including to give other bidders necessary information to proceed quickly and efficiently, and the Debtors' estates a minimum bid on which to rely, all to promote more competitive bidding. In other words, executing the Stalking Horse Agreement has put the Company in a position to solicit competing bids that may be materially higher or otherwise better than the Stalking Horse Bid. Accordingly, I believe that the Company's

decision to offer the Termination Payment is (a) commensurate to the benefits conferred upon the Company's estates by the Stalking Horse Bidder; and (b) fair, reasonable, and appropriate in light of the circumstances and the size and nature of the proposed sale and the efforts that have been and will be expended by the Stalking Horse Bidder.

23. Moreover, the complications associated with the constantly evolving COVID-19 pandemic add uncertainty to the continuation of any sales process. Thus, the Stalking Horse Bid represents a unique opportunity that the Debtors should be authorized to secure.

24. The Bidding Procedures contain an incremental overbid requirement of \$1,000,000 (the "**Minimum Overbid Amount**"), applicable during an auction after a baseline bid is selected. The Minimum Overbid Amount is fair and reasonable given the circumstances, is not likely to chill bidding, and will enable the Company to test the market to potentially achieve higher valuations through a sale process.

25. These components of the Bidding Procedures were heavily negotiated between the Stalking Horse Bidder and the Company. They are designed to facilitate a robust and competitive bidding process under the circumstances. The Bidding Procedures provide an appropriate framework for the Company to review, analyze, and compare all bids received to determine which bids are in the best interests of the Company's estates and their economic stakeholders. Sale transactions governed by the Bidding Procedures will serve the important objectives of obtaining not only a fair and reasonable purchase price for the Assets, but also to potentially achieve a higher valuation for the Assets, which will inure to the benefit of all parties in interest in these chapter 11 cases.

26. Finally, and importantly, the Bidding Procedures specifically allow those parties to submit bids for some or all Assets. These Bidding Procedures were designed with the goal of encouraging the sale of as much of the Assets on a going concern basis as possible while

providing the Company with flexibility to decide whether to execute such sale(s), based on the Company's reasonable business judgment. It is my opinion that the Bidding Procedures will, in fact, accomplish this goal.

I declare under penalty of perjury that the foregoing is true and correct.

Date: July 23, 2020
New York, New York

/s/ Derek Pitts
Derek Pitts
Managing Director, PJ Solomon