



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CLASSIC BRANDS HOLDINGS, LLC,
a Delaware limited liability company;

CLASSIC BRANDS INTERMEDIATE
HOLDINGS, LLC, a Delaware limited
liability company; and

CLASSIC BRANDS, LLC, a Delaware
limited liability company,

Assignors,

v.

CLASSIC BRANDS ABC, a Delaware
Series Limited Liability Company,

Assignee.

C.A. No. _____

**VERIFIED PETITION FOR ASSIGNMENT
FOR THE BENEFIT OF CREDITORS**

Assignee, Classic Brands ABC, a Delaware Series Limited Liability Company, by and through its undersigned counsel, submits this verified petition for an assignment for the benefit of creditors and states in support thereof as follows:

1. 10 *Del. C.* § 7381 confers jurisdiction on this Court in this case.
2. Classic Brands Holdings, LLC (“Parent”), Classic Brands Intermediate Holdings, LLC (“Intermediate”) and Classic Brands, LLC (“Opco”, and each an “Assignor” and collectively, “Assignors”), are each Delaware limited liability companies. Parent is the sole member of Intermediate. Intermediate is the sole member of Opco. According to records provided by Assignors to Assignee, Parent’s

members are A&M Classic Holdco, LLC, Michael Zippelli, Xiong Yu, Daniel Dietz, and John Zippelli. In accordance with the terms of Assignors' Operating Agreements, the Assignment has been authorized by Holdings Board of Directors and by the sole members of Intermediate and Opco.

3. Classic Brands ABC, a Delaware Series Limited Liability Company ("Assignee"), is a Delaware series limited liability company and is represented in this Assignment for the Benefit of Creditors proceeding (the "ABC Proceeding") by Klehr Harrison Harvey Branzburg LLP, 919 Market Street, Suite 1000, Wilmington, Delaware 19801, Attn: Richard M. Beck, Esquire.

4. Assignee is a series limited liability company of DSI ABCs, LLC. The sole and Managing Member of DSI ABCs, LLC, is Development Specialists, Inc., an Illinois corporation ("DSI"). DSI is a restructuring and insolvency consulting firm. Assignee is one of a number of series limited liability companies formed under DSI ABCs, LLC, that have been before and are currently before this Court as assignees in Delaware ABC proceedings. Further, DSI ABCs, LLC, and DSI have substantial experience in serving in fiduciary capacities, including serving as an assignee for the benefit of creditors, in both court supervised matters and out-of-court assignment estates in various jurisdictions. Assignee's supporting professionals and staff collectively have decades of experience administering assignment estates.

5. A copy of the General Assignment for the Benefit of Creditors executed by Assignors and Assignee (the “Assignment”) is attached hereto as **Exhibit 1**. Assignee intends to discharge the functions described in the Assignment.

6. Neither Assignee, DSI ABCs, LLC, nor DSI were retained by or provided services to Assignors. To the best of Assignee’s knowledge, Assignee was one of a number of assignee candidates considered by Assignors for this assignment.

7. Assignors’ predecessors were first founded in 1971 as Classic Corporation, which became a leading producer of waterbeds and waterbed products globally. In 2002, Classic Corporation became Classic Brands and expanded its product line to include high quality memory foam and latex mattresses, as well as pillows, bed frames, and other sleep accessories. Opco was formed in 2009 to continue the Classic Brands business. Starting in 2018, Opco began offering furniture products that ship directly to consumers.

8. According to financial information provided to Assignee, Assignors have reported negative monthly EBITDA consistently since August 2020.

9. Assignors have advised Assignee that they elected to proceed with this ABC Proceeding instead of other liquidation alternatives because, given their current circumstances, they determined that an ABC proceeding was a more

efficient and less costly alternative to other liquidation vehicles such as a bankruptcy proceeding.

10. Assignee was informed that, in spring 2022, Assignors retained an investment banker and explored a sale of the Assignors' operating assets on a going concern or other basis in an effort to maximize the value of the assets. The investment banker's efforts did not result in a going concern transaction or other transaction accepted by Assignors or their secured lenders.

11. Assignee has been informed by Assignors that, prior to the Assignment, Assignors have been liquidating their remaining inventory in the normal course of their business. The assigned inventory consists of certain branded and unbranded goods that are sold to different customers through different distribution channels. Assignee intends to continue the ordinary course sales of branded (subject to the terms of the IP License (as defined below)) and non-branded inventory during the ABC proceeding.

12. Assignors are parties to a Financing Agreement dated as of October 2, 2017 (as amended, modified, restated, or supplemented from time to time, the "Financing Agreement") by and among Parent, as guarantor, Intermediate (which joined the Financing Agreement on November 18, 2021) as guarantor, Opco, as borrower, Cerberus Business Finance, LLC, as "Collateral Agent" (as defined in the Financing Agreement) (in such capacity, the "Collateral Agent"), PNC Bank, National Association ("PNC"), as "Administrative Agent" (as defined in the

Financing Agreement) (in such capacity, “Administrative Agent” and together with Collateral Agent, “Agents”), and certain other lender signatories thereto (collectively, “Lenders”).

13. Under the “Loan Documents” (as defined in the Financing Agreement), Lenders provided Opco with revolving loans and term loans. The indebtedness and obligations were secured by liens and first priority security interests (the “Liens”) in substantially all of Assignors’ assets (the “Collateral”), including without limitation accounts, inventory, and intellectual property.

14. Assignors have been in default of the Loan Documents continuously since at least March 1, 2021. On that date, Assignors, Agents and Lenders executed a Forbearance Agreement under which, *inter alia*, Agents and Lenders agreed to temporarily forbear from exercising their rights and remedies under the Loan Documents as a result of events of default on the Loan Documents that were acknowledged by Parent and Opco (the “Forbearance Agreement”). The Forbearance Agreement has been amended fourteen times. Assignee has been advised that the Forbearance Agreement finally terminated on November 25, 2022.

15. On November 25, 2022, prior to the Assignment and commencement of this ABC Proceeding, Assignors, Agents, Lenders, Cerberus CB IP LLC (an affiliate of the Collateral Agent and certain Lenders), and Cerberus RH Warrant LLC (an affiliate of the Collateral Agent and certain Lenders) executed an Acceptance of Collateral in Partial Satisfaction of Obligations Agreement and

Waiver (the “Partial Foreclosure Agreement”) under which the Collateral Agent exercised certain of its rights and remedies under the Loan Documents and Sections 9-620 and 9-622 of the Uniform Commercial code to accept that portion of the Collateral comprising substantially all intellectual property of Assignors (the “Accepted IP Collateral”) and a Common Unit Purchase Warrant (the “Accepted Warrant Collateral”) issued to Opco by Resident Home Inc. (“RHI”), a Delaware corporation, in partial satisfaction of the remaining obligations owed under the Financing Agreement (the “Obligations”) pursuant to sections 9-620 and 9-622 of the Uniform Commercial Code as further specified in the Partial Foreclosure Agreement. Assignee is not a party to the Partial Foreclosure Agreement.

16. As a result of the Partial Foreclosure Agreement, the Accepted IP Collateral and Accepted Warrant Collateral are not included in the assets assigned to Assignee in the Assignment. However, Cerberus CB IP LLC (the assignee of the Accepted IP Collateral after the foreclosure) has granted to Opco an eight-month non-exclusive license to continue to use the Accepted IP Collateral in connection with the liquidation and sale of Opco’s remaining inventory under terms stated therein (the “IP License”), which will be binding on any successors or assigns of the Accepted IP Collateral. As an asset of Assignors at the time of the Assignment, the IP License was assigned to Assignee such that Assignee will be permitted to continue to use the Accepted IP Collateral subject to the terms of the IP License in the sale and liquidation of the assigned assets.

17. Assignee has been informed by Assignors that RHI is unaffiliated with Assignors and that the Accepted Warrant Collateral is unrelated to the business operated by Assignors at the time of the Assignment.

18. Assignee has been further informed that following the effectiveness of the Partial Foreclosure Agreement and prior to the effectiveness of the Assignment, the Collateral Agent appointed PNC as its sub-agent (PNC, in such capacity, the “Collateral Sub-Agent”) with respect to the “Revolver Priority Collateral” (as defined in the Financing Agreement), which is primarily comprised of Opco’s accounts receivable, inventory and the cash proceeds thereof. The Revolver Priority Collateral remained vested in Opco and was assigned to Assignee pursuant to the Assignment.

19. The remaining principal amount of the Obligations is comprised of not less than \$16,590,564.28 on account of the aggregate outstanding principal amount of Revolving Loans (as defined in the Financing Agreement) as of the close of business on November 23, 2022 and not less than \$18,723,737.57 on account of the aggregate outstanding principal amount of the Term Loans (as defined in the Financing Agreement) as of the date hereof and after giving effect to the closing of the transactions contemplated by the Partial Foreclosure Agreement prior to the commencement of this ABC Proceeding.

20. Assignee, through its counsel, has reviewed the extent, validity and priority of the Liens and concluded that the Liens were conveyed and granted by

Assignors for good and valuable consideration and properly perfected by the filing of UCC-1 Financing Statements on all of Assignors' assets with the Delaware Secretary of State.

21. As a condition to accepting the Assignment, Assignee has obtained the consent of PNC, as Collateral Sub-Agent, to liquidate the Revolver Priority Collateral and to use the cash proceeds of Revolver Priority Collateral to pay the projected costs of administering this ABC Proceeding. To memorialize this agreement, Assignee and the Collateral Sub-Agent, have executed a Consent and Limited Subordination Agreement dated November 25, 2022 (the "PNC Consent"), a true and correct copy of which is attached as **Exhibit 2**.

22. Under the PNC Consent, the Collateral Sub-Agent will consent to Assignee's use of cash proceeds of the Revolver Priority Collateral to fund the costs and expenses of this ABC Proceeding in accordance with a budget attached to the PNC Consent as Exhibit B. The budget was prepared by Assignee with input from Assignors' financial personnel and advisors and is also based upon Assignee's own experiences in similar proceedings. The budget provides for payment of all compensation and related obligations for employees retained by Assignee as independent contractors to assist in the administration of the ABC Proceeding.

23. Other assets assigned to Assignee, which are not operating assets and are separate and apart from Opco's inventory and accounts receivable, may constitute "Term Priority Collateral" (as defined in the Financing Agreement) that

is also encumbered by the Liens. During the ABC Proceeding, Assignee intends to determine the nature and extent of Term Priority Collateral and, if such assets are determined to have value, develop a liquidation plan with the cooperation and consent of the Collateral Agent and with the approval of the Court to be submitted in a separate motion in the ABC Proceeding.

24. With regard to professional fee expenses, Assignee was paid a retainer of \$150,000 by Assignors prior to filing this ABC Proceeding and, from this amount, Assignee's legal counsel was paid a retainer of \$100,000 pursuant to Assignee's engagement agreement with its legal counsel. Any amounts of the retainer not used prior to the commencement of this proceeding will be applied by Assignee and its legal counsel to professional fees and costs incurred during the course of this ABC proceeding. Additional professional fees will be paid out of the proceeds of Revolver Priority Collateral in accordance with the terms of the PNC Consent and the budget appended thereto as Exhibit B. *See* **Exhibit 2**.

25. In this ABC Proceeding, Assignee intends to:

- a. Request that the Court accept jurisdiction over this proceeding and enter the Order accepting jurisdiction and directing notice to creditors and known interested parties attached hereto as **Exhibit 3**;
- b. Request that creditors submit claims to Assignee in accordance with the notices provided by Assignee;

c. File an inventory, seek approval by separate motion of retention of two independent appraisers and obtain an appraisal of the assets, and post a bond as required under 10 *Del. C. § 7381 et seq.* and under such terms as the Court may impose;

d. Liquidate the remaining assets of Assignors that have been assigned to Assignee in ordinary course sales similar to the sales activity that occurred prior to the date of the Assignment;

e. To the extent Assignee determines in its reasonable business judgment that all or any part of the assets should be sold in an auction, to request the Court's approval of an auction sale process by a separate motion;

f. Distribute the proceeds of the assets in accordance with the order of priority set forth in the Assignment, applicable law and under the terms and conditions of the PNC Consent;

g. Take such other actions that are necessary to fully administer the assets that have been assigned to the Assignee;

h. Request such other relief from the Court that Assignee determines is reasonably necessary to complete the liquidation of the assigned assets and the distribution of the proceeds thereof, including filing periodic status reports if the Court so requests; and

i. After the foregoing tasks have been completed and the Assignment fully administered and completed, to file a final Report and Accounting

of the receipts and disbursements administered and request entry of an order finally closing this case.

WHEREFORE, Classic Brands ABC, a Delaware Series Limited Liability Company, solely in its capacity as Assignee for the Benefit of Creditors of Assignors requests that the Court assert jurisdiction pursuant to 10 *Del. C.* § 7381 and grant such other and further relief as the Court deems just and proper.

Dated: November 25, 2022

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

/s/ Richard M. Beck
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*Attorneys for Classic Brands ABC, a
Delaware Series Limited Liability
Company, Solely in its Capacity as
Assignee for the Benefit of Creditors of
Classic Brands Holdings, LLC, Classic
Brands Intermediate Holdings, LLC, and
Classic Brands, LLC*



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Series Limited Liability Company,)
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C.A. No. _____

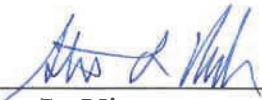
VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, Steven L. Victor, a Senior Managing Director of Development Specialists, Inc., the Sole Member of DSI ABCs, LLC under which is Classic Brands ABC, a Delaware Series Limited Liability Company, having been duly sworn, do hereby declare that I have reviewed the Petition for Assignment for the Benefit of Creditors,

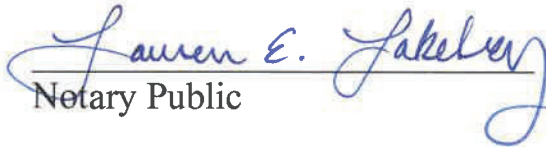
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and the statements set forth therein are true and correct to the best of my knowledge,
information, and belief.



Steven L. Victor

SWORN TO AND SUBSCRIBED
Before me this 22nd day of November, 2022



Notary Public

