

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

In re: )  
 ) Case No. 09-10367-HRT  
SHANE CO. )  
 ) Chapter 11  
EIN 84-0163760 )  
 )  
Debtor. )

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**DECLARATION OF KEVIN REGAN, INTERIM CHIEF RESTRUCTURING OFFICER,  
IN SUPPORT OF CHAPTER 11 PETITION AND FIRST DAY PLEADINGS**

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Kevin Regan, being first duly sworn, upon his oath states:

1. I am the Interim Chief Restructuring Officer of Shane Co. (the “Debtor” or the “Company”), a Colorado corporation with its corporate headquarters in Centennial, Colorado. I am authorized to submit this Declaration in support of the Debtor’s Chapter 11 Petition and the first day pleadings described herein.

2. I am familiar with the Debtor’s day-to-day operations, business affairs, and books and records. I have also reviewed the Debtor’s “First Day Motions and Orders” and am familiar with the facts alleged therein and relief requested. I have personal knowledge of the facts, circumstances and other matters set forth in the First Day Motions and Orders and in this Declaration or have gained knowledge of such matters from the Company's officers, employees or retained advisers that report to me in the ordinary course of my responsibilities as the Interim Chief Restructuring Officer. If called as a witness, I would testify thereto and as follows:



### **The Bankruptcy Case**

3. On January 12, 2009 (the “Petition Date”), the Company filed its voluntary petition under Chapter 11 of the Bankruptcy Code.

### **The Company’s History and Business**

4. The Company was founded in 1971 in Denver, Colorado by Thomas M. (“Tom”) Shane, who is the third generation Shane in the retail jewelry business. The Company is one of the ten largest retail jewelers in the U.S. and operates 23 upscale retail jewelry stores in 16 U.S. markets in 14 different states. The Company operates single stores in Indianapolis, Kansas City, Louisville, Minneapolis, Nashville, Orlando, Phoenix, Portland, Sacramento, St. Louis, St. Paul, and Salt Lake City. It operates multiple stores in Atlanta (4), Denver (2), San Francisco (3), and Seattle (2). It also operates an Internet retail store through its website, [www.shaneco.com](http://www.shaneco.com). Company stores are typically free-standing buildings measured 9,000 to 11,000 square feet. All store locations are leased.

5. Known foremost as a diamond retailer, Company stores feature a broad selection of loose diamonds and bridal jewelry. It also sells fine rings, earrings, bracelets, necklaces and pendants featuring diamonds, rubies, sapphires and pearls set in 14-karat and 18-karat white and yellow gold and platinum; and men’s accessories. The Company targets engagement and bridal customers and other fine jewelry shoppers in rapidly-growing urban and suburban markets. The Company developed market share as the value leader, offering the largest selection of loose diamonds and wedding/bridal jewelry at the lowest price in the market; through consistent heavy marketing to attract new customers; and attentive customer service that builds repeat business. The Company has long-standing relationships with key suppliers in Antwerp, Tel Aviv,

Bangkok, Mumbai, and Hong Kong. The Company believes that it has top market share of bridal jewelry sales in each of its markets. The Company spends approximately 10% of sales on advertising, and uses consistent heavy media and promotional marketing to drive traffic to its stores and to reinforce its image as the destination store for fine jewelry.

6. The Company has a total of approximately 550 employees. Approximately eighty percent of the employees are located in the retail outlets; the remainder of the employees work in the corporate headquarters. All sales employees are salaried; none work on a commission basis.

#### **Corporate Structure**

7. The Company is a closely held company, with all stock owned by Tom Shane and family trusts. In 2007, the Company formed Shane Co. (Thailand) Ltd. (“SCT”), which leases and operates a facility in Bangkok. The Company owns over 99% of the stock of SCT. Due to the unique requirements of Thai law, a total of seven individual Shane family members and other insiders own nominal stock interests in SCT. SCT is a captive subsidiary, currently providing services exclusively to the Company, including sourcing, manufacturing, and quality control. The monthly invoices to the Company for these services average \$50,000 to \$75,000. SCT leases a facility from Hin Suai Maak, a Thai corporation indirectly owned by individual members of the Shane family and other insiders.

#### **Capital Structure**

8. The Company is a party to loan facilities with four primary secured creditors:
- a. SunTrust Facility. A revolving credit facility with SunTrust Bank in the original principal amount of \$25,000,000, pursuant to the Amended and Restated Loan and Security Agreement dated as of September 5, 2008 (the

“SunTrust Facility”). The SunTrust Facility is secured by a first lien and security interest in essentially all assets of the Company. As of the Petition Date, the loan balance on the SunTrust Facility was approximately \$300,000, representing only outstanding fees, interest, and miscellaneous costs. In connection with the restructure of the SunTrust Facility in September of 2008, and at the insistence of SunTrust, Mr. Shane provided a limited personal guaranty to SunTrust. The SunTrust Facility requires cash dominion; because the Facility has not yet been fully retired, cash dominion remains in place.

- b. Crystal Capital Facility. A term loan facility with Crystal Capital Fund, L.P., as Agent, in the original principal amount of \$15,000,000, pursuant to the Amended and Restated Loan and Security Agreement dated as of September 5, 2008 (the “Crystal Capital Facility”). The Crystal Capital Facility is secured by a second lien and security interest in essentially all assets of the Company. Repayment of the Crystal Capital Facility is represented by three Term Promissory Notes, each dated as of September 5, 2008, in the amounts of \$6,000,000, \$5,000,000, and \$4,000,000, each of which is due and payable in full on September 5, 2009. In addition, pursuant to a restructure of the Crystal Capital Facility in September of 2008, and also on the insistence of Crystal Capital, Mr. Shane provided a limited personal guaranty in favor of Crystal Capital, in the amount of \$1,000,000, together with a “springing guaranty” in the amount of an

additional \$2,000,000, in the event of certain defined “bad acts.” To the knowledge of the Company, none of the defined “bad acts” has occurred and thus, Mr. Shane’s liability to Crystal Capital is limited to \$1,000,000. The Crystal Capital Facility also requires cash dominion, which is satisfied by the cash dominion in place with SunTrust. As of the Petition Date, \$15,000,000 of principal remains outstanding on the Crystal Capital Facility.

- c. Suresh Supply Agreement. On September 5, 2008, the Company entered into a Supply Agreement with a consortium of key related vendors (M. Suresh Company Pvt. Ltd., M. Suresh Jewellery Pvt Ltd., Twinklediam, Inc., SDC Designs, LLC, and Weindling International, LLC (collectively, “Suresh”). Pursuant to the Supply Agreement, the Company agreed to a minimum purchase commitment of inventory to be supplied by Suresh of \$30,000,000 each year, for a period of three years. In exchange, Suresh agreed to provide the Company with a \$15 million credit line to finance the Company’s purchase of inventory from Suresh, together with extended payment terms of 60 to 120 days after shipment date, for product supplied by Suresh. The credit line is secured by a third lien and security interest on essentially all assets of the Company. In addition, on the insistence of Suresh, Mr. Shane provided Suresh with a personal guaranty of \$200,000, together with a “springing guaranty” of up to \$2,000,000, which is triggered only if Mr. Shane’s personal guaranties in favor of SunTrust and

Crystal Capital are terminated as a result of payment in full of the respective facilities by the Company. In addition, Mr. Shane personally escrowed the sum of \$1,000,000 with Suresh, to hold as additional collateral to secure the Suresh Facility. As of the Petition Date, \$12,625,000 was outstanding on the Suresh Facility.

- d. UMB Facility. The Company financed a portion of the development and implementation of the SAP point of sale system through a loan from UMB Bank secured by the SAP software and related computer hardware. The balance of the UMB Facility as of the Petition Date was \$2,160,000.
- e. Other Equipment Financing. The Company has also financed miscellaneous equipment purchases through financing provided by Banc of America Leasing & Capital, LLC; Cisco Systems Capital Corporation; and Qwest Communications Corporation.

9. Trade Vendors. The Company purchases inventory, operating supplies, and services from over 1,000 vendors. The Company normally purchases such inventory, supplies and services on standard trade terms. The Company also secures certain inventory through consignment. As of the Petition Date, the Company estimates that its total unsecured trade debt is approximately \$49 million, including debts due to consignment vendors. Certain key trade vendors, who held substantially past-due obligations, secured the personal guaranty of Mr. Shane for a portion of their past-due invoices, as a condition to providing additional inventory to the Company and also further extending those already past-due obligations.

10. Insider Loans. Tom Shane has provided working capital loans to the Company, on an unsecured basis, as it has needed funds. As of the Petition Date, Mr. Shane had advanced a total of approximately \$20,000,000 to the Company.

**Financial Performance and Other Events Precipitating Bankruptcy Filing**

11. The single largest factor causing the bankruptcy filing by the Debtor is the precipitous decline in retail sales, particularly in luxury goods, driven by the overall economic recession. As with many jewelry retailers, the period from Thanksgiving through Christmas historically represents approximately 30 to 33% of the Company's overall sales. In 2008, the Company's sales during this period were off 32% from 2007's numbers, itself a slow holiday season, with recession looming.

12. In 2004, the Company first reached \$150 million in annual sales. By 2006, its total sales were \$265 million. In 2007, sales were \$275 million. In contrast, in 2008, the Company projects total sales of only \$207 to 210 million.

13. Other events, however, have contributed to the Company's economic decline. In particular, in 2005, the Company contracted with SAP to develop a highly sophisticated "point of sale" and inventory management system. The original cost of the SAP system was to have been \$8 to 10 million, with a twelve-month implementation schedule. That cost ballooned to \$36 million, with a 32-month implementation schedule. The Company went live with the SAP system in September of 2007, believing that the system was ready for implementation. Instead, the Company discovered many of the key features did not work properly. As a result, the Company went into the 2007 holiday season (at a time when experts were first suggesting that the country was facing an economic recession, and sales would prove challenging), with

impaired visibility as to the Company's financial performance. The SAP system became stable and functional only in the fall of 2008. The SAP system does not yet provide the full functionality originally contracted for. The Company currently has eight independent contractors employed for the purpose of attempting to modify the SAP system to bring it to full functionality.

14. Due to the delay in completion of the of the SAP system, and the discovery in the fall of 2007 that the system did not yet provide accurate inventory count numbers, the Company was substantially overstocked with inventory, and with the wrong mix of inventory, which added to the Company's cost of capital and also adversely affected sales through year-end and the first 9 months of 2008. The Company has been in the process of selling excess inventory, through ordinary course of business sales. The Company was able to retire the SunTrust Facility through the sell-off of its inventory. The Company also was able to reduce trade payables by \$15 million over the last year.

15. In addition, beginning in 2006, the Company pursued expansion opportunities to open five new stores in four new markets which the Company believed had significant promise. The market downturn and other factors made opening stores in certain of these locations ill-advised. The Company opened three of the five planned stores in 2007, but in May of 2008, closed one of those three. The Company elected never to open two of the five. The Company is still left with residual liability under these leases. In addition, the Company elected to close one additional store in 2008, which had been in operation since 1975. In addition, the Company elected not to move into the planned expanded corporate offices, and elected, instead, to relocate elsewhere, leaving residual liability on vacant space for the proposed expanded corporate



headquarters. Thus, as of the Petition Date, the Company remains liable on leases for five locations which either it has never occupied, or has vacated. The Company has attempted to sublease the vacant stores and unoccupied corporate headquarters, but, until the Petition Date, continued to service the lease obligations, resulting in a drain on cashflow.

16. In 2006, the Company created Shane Co. (Thailand) Ltd. to serve as a sourcing, manufacturing, and quality control facility in Bangkok, in order to take advantage of the lower cost of labor, and reap the rewards of the mastery of certain jewelry techniques of Thai craftspeople. The Company believes that the formation of Shane Co. (Thailand) remains a prudent investment in the Company's future. The costs of construction of the facility and other start-up costs, totaling approximately \$3.8 million over the past two years, has been a further drain on capital.

17. Further, while the Company had historically paid cash for all inventory, beginning in 2006, due in part to the cost overruns of the SAP system and the store expansion plans, the Company began purchasing inventory on trade credit. In addition, the Company arranged loan facilities with Crystal and SunTrust in 2006, to facilitate inventory purchases. The cost of the financing facilities, both interest and compliance obligations thereunder, has added to the cash drain on the Company.

18. In order to address these financial concerns, the Company first "rightsized" the central office and store operations, eliminating over 38 positions in the central office, and 68 positions at the store level, in September and December 2007. Immediately pre-petition, the Company terminated an additional 71 employees in the central office and retail locations.

19. In 2004, the Company first retained SunTrust Robinson Humphrey, an investment banking firm, to consider sale, merger, and capital options for the Company. That engagement was renewed in late 2007, focused on raising additional working capital for the Company. In 2007 and 2008, the Company also brought in turnaround specialists Cloyses Partners and FTI Consulting, to assist in analyzing and restructuring the Company's financial and business operations. While the Company was able to restructure its corporate operations and reduce its operating overhead, it was unable to secure a new investor or lender willing to refinance its existing obligations. In 2008, the Company also sought to refinance its existing secured obligations through most of the lenders specializing in the finance of luxury goods retailers. Those efforts were unsuccessful.

20. During the spring and summer of 2008, Mr. Shane reached out to the Company's critical vendors and sought extended payment terms and extended credit lines, which were generally granted, thereby obtaining significant payment and credit relief. As a result, SunTrust and Crystal provided a one year refinancing under their newly negotiated term debt and revolver debt during difficult financing times. In addition, Mr. Shane secured additional financial support for the Company through the Supply Agreement negotiated with Suresh in the fall of 2008.

21. Mr. Shane has been approached on occasion to explore possible business options including mergers, recapitalizations, and new equity investors in the Company. While Mr. Shane has been open to these opportunities, no firm offers have been presented. The Company, with the assistance of FTI Consulting, has been in discussions with various private equity firms and private investors, to explore recapitalization and possible sale options. None of those discussions have borne fruit. Immediately prior to the bankruptcy filing, Mr. Shane contacted

key suppliers, seeking to line up a consortium of supportive creditors to purchase the Crystal Capital Facility, or to make a loan to the Company, funded as a DIP facility through a Chapter 11 reorganization, with the proceeds to be used to retire the obligations to Crystal Capital. While several vendors expressed some interest in participating in such a facility, it became apparent, through those discussions, that it was unlikely that the Company would be able to come to terms regarding such a loan within the time-frame required by Crystal Capital to the Company.

### **First Day Motions**

22. This Declaration is filed in support of the factual allegations contained in the following motions, filed contemporaneously with this Declaration:

***Motion of Debtor for Order pursuant to 11 U.S.C. §§ 105(A), 363 and 364 and Fed. R. Bankr. P. 6003 (I) Authorizing Maintenance of Existing Bank Accounts and (II) Authorizing Use of Existing Cash Management System***

23. In the ordinary course of its business, the Company maintained approximately sixty (60) bank accounts out of which it manages cash receipts and disbursements (the "Bank Accounts"). The purposes for each account, and the methodology for the movement of funds between the Bank Accounts, is set forth in greater detail in the Motion. Several of these accounts are maintained as a condition of the SunTrust, Crystal Capital, and Suresh Facilities, and those lenders have blocked account agreements with the banks in which those accounts are maintained.

24. The cash management procedures utilized by the Company constitute ordinary, usual, and essential business practices and are similar to those used by major corporate retail enterprises. The cash management system facilitates cash forecasting and reporting, monitors collection and disbursement of funds, reduces administrative expenses by facilitating the

movement of funds and the development of more timely and accurate balance and presentment information, and administers the various bank accounts required to effect the collection, disbursement, and movement of cash.

25. The Company seeks a waiver of the U.S. Trustee's requirement that the prepetition Bank Accounts be closed and that new postpetition bank accounts be opened. If enforced in this case, such a requirement would cause enormous disruption in the Company's business and would impair the Company's efforts to reorganize and pursue other alternatives to maximize the value of its estate. The Bank Accounts comprise an established cash management system that the Company needs to maintain in order to ensure smooth collections and disbursements in the ordinary course.

26. I have confirmed that, other than the accounts with SunTrust, all Bank Accounts satisfy the requirements of Section 345(b) of the Bankruptcy Code, in that the Bank Accounts are either maintained with approved depositories, or are subject to FDIC insurance sufficient to insure the balance on deposit in the Bank Accounts. The accounts at SunTrust will be terminated upon entry of the proposed form of order authorizing interim use of cash collateral, and all funds will be transferred to other approved Bank Accounts.

27. Accordingly, in order to avoid delays in payments to administrative creditors, to ensure as smooth a transition into chapter 11 as possible with minimal disruption, and to aid in the Company's efforts to complete this case successfully and rapidly, the Company must be permitted to continue to maintain its existing Bank Accounts and, if necessary, open new and close existing accounts, wherever needed, whether or not such banks are designated depositories

in the District of Colorado, so long as they satisfy the requirements of Section 345(b) of the Code.

***Debtor's Motion for Order pursuant to Bankruptcy Code Sections 105(A), 363, 507(A), 541, 1107(A) and 1108 and Bankruptcy Rule 6003 Authorizing Debtor To Pay Prepetition Wages, Compensation, And Employee Benefits***

28. The Company's workforce is comprised of full- and part-time salaried and hourly Employees and temporary employees. The Company employs approximately 542 Employees, 502 of whom are classified as full-time Employees and 40 of whom are classified as part-time Employees. About 442 Employees work in the Company's retail store locations. Approximately 100 are employed at the Company's corporate office and distribution center. The Company also employs eight individuals on an independent contractor basis in its IT department. The compensation and benefits of the Employees are set out in detail in the Motion. In addition, the Company routinely reimburses expenses incurred by Employees in performing their duties on behalf of the Company.

29. The Company's sales force and corporate office staff are key to the Company's survival. The Company has dramatically reduced its labor force over the past fifteen months, and the demands on the Company's remaining Employees have increased proportionately. While the Company has done its best to assure its remaining Employees of the longevity of their positions, of course, the bankruptcy filing itself has created a level of uncertainty amongst the Employees regarding their long-term employment. Any interruption in the payment of wages, or provision of benefits, or reimbursement of expenses to the Employees, will cause employee morale to erode and undermine the Company's reorganization efforts. I have confirmed no individual Employee is due wages in amounts in excess of \$10,950.00.

***Debtor's Motion for Entry of an Order Authorizing the Debtor to Pay Prepetition Sales, Use, Trust Fund and Other Taxes and Related Obligations***

30. The Company, in the ordinary course of its businesses, incurs various taxes, including state and local sales and use tax liabilities. Sales and use taxes accrue as the Company sells merchandise or consumes goods and are calculated on the basis of statutorily mandated percentages of the price at which the Company's merchandise is sold and/or cost of merchandise consumed. In some cases, sales and use taxes are paid in arrears once incurred or collected by the Company.

31. However, certain jurisdictions require the Company to remit estimated sales and use taxes and similar collections on a periodic basis during the month or quarter in which sales are made. The Company or the Taxing Authority then "true up" any deficiency or surplus on the date on which the taxes are actually due.

32. Prior to the Petition Date, the Company was, for the most part, current on its obligations with respect to these Taxes. The only obligations outstanding represent taxes that have accrued, but are not yet legally due. The Company may be liable for approximately \$2.1 million, which primarily represents taxes collected on sales made in December and January. I believe that these taxes are Trust Fund taxes, and are not property of the estate. Even if, in isolated circumstances, sales and use taxes are not trust fund taxes, the failure to pay them will cause the estate to incur expense in addressing the demands of the taxing authorities, distracting management from focusing on the business of reorganization.

***Motion of Debtor for Order under Bankruptcy Code Sections 105(A), 363, and 366, and Bankruptcy Rule 6003 Approving Debtor's Adequate Assurance of Payment of Utilities***

33. In connection with the operation of its business and the management of its properties, the Company receives utility service from various utility companies, including providers of water, gas, electricity, telephone, and sewer service, covering a number of utility accounts. The services provided by the utility companies are crucial to the continued operations of the Company.

34. The Company fully intends to pay all post-petition obligations owed to the utility companies in a timely manner. Moreover, the Company expects that the funds available pursuant to interim and final orders authorizing the use of cash collateral will be sufficient to pay such post-petition utility obligations. In order to address the requirements of Section 366, the Company proposes to establish individual cash deposits with each of the utility companies in accordance with Exhibit A attached to the Motion. The amount of the deposits for each utility company represents an average one month of charge for services provided by that utility company. I believe that these deposits provide adequate assurance of payment for utility services provided to the Company after the Petition Date.

***Motion of the Debtor for Order pursuant to Bankruptcy Code Sections 105, 363, 364, 1107 and 1108, and Bankruptcy Rule 6003 Authorizing Debtor to Maintain Insurance Policies, Pay Insurance Obligations, and Renew Insurance Policies***

35. As detailed in the Motion, in connection with the operation of its business and management of its properties, the Company maintains various Insurance Policies. The Insurance Policies include coverage for, among others, umbrella general liability coverage, workers' compensation claims, automobile claims, fiduciary liability claims, certain general and excess liability claims, directors' and officers' liability, employers' liability, sendings policy (shipping,

including for international shipments) and the Jewelers Block (including property and crime, including protection of consignment merchandise). The third-party claims that are covered by the Insurance Policies are neither unusual in amount nor in number in relation to the extent of the business operations conducted by the Company. The annual premiums for the Insurance Policies are approximately \$683,000. SCT is also named as an insured under all of the Company's insurance policies other than workers' compensation policies. The Company invoices SCT on an annual basis for reimbursement of its proportionate share of the premiums for the Insurance Policies.

36. To the extent that any Insurance Policy premiums may be attributed to prepetition insurance coverage, payment of such Insurance Policy premiums are necessary to ensure continued coverage under such Insurance Policies and to maintain good relationships with the Company's insurers. Continued payment of Insurance Policy premiums as such premiums come due in the ordinary course of the Company's business is necessary. The Company's maintenance of its relationships with its insurers is critical to ensuring the continued availability of insurance coverage and reasonable pricing of such coverage. The Company cannot receive consignment merchandise without proper insurance coverage. Further, continued maintenance of adequate insurance coverage is a covenant under the real property leases under which the Company is a tenant or lessee. A disruption in insurance coverage would likely cause a default by the Company under the leases.

37. The Company has been represented in its negotiations with its various insurance underwriters by Wasserman & Wexler (the "Insurance Broker"). The employment of the Insurance Broker has allowed the Company to obtain the insurance coverage necessary to



operate its business in a reasonable and prudent manner, and to realize considerable savings in the procurement of such policies. It is in the best interests of its creditors and estate to continue its business relationships with the Insurance Broker.

38. The Insurance Policies maintained by the Company will all eventually expire under their annual terms, beginning with policies due to expire in January 2009. Renewal of these policies or entry into new insurance arrangements is necessary to comply with the United States Trustee Requirements and various state laws.

***Debtor's Motion for Order pursuant to 11 U.S.C. §§ 105(A), 365(A) and 554 and Fed. R. Bankr. P. 6006 Authorizing Rejection of Unexpired Leases of Nonresidential Real Property Effective as of the Petition Date***

39. Company is a party to certain Leases governing the Premises. The Leases were entered into in anticipation of using the Premises as retail stores or, in one location, as a corporate headquarters, and operations at the Premises ceased prior to the Petition Date.

40. Prior to the Petition Date, the Company either vacated the Premises and surrendered possession to the Landlords or never occupied the Premises. The Company may continue, however, to be obligated to pay rent under the Leases, even though it has no continuing operations in those facilities and no other productive use for those Premises. The estimated annual cost of the Leases is approximately \$1,785,942.

41. In considering its options with respect to the Leases, the Company believes that there remains no other viable possibility other than rejection of the Leases. The Company has attempted to sublease the Premises, generally with little success. While there is a sublease a portion of what was to have been the corporate office, that tenant has defaulted under the sublease.

42. Through the rejection of the Leases, the Company will be relieved from paying the rent, as well as certain other costs, including taxes and other future related charges associated with the Leases. By rejecting the Leases at this time, the Company will avoid incurring unnecessary administrative charges that provide no tangible benefit to the Company's estate. The resulting savings from the rejection of the Leases will increase the Company's future cash flow and assist the Company in managing its estate.

***Debtor's Motion to Limit Notice***

43. The Company's initial creditors' matrix totals approximately 6,000 creditors, including approximately 750 secured lenders, trade vendors, consignment creditors, landlords, and other similar creditors; approximately 4,600 customers, whose claims arise out of deposits, warranty claims, or other matters; and approximately 550 employees. As a result, providing notice of all routine pleadings in this case to all of the scheduled creditors will result in substantial expense to the estate. Limiting notice as authorized in Bankruptcy Rule 2002(m), will result in substantial cost savings to the Company, while providing meaningful notice to those creditors and parties in interest with the most at stake in this reorganization proceeding.

***Debtor's Motion pursuant to 11 U.S.C. §§ 105(A), 342(A) and 521, and Fed. R. Bankr. P. 1007 for Authority to Prepare a List of Creditors In Lieu of Submitting a Formatted Mailing Matrix***

44. The Company has already prepared a list of all of the Company's creditors (the "Creditor List") and has provided that list to Kurtzman Carson Consultants, LLC, the claims and noticing agent retained by the Company (the "Agent"). The Creditor List contains approximately 6,000 names, including trade vendors, customers, employees, and other parties holding claims against the Company. The Creditor List contains the names and addresses of all creditors as compiled in a number of excel spreadsheets, allowing the segregation and noticing of

specific creditor constituencies that may be affected by a particular request for relief. The Company seeks leave of Court to allow the Agent to maintain the Creditor List, in lieu of submitting a mailing matrix to the Court as specified in General Procedural Order 2001-7. Eliminating the requirement of a submission of a claims matrix will save resources of the estate, will eliminate risk of errors in noticing and in conversion of the matrix to labels, and will preserve the confidentiality of employee and customer addresses – a factor of great importance to the Company.

***Application of Debtor for Order under 28 U.S.C. § 156(C) and Bankruptcy Rule 2002(F) Approving Agreement with Kurtzman Carson Consultants LLC and Appointing It as Claims, Noticing, And Balloting Agent***

45. The Company has thousands of creditors, potential creditors, and parties in interest to whom certain notices, including notice of this chapter 11 case, will be sent. The size of the Company's creditor body makes it impracticable for the Clerk of the Court (the “Clerk”) to undertake, without assistance, the task of sending notices to creditors and other parties in interest. In view of the number of anticipated claimants and the complexity of the Company's business, I believe that appointment of Agent as the Claims, Noticing, and Balloting Agent is the most effective and efficient manner by which to give notice and provide solicitation services in this case and necessary and in the best interests of both the Company's estate and its creditors.

***Debtor's Motion pursuant to 11 U.S.C. §§ 105, 363 and 364 and Federal Rules of Bankruptcy Procedure 2002 and 4001 Authorizing Debtor to Obtain Postpetition Financing***

46. The Crystal Capital Facility was refinanced in September of 2008. By December the Company recognized that the general economic recession threatened placing the Company into covenant default under the Crystal Capital Facility. The Company then renewed its efforts to secure alternative sources of financing in order to retire the Crystal Capital Facility. , on the

eve of the bankruptcy filing, the Company has secured a DIP Facility from a company owned by Thomas M. Shane, the President, CEO, and majority shareholder of the Company, and certain Shane family trusts. The terms of the DIP Facility are set out in great detail in the Motion and the proposed order.

47. I believe that the terms of the DIP Facility are very favorable to the Company. First, they will allow the Company to immediately retire the Crystal Capital Facility, in combination with funds on hand with the Company. Repayment of that Crystal Capital Facility will eliminate on-going disputes with Crystal Capital on the operating budget of the Company and will put the Company on a strong course for reorganization. The DIP Facility is materially better to the Company than the Crystal Capital Facility in at least the following points:

- The interest rate under the DIP Facility is lower (11% compared to the greater of 15% or LIBOR plus 2%)
- There are no fees associated with the DIP Facility;
- The maturity date is extended by 2 and ½ years
- The DIP Facility does not require cash dominion and has greatly reduced reporting requirements, reducing the financial burden on the Company;
- Because the DIP Facility is offered by insiders of the Company, who are committed to its successful reorganization, the risk that the Company is forced into liquidation by the hostile actions of a secured lender are greatly reduced.

48. I believe that the DIP Facility has been negotiated in good faith by Mr. Shane and his counsel with Company counsel. I further believe that the DIP Facility presents better economic terms than the Company is likely to find in any arms length financing. In addition, I do

not believe that, at this state of its reorganization, the Company would be able to secure a DIP Facility from any lender who would be prepared to fund the loan during the first week of this reorganization case.

49. As set forth in the Motion, the immediate approval of the DIP Facility is essential to the successful reorganization of the Company, as it will provide funds to retire the Crystal Capital Facility. Immediate approval will eliminate a fee of \$150,000 which Crystal Capital otherwise seeks to assess the Company for the use of its Cash Collateral. It also eliminates the risk that Crystal Capital will declare an event of default – which is currently contemplated in the Cash Collateral Order if the Crystal Capital Facility is not fully repaid by January 16, 2009. Finally, it eliminates the pressure placed on the Company by Crystal Capital to immediately begin the process of marketing the Company to the highest bidder. Thus, I strongly believe that immediate approval of the DIP Facility is in the best interests of the Company.

***Motion for Entry of Interim Order (I) Authorizing the Debtor's Consensual Use of Cash Collateral, (II) Granting Adequate Protection, (III) Modifying the Automatic Stay, and (IV) Scheduling a Final Hearing***

50. The Company needs use of cash collateral to operate its business and prevent the diminution in value of the assets of the estate. The Company has reached an agreed order with its lenders, SunTrust, Crystal Capital, and Suresh, regarding the consensual use of Cash Collateral, as set forth in the Motion and the proposed Interim Order submitted with it.

51. As provided in the Motion, the Company will use the Cash Collateral in order to fund its postpetition operations which include: (a) costs of operation of the Company's retail locations and corporate headquarters; (b) payment of the Company's postpetition obligations under its prepetition executory contracts and leases; (c) those costs reasonably necessary to (i)

implement the process to recapitalize the Company, in accordance with the pending motions related thereto, and (ii) to consummate and implement any approved recapitalization as a result thereof; and (d) professional fees and expenses as may be permitted by the Bankruptcy Code or such orders as may be entered by this Court, all in accordance with the interim Budget.

52. The Interim Order allows the Company to use Cash Collateral to pay its ongoing business expenses which, in turn, will assist the Company in its efforts to reorganize under chapter 11 of the Bankruptcy Code. Additionally, the Interim Order provides adequate protection to the SunTrust Parties, the Prepetition Agent, the Prepetition Lenders and the Vendor for the use of their Cash Collateral. The Interim Order also avoids the potential for incurring additional administrative expenses by avoiding potential litigation over the Company's need to use Cash Collateral.

53. Absent authorization to use Cash Collateral, the Company will be unable to continue its operations, and be unable to proceed with the reorganization of its operations, in an orderly fashion, which could result in a significantly reduced recovery for the Company's bankruptcy estate. Alternatively, if the Company is authorized to use Cash Collateral, the Company will be able to maximize the value of its estate through the recapitalization and reorganization of its operations through a plan of reorganization. I believe approval of the Interim Order, and a subsequent Final Order authorizing use of cash collateral, is in the Company's best interests.

***Debtor's Motion for Order Pursuant to Bankruptcy Code Sections 105(A), 363, 506, 507(A), 553, 1107(A), 1108 and 1129(B) and Bankruptcy Rule 6003 Authorizing Continuation of Certain Customer Practices***

54. In the ordinary course of its retail store business, the Company provides its customers with certain benefits in the form of the Customer Satisfaction Programs, as outlined in great detail in the Motion. The success and viability of the Company's business, and ultimately the Company's ability to successfully reorganize, are totally dependent upon the patronage and loyalty of its customers. In this regard, the Company's Customer Satisfaction Programs are critical, and any delay in honoring the Company's obligations thereunder will severely and irreparably impair customer relations. Any failure to honor prepetition Customer Obligations or honor the prepetition Customer Claims, as defined in the Motion, for even a brief time, may well both drive away valuable customers, and irreparably destroy the Company's reputation with its existing and potential future customers, thereby severely harming the Company's efforts to reorganize.

55. I believe that continuing the Customer Satisfaction Programs will be beneficial to the estate and the Company's reorganization, and will not impose undue financial obligations of the estate. As noted in the Motion, the average Customer Deposit is only approximately \$700. The Company is far better served in encouraging the Customer to complete its purchase, and realize the bargained for profit on the sale, than having an unhappy Customer with a claim for a refund. Similarly, honoring warranties and upgrade policies only encourages repeat business from Customers, which is vital to the Company's survival. Finally, as noted in the Motion, in order to preserve working capital, the Company does not, at this time, seek authority to pay cash refunds to any Customers on account of pre-petition purchases.

Dated this 12th day of January, 2009.

*s/ Kevin Regan*

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KEVIN REGAN

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