

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Nationmark Merchandising Bankruptcy Court Order Releasing Security Agreement with Heller Financial Recorded Under Reel/Frame: 1723/0239 on 05/01/1998

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Heller Financial Inc.		03/31/1998	CORPORATION:

RECEIVING PARTY DATA

Name:	Nationmark Merchandising & Distribution Company
Street Address:	7107 E. Slauson Avenue
City:	Commerce
State/Country:	CALIFORNIA
Postal Code:	90040
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 8

Property Type	Number	Word Mark
Registration Number:	1387633	EXCITE
Registration Number:	1443375	EXCITE
Registration Number:	1442932	EXCITE
Registration Number:	1568542	WATER WONDERS
Registration Number:	1984140	WATER WONDERS
Registration Number:	1680466	SUPER SOUND
Registration Number:	1518133	KIDMARK
Registration Number:	1400722	NATION MARK

CORRESPONDENCE DATA

Fax Number: (312)861-2200
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 312-861-2000
 Email: ccasey@kirkland.com

CH \$215.00 1387633

Correspondent Name: Gregg Kirchoefer
Address Line 1: 200 East Randolph Drive
Address Line 2: Suite 5300
Address Line 4: Chicago, ILLINOIS 60601

NAME OF SUBMITTER:	Justin Ishbia
Signature:	/Justin Ishbia/
Date:	09/21/2005

Total Attachments: 20

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UNITED STATES BANKRUPTCY COURT
Central District of California

I hereby attest and certify that on 5-23-2007 the
attached reproduction(s), containing 19 pages, is a
full, true and correct copy of the complete document entitled:

Order and Finding of Fact
and Conclusions of Law
in Case No. 01-45961 AA

which includes: Exhibits Attachments

on file in my office and in my legal custody at the marked location:

300 North Los Angeles Street
Los Angeles, CA 90012

3420 Twelfth Street, Suite 125
Riverside, CA 92501-3819

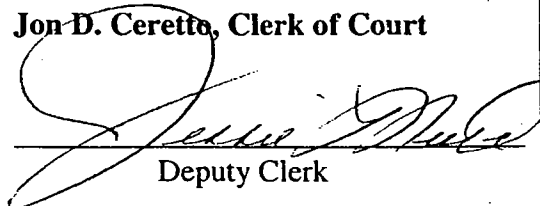
411 West 4th Street, Suite 2074
Santa Ana, CA 92701-4593

1415 State Street
Santa Barbara, CA 93101-2511

21041 Burbank Boulevard
Woodland Hills, CA 91367

Jon D. Ceretto, Clerk of Court

By:


Deputy Clerk

**THIS CERTIFICATION IS VALID ONLY WITH THE
UNITED STATES BANKRUPTCY COURT SEAL.**

TRADEMARK

1 Lawrence Peitzman (State Bar No. 62379)
David B. Shemano (State Bar No. 176020)
2 Jonathan D. Gordon (State Bar No. 205541)
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3 1801 Avenue of the Stars, Suite 1225
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4 Telephone: (310) 552-3100
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5 Reorganization Counsel for
6 Debtors and Debtors in Possession

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**

ENTERED
MAY 23 2002
CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY Deputy Clerk

FILED
MAY 23 2002
CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY Deputy Clerk

11 In re
12 BMK, Inc.; Jacks Service Company; Kasch
Merchandising, Inc.; Outsource Merchandising
13 Corp.; Nationmark Merchandising & Distribution
Company; Somody Merchandising, Inc.; WESCO
14 Merchandising, Inc.; and Wasatch Service &
Supply, Inc.

15 Debtors.

Bk. Case No: LA-01-45961-AA

Chapter 11

(Jointly Administered with Case Nos.:
LA-01-45965-AA;
LA-01-45969-AA;
LA-01-45971-AA;
LA-01-45972-AA;
LA-01-45975-AA;
LA-01-45976-AA; and
LA-01-45979-AA)

17 Tax I.D. Nos, respectively: 95-3876917; 73-
0748856; 95-4761834; 95-4604739; 95-4672501;
18 95-4776273; 87-0288476; 95-4676693

19 **Check One or More as Appropriate:**

- 20 Affects All Debtors:
- Affects BMK, Inc:
- 21 Affects Jacks Service Comp:
- Affects Kasch Merchandising, Inc:
- 22 Affects Outsource Merchandising Corp:
- Affects Nationmark Merchandising:
- 23 Affects Somody Merchandising, Inc:
- Affects WESCO Merchandising, Inc.:
- 24 Affects Wasatch Supply & Service, Inc.:

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ORDER AND FINDINGS OF FACT AND CONCLUSIONS OF LAW: (1) AUTHORIZING AND APPROVING SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE, AND (2) AUTHORIZING AND APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE

Date: May 22, 2002
Time: 2:00 p.m.
Place: Courtroom 1375
255 E. Temple Street
Los Angeles, CA

17MAY

ORIGINAL
STAMPED IN RED
TRADEMARK

1 The Motion Of The Debtors For Order (1) Authorizing And Approving Sale Of
2 Substantially All Of The Debtors' Assets Free And Clear Of All Liens, Claims, Encumbrances
3 And Other Interests Pursuant To Section 363 Of The Bankruptcy Code, And (2) Authorizing
4 And Approving The Assumption And Assignment Of Executory Contracts Pursuant To Section
5 365 Of The Bankruptcy Code (the "Motion"), filed by the above-captioned debtors (the
6 "Debtors"), came on for hearing before the Honorable Alan M. Ahart, United States Bankruptcy
7 Judge, on May 22, 2002, at 2:00 p.m. (the "Sale Hearing"). Appearances were made as reflected
8 in the Bankruptcy Court's record. Capitalized terms used herein shall have the meaning ascribed
9 to them in the Motion, unless otherwise defined.

10 Pursuant to the Motion, the Debtors seeks (a) to sell to Sun BMK Acquisition Corp.
11 (including any designee(s), "Buyer") all of the Debtor's right, title and interest in substantially all
12 of its assets (the "Assets") free and clear of all liens, claims, encumbrances and other interests
13 pursuant to an Asset APA (the "Initial APA") attached as Exhibit A to the Declaration of Richard
14 Craig accompanying the Motion, and (b) to assume and assign to Buyer certain rights and
15 obligations set forth in the Initial APA and arising under certain executory leases and contracts
16 (collectively, the "Transaction").

17 On March 27, 2002, the Debtors filed and served the Motion Of The Debtors For Order:
18 (1) Establishing Sale Procedures For Sale Of Substantially All Of The Debtors' Assets, (2)
19 Approving Break-Up Fee, (3) Setting Deadline To Object To Proposed Cure Amounts, And (4)
20 Approving Form And Manner Of Notice Of Sale (the "Sale Procedures Motion") and an
21 application to shorten time on the hearing on the Sale Procedures Motion. A hearing was held on
22 the Sale Procedures Motion on April 10, 2002. On April 11, 2002, the Bankruptcy Court entered
23 the Order Granting Motion Of The Debtors For Order: (1) Establishing Sale Procedures For Sale
24 Of Substantially All Of The Debtors' Assets, (2) Approving Break-Up Fee, (3) Setting Deadline
25 To Object To Proposed Cure Amounts, And (4) Approving Form And Manner Of Notice Of Sale
26 (the "Sale Procedures Order").

27 In accordance with the Sale Procedures Order, on or about April 15, 2002, the Debtors
28 served: (i) the Notice Of Motion Of The Debtors For Order: (1) Authorizing And Approving

1 Sale Of Substantially All Of The Debtors' Assets Free And Clear Of All Liens, Claims,
2 Encumbrances And Other Interests Pursuant To Section 363 Of The Bankruptcy Code, And (2)
3 Authorizing And Approving The Assumption And Assignment Of Executory Contracts Pursuant
4 To Section 365 Of The Bankruptcy Code (the "Sale Notice"), and (ii) the Notice Of Deadline To
5 (1) Object To The Assumption And Assignment Of Executory Contracts In Connection With
6 Sale Of Substantially All Of The Debtors' Assets, And (2) File Claims For Amounts Due To
7 Cure Defaults Under Executory Contracts To Be Assumed And Assigned In Connection With
8 Sale Of Substantially All Of The Debtors' Assets (the "Cure Notice").

9 The Debtors received objections, cure claims and/or requests for clarification from the
10 following parties: (1) BCL Capital; (2) General Electric Company (GE Lighting); (3) The
11 Pinnacle Group; (4) Rush Truck Leasing, Inc.; (5) Metavante Corporation; (6) Weston Inc.; (7)
12 County of San Bernadino; (8) Donlen Corporation; (9) CitiCapital Commercial Leasing
13 Corporation; (10) Estate of James Campbell; (11) Jeffrey Kasch; (12) W.N. Klein & Son, Inc.;
14 (13) EFAM, Inc.; (14) Jack B. Holmstrom; (15) Charles G. Cowley; (16) Byron R. Nowell; and
15 (17) Jim White (collectively, the "Objections"). The Debtors filed a reply to the Objections and
16 in further support of the Motion (the "Reply"). In the Reply, among other things, the Debtors
17 modified the list of executory contracts and unexpired leases to be assumed and assigned to
18 Buyer.

19 The Debtors received an overbid from Pacific BMK Acquisition, Inc. ("Pacific" and
20 "Pacific Bid"), which the Debtors determined was a "Qualified Overbid" as defined in the Sale
21 Procedures Order. On May 21, 2002, Sun filed an objection to the Debtors' determination that
22 the Pacific Bid was a Qualified Overbid (the "Sun Objection"). At the Sale Hearing, Sun
23 withdrew the Sun Objection.

24 Prior to the Sale Hearing, the Debtors filed with the Bankruptcy Court the Declaration of
25 David B. Shemano attaching (i) a Commitment Letter dated May 20, 2002, executed by Sun
26 Capital Partners II, LP (the "Fund"), pursuant to which the Fund guarantees to the Debtors that
27 the Fund shall contribute to Sun an amount equal to the cash portion of the Purchase Price
28 required at Closing pursuant to the terms of the Initial APA, and (ii) a letter agreement dated

1 May 21, 2002, between the Debtors and Sun providing for certain clarifications and
2 modifications to the Initial APA (collectively, the "Letter Agreements"). The Initial APA as
3 clarified and modified by the Letter Agreements is referred to as the "APA."

4 At the Sale Hearing, the Debtors represented that an auction of the Debtors' assets (the
5 "Auction") was conducted pursuant to the terms of the Sale Procedures Order on May 21, 2002.
6 At the conclusion of the Auction, the Debtors determined that the highest and best bid was
7 submitted by Sun in the amount of \$69,736,000 as reflected in the APA.

8 After consideration of the Motion and accompanying supporting papers, the Sale
9 Procedures Order, the Sale Notice, the Cure Notice, the Objections, the Reply, the Shemano
10 Declaration, the arguments of counsel, the files and records in this chapter 11 case, and sufficient
11 cause appearing, the Bankruptcy Court hereby makes the following Findings of Fact and
12 Conclusions of Law.¹

13 I. **FINDINGS OF FACT:**²

14 A. Basis For Section 363 Sale

15 1. Time is of the essence in consummating the Transaction. Accordingly, to
16 maximize the value of the Assets, it is essential that the sale of the Assets occur within the time
17 constraints set forth in the APA.

18 2. Heller Financial Inc., as lender and as agent (the "Agent") on behalf of the
19 lenders named in that certain (i) Amended and Restated Credit Agreement dated as of March 31,
20 1998, as amended, and (ii) Postpetition Credit Agreement dated as of December 3, 2001 (the
21 "Senior Secured Creditors"), representing the parties in interest most adversely effected by
22 continued diminution in the bankruptcy estates' value, has thoroughly reviewed the Debtors'
23 alternatives and has consented to the Transaction pursuant to section 363(f)(2) of the Bankruptcy
24 Code, and has consented to the form and content of this Order.

25
26 ¹ The Findings of Fact and Conclusions of Law contained herein constitute the findings of fact and
27 conclusions of law required to be entered by this Court with respect to the Motion pursuant to Rule 52 of the Federal
28 Rules of Civil Procedure, as made applicable herein by Rules 7052 and 9014 of the Federal Rules of Bankruptcy
Procedure.

² The Court's statements from the bench setting forth additional Findings of Fact and Conclusions of Law in
open Court at the Sale Hearing are expressly incorporated by reference into this Order and made a part hereof.

1 3. The Assets are property of the Debtors' estates and title thereto is vested in
2 the Debtors' estates.

3 B. Notice of Sale of The Assets

4 4. Pursuant to the Certificate of Service of the Sale Notice, the Sale Notice
5 was served in accordance with the Sale Procedures Order.

6 5. Pursuant to the Certificate of Service of the Cure Notice, the Cure Notice
7 was served in accordance with the Sale Procedures Order.

8 6. The service of the Sale Notice and the Cure Notice was adequate and
9 sufficient under the circumstances of these Chapter 11 cases and this proceeding and complied
10 with the various applicable requirements of the Bankruptcy Code, the Federal Rules of
11 Bankruptcy Procedure and the procedural due process requirements of the United States
12 Constitution.

13 C. Good Faith Of Buyer

14 7. Buyer is purchasing the Assets in good faith and is a good faith purchaser
15 within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the
16 protection of that provision, and otherwise has proceeded in good faith in all respects in
17 connection with this proceeding in that: (a) Buyer agreed to provisions in the APA approved in
18 the Sale Procedures Order which would enable the Debtors to deal with any other party
19 interested in acquiring the Assets and to accept a higher and better offer for the Assets; (b) Buyer
20 in no way induced or caused the Chapter 11 filings of the Debtors; (c) all payments to be made
21 by the Buyer and other agreements or arrangements entered into by the Buyer in connection with
22 the Transactions have been disclosed; (d) Buyer has not violated section 363(n) of the
23 Bankruptcy Code by any action or inaction; and (e) the negotiation and execution of the APA
24 and any other agreements or instruments related thereto was at arms length and in good faith.

25 D. Competing Offers

26 8. Although the Pacific Bid was submitted and Pacific participated in the
27 Auction, the Buyer's final offer at the Auction in the amount of \$69,736,000 pursuant to the
28 terms of the APA was the highest and best bid.

1 E. Approval Of Motion

2 9. Declarations of the Debtors and/or Buyer supporting each of the findings
3 of fact contained in this document have been filed with this Court.

4 10. Buyer is a third-party purchaser unrelated to the Debtors.

5 11. The purchase terms, as set forth in the APA, are fair and reasonable under
6 the circumstances of these Chapter 11 cases and this proceeding.

7 12. The Motion should be approved as it is in the best interests of creditors.

8 F. Buyer is Not a Mere Continuation of the Debtors

9 13. The following findings of fact relate to the conclusions of law set forth in
10 Section II.D. below:

11 a. Except as expressly provided in the APA, the Debtors' employees
12 who are to be retained by Buyer are being hired under new employment contracts or other
13 arrangements to be entered into or to become effective at or after the time of the Closing.

14 b. No common identity of incorporators, directors or stockholders
15 exists between Buyer and the Debtors.

16 c. Buyer is not purchasing all of the Debtors' assets. Buyer is not
17 purchasing rights, claims or causes of action of Debtors arising under chapter 5 of the
18 Bankruptcy Code or other Excluded Assets. The Transactions are not being entered into
19 fraudulently. The Sale Hearing has been properly noticed.

20 d. Buyer is not holding itself out to the public as a continuation of the
21 Debtors.

22 G. Miscellaneous

23 14. To the extent any Findings of Facts set forth in Section I herein constitute
24 Conclusions of Law, the Court so concludes.

1 **II. CONCLUSIONS OF LAW**

2 **A. Jurisdiction, Final Order And Statutory Predicates**

3 1. The Court has jurisdiction to hear and determine the Motion and to grant
4 the relief requested in the Motion pursuant to 28 U.S.C. Sections 157(b)(1) and 1334(b).

5 2. This Order constitutes a final and appealable order within the meaning of
6 28 U.S.C. Section 158(a). To any extent necessary under Rule 9014 of the Federal Rules of
7 Bankruptcy Procedure and Rule 54(b) of the Federal Rules of Civil Procedure as made
8 applicable by Rule 7054 of the Federal Rules of Bankruptcy Procedure, the Court expressly finds
9 that there is no just reason for delay in the implementation of this Order, and expressly directs
10 entry of judgment as set forth herein.

11 3. This proceeding is a "core proceeding" within the meaning of 28 U.S.C.
12 Sections 157(b)(2)(a), (n) and (o).

13 4. The statutory predicates for the Motion are Sections 105, 363 and 365 of
14 the Bankruptcy Code and Rules 6004, 6006, and 9014 of the Federal Rules of Bankruptcy
15 Procedure.

16 5. The proposed Transaction constitutes a sale of property of the Debtors'
17 estates outside the ordinary course of business within the meaning of Section 363(b) of the
18 Bankruptcy Code.

19 **B. Section 363 Sale**

20 6. The Assets are property of the Debtors' estates and title thereto is vested in
21 the Debtors' estates.

22 7. The Debtors are authorized to sell property of their estates, pursuant to
23 section 363(b) of the Bankruptcy Code, free and clear of liens, claims, encumbrances and other
24 interests if the applicable provisions of section 363(f) of the Bankruptcy Code have been
25 satisfied.

26 8. The Debtors may sell the Assets free and clear of all liens, claims,
27 encumbrances and other interests because, in each case, one or more of the standards set forth in
28 section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those parties who did not
object or withdrew their objections to the Motion are deemed to have consented to the sale of the

1 Assets pursuant to section 363(f)(2) of the Bankruptcy Code, Rules 6004 and 6006 of the Federal
2 Rules of Bankruptcy Procedure and Local Bankruptcy Rule 9013-1(a)(11).

3 9. The Assumed Equipment Leases are true leases and not secured
4 transactions.

5 10. With the exception of the County of San Bernadino, all purported secured
6 creditors have consented to the sale of the Assets upon which they allegedly maintain Liens. The
7 objection of the County of San Bernadino to the sale is overruled.

8 11. Given all of the circumstances of these Chapter 11 cases and the adequacy
9 and fair value of the purchase price under the APA, the proposed sale of the Assets to Buyer
10 constitutes a reasonable and sound exercise of the Debtors' business judgment and should be
11 approved.

12 12. Buyer is a good faith purchaser under section 363(m) of the Bankruptcy
13 Code and entitled to all the protections thereof.

14 C. Retention Of Jurisdiction

15 13. It is necessary and appropriate for the Court to retain jurisdiction to, inter
16 alia, interpret and enforce the terms and provisions of this Order and the APA and to adjudicate,
17 if necessary, any and all disputes concerning the assumption and assignment of the Assumed
18 Executory Contracts and Designated Remaining Leases (collectively, the "Executory
19 Contracts"), any right, title, (alleged) property interest, including ownership claims, relating to
20 the Assets and the proceeds thereof, as well as the extent, validity and priority of all Liens
21 relating to the Assets.

22 D. No Successor Liability

23 14. Buyer does not constitute a successor to the Debtors or the Debtors'
24 estates.

25 15. The Transaction does not amount to a consolidation, merger or de facto
26 merger of Buyer and the Debtors or the Debtors' estates.

1 16. Buyer is not merely a continuation of the Debtors or the Debtors' estates,
2 there is not substantial continuity between Buyer and the Debtors, and there is no continuity of
3 enterprise between the Debtors and Buyer.

4 E. Miscellaneous

5 17. To the extent any Conclusion of Law set forth in Section II herein
6 constitutes a Finding of Fact, this Court so finds.

7 Based on the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY**
8 **ORDERED, ADJUDGED AND DECREED, EFFECTIVE IMMEDIATELY, AS**
9 **FOLLOWS:**

10 A. The relief requested in the Motion is granted and approved in all respects. The
11 APA and the Transaction are hereby approved in all respects. The parties are authorized to make
12 nonmaterial modifications to the APA without further Order of the Bankruptcy Court.

13 B. The Debtors are authorized and directed to take any and all actions necessary or
14 appropriate to (i) consummate the sale of the Assets to Buyer (including, without limitation, to
15 convey to Buyer any and all of the Assets intended to be conveyed) and the Closing of the
16 Transaction in accordance with the Motion, the APA and this Order; and (ii) perform,
17 consummate, implement and close fully the APA together with all additional instruments and
18 documents that may be reasonably necessary or desirable to implement the APA.

19 C. Upon the Closing, the Assets transferred, sold, conveyed, assigned and delivered
20 to Buyer shall be free and clear of all encumbrances, obligations, interests, liabilities, contractual
21 commitments, claims, including, without limitation, any theory of successor liability, de facto
22 merger, or substantial continuity, whether based in law or equity, employee benefit obligations
23 (including, without limitation, under the Employee Retirement Income Security Act, the
24 Comprehensive Omnibus Budget Reconciliation Act, CERCLA and all other Environmental
25 Laws), any Warn Act liabilities, any security interest, mortgage, lien, right of set off or
26 recoupment, charge against or interest in property, adverse claim, claim of possession, right of
27 way, license, easement or restriction of any kind, including, but not limited to, any restriction on
28 the use, voting, transfer, receipt of income or other exercise of any attributes of ownership or any

1 option to purchase, option, charge, retention agreement which is intended as security or other
2 matters, including, without limitation, any item included in the definition of "Lien" or "Liens" set
3 forth in the APA (hereinafter collectively referred to as "Liens," such term to be deemed to
4 exclude any and all Permitted Liens of any person or entity that encumber or relate to or purport
5 to encumber or relate to the Assets).

6 D. Buyer is not a successor to the Debtors or the Debtors' estates by reason of any
7 theory of law or equity and Buyer shall not assume or in any way be responsible for any liability
8 or obligation of the Debtors or the Debtors' estates, except as otherwise expressly provided in the
9 APA.

10 E. Effective on the date of entry of this Order, except as otherwise expressly
11 provided in the APA, all entities, including, but not limited to, the Debtors, creditors, employees,
12 former employees and shareholders, administrative agencies, governmental departments,
13 secretaries of state, federal, state and local officials maintaining any authority relating to
14 Environmental Laws, employment or antitrust laws, and their respective successors or assigns,
15 shall be permanently and forever barred, restrained and enjoined from commencing or
16 continuing in any manner any action or other proceeding of any kind against Buyer as alleged
17 successor or otherwise with respect to any obligations, violations or Liens occurring before or
18 arising out of or related to the Transaction.

19 F. Each and every term and provision of the APA, together with the terms and
20 provisions of this Order, shall be binding in all respects upon the Debtors, the Debtors' estates,
21 Debtors' creditors and shareholders, all entities and third parties, administrative agencies,
22 governmental departments, secretaries of state, federal, state and local officials and person or
23 entity maintaining any authority relating to Environmental Laws, employment or antitrust laws,
24 and their respective successors or assigns, including, but not limited to all non-Debtor parties to
25 the Executory Contracts which may be assigned to Buyer under the APA and persons asserting
26 any Lien against or interest in the Debtors' estates or any of the Assets to be sold and assigned to
27 Buyer, irrespective of any action commenced which contests the Debtors' authority to sell and
28 assign the Assets or which seeks to enjoin such sale and/or assignment.

1 G. Except as otherwise expressly provided in the APA as Assumed Obligations,
2 Buyer is not assuming any liabilities or responsibilities of Debtors. Except as otherwise
3 expressly provided in the APA or as specifically set forth in the Motion with respect to
4 precautionary UCC-1 financing statements filed in connection with Assumed Equipment Leases
5 that are true leases or true consignments, all entities holding Liens of any kind and nature be and
6 hereby are barred from asserting such Liens against Buyer and/or the Assets.

7 H. All cash proceeds and other consideration received by the Debtors pursuant to the
8 terms of the APA (the "Proceeds") shall be paid and distributed as follows:

9 1. First, pursuant to the Final Order (1) Authorizing Debtors-in-Possession to
10 Enter into Post-Petition Financing; (2) Authorizing Use of Cash Collateral; (3) Providing
11 Adequate Protection; and (4) Granting Liens, Security Interests and Superpriority Claims entered
12 by this Court on February 12, 2002 (the "DIP Order"), to the Agent to the extent necessary to
13 fully, finally, and indefeasibly repay the undisputed outstanding balance of all obligations owing
14 under the Post-Petition Credit Agreement and the Post-Petition Financing Documents (each, as
15 defined in the DIP Order);

16 2. Second, to Houlihan, Lokey, Howard & Zukin Capital ("HLHZ") to fully,
17 finally, and indefeasibly pay all undisputed amounts due to HLHZ pursuant to that certain
18 October 8, 2001 engagement letter agreement between and among the Debtors and HLHZ (as
19 amended); and

20 3. Third, all remaining Proceeds (including, without limitation, all funds
21 released from escrow pursuant to the APA) (the "Net Proceeds") to the Debtors to be held in a
22 segregated, interest-bearing, deposit account at LaSalle Bank National Association, pending
23 further order of this Court; *provided, however*, the Debtors and the Agent are authorized to enter
24 into a stipulation modifying the DIP Order to provide for the use of the Net Proceeds and other
25 cash collateral to pay administrative expenses, including without limitation: (i) ordinary course
26 postpetition trade payables, and (ii) the payment of professional fees in accordance with the
27 Order Establishing Procedures For Interim Compensation And Reimbursement Of Expenses For
28 Professionals And Creditors' Committee Members, entered by the Bankruptcy Court on January

1 11, 2002, in accordance with the terms of a budget (the "Cash Collateral Stipulation"). The Cash
2 Collateral Stipulation shall be filed with the Court and need be served only on the Committee
3 and United States Trustee.

4 I. All Liens shall attach to the Net Proceeds with the same force, effect, validity,
5 priority and extent, if any, as the Liens that existed and attached to the Assets prior to the sale.

6 J. This Order: (a) is and shall be effective as a determination that, upon Closing,
7 and except as otherwise specifically set forth in this Order, all Liens existing as to the Assets
8 conveyed to Buyer have been and hereby are adjudged and declared to be unconditionally
9 released, discharged and terminated, and (b) shall be binding upon and govern the acts of all
10 entities, including, all filing agents, filing officers, title agents, title companies, recorders of
11 mortgages, recorders of deeds, registrars of deeds, administrative agencies or units,
12 governmental departments or units, secretaries of state, federal, state and local officials and all
13 other persons and entities who may be required by operation of law, the duties of their office, or
14 contract, to accept, file, register or otherwise record or release any documents or instruments, or
15 who may be required to report or insure any title or state of title in or to any of the Assets
16 conveyed to Buyer. Except as otherwise specifically set forth in this Order, all Liens of record as
17 of the date of this Order shall be forthwith removed and stricken as against the Assets. All such
18 entities described above in this Paragraph J are authorized and specifically directed to strike all
19 such recorded Liens against the Assets from their records, official and otherwise.

20 K. Except as otherwise expressly set forth on the record at the Sale Hearing, the
21 Debtors are hereby authorized, in accordance with Section 365(b)(1) and (f)(2) of the
22 Bankruptcy Code, to: (1) assume the Executory Contracts; (2) sell, assign and transfer to Buyer
23 each of the Executory Contracts in each case free and clear of all Liens; and, (3) execute and
24 deliver to Buyer, such assignment documents as may be necessary to sell, assign and transfer the
25 Executory Contracts. The only adequate assurance required of Buyer shall be its promise to
26 perform in accordance with the applicable Executory Contract with respect to obligations first
27 arising or incurred following the Closing.

1 L. The non-Debtor parties to the Executory Contracts are forever barred from
2 asserting against the Debtors or Buyer any default allegedly arising or incurred prior to the
3 Closing, any actual pecuniary loss resulting from such default, or any other obligation under the
4 Executory Contract arising or incurred prior to the Closing, other than the cure amount set forth
5 in the Cure Notice or as otherwise expressly set forth on the record at the Sale Hearing, which
6 shall only be asserted against Debtors (and for which cure amounts Buyer shall have no
7 responsibility or liability whatsoever). Except with respect to the Designated Remaining Leases,
8 upon the Closing or promptly after the Closing, the Debtors shall pay or provide for the payment
9 of the specified cure amount to the non-Debtor party to the Executory Contract. The Debtors
10 and their estates shall have no liability under the Executory Contract after the Closing.

11 M. The assumption and assignment of any of the Assigned Designated Remaining
12 Leases shall be effective on the Assignment Effective Date. On or promptly after the
13 Assignment Effective Date, the Debtors shall pay or provide for the payment of the specified
14 cure amount to the non-Debtor party to the Assigned Designated Remaining Lease, and Buyer
15 shall pay to the non-Debtor party to the Assigned Designated Remaining Lease any amounts that
16 have accrued subsequent to the Closing and are unpaid. The Debtors are hereby authorized to
17 reject the Non-Assigned Designated Remaining Leases effective on the later of the Rejection
18 Effective Date or the date that possession of the property is returned to the non-Debtor party (the
19 "Return of Possession Date"). The last day to file a proof of claim arising from the rejection of a
20 Non-Assigned Designated Remaining Lease shall be 30 days after the later of the Rejection
21 Effective Date or the Return of Possession Date.

22 N. If any person or entity which has filed statements or other documents or
23 agreements evidencing Liens on, or interests in, the Assets shall not have delivered to the
24 Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties,
25 termination statements, instruments of satisfaction, releases of liens and easements, and any
26 other documents necessary for the purpose of documenting the release of all Liens which the
27 person or entity has or may assert with respect to the Assets, the Debtors are hereby authorized
28 and directed to execute and file such statements, instruments, releases and other documents on

1 behalf of such person or entity with respect to the Assets; provided, however, that the failure of
2 Debtors to execute and file the foregoing shall not in any manner whatsoever adversely affect the
3 sale of the Assets to Buyer free and clear of any such Liens.

4 O. Any and all Assets in the possession or control of any person or entity, including,
5 without limitation, any former vendor, supplier or employee of the Debtors (a) shall be
6 transferred to Buyer free and clear of the Liens and (b) shall be delivered at the Closing to Buyer
7 unless, pursuant to the APA, such person, entity, vendor, supplier or employee may retain
8 temporary possession or control of any of such Assets, in which case the possession of such item
9 shall be delivered to Buyer at such time as is designated by Buyer.

10 P. Nothing contained in any order of any type or kind entered in these Chapter 11
11 Cases or any related proceeding subsequent to entry of this Order, shall conflict with or derogate
12 from the provisions of the APA or the terms of this Order, including, without limitation, any plan
13 of reorganization (whether a liquidating plan or otherwise) of the Debtor.

14 Q. This Court retains jurisdiction, even after the closing of these Chapter 11 cases,
15 to:

16 1. Interpret, implement and enforce the terms and provisions of this Order
17 (including the injunctive relief provided in this Order) and the terms of the APA, all amendments
18 thereto and any waivers and consents thereunder and of each of the agreements executed in
19 connection therewith;

20 2. Protect Buyer, or any of the Assets, from and against any of the Liens;

21 3. Compel delivery of all Assets to Buyer;

22 4. Resolve any disputes arising under or related to the APA, the Transaction,
23 and Buyer's peaceful use and enjoyment of the Assets;

24 5. Adjudicate all issues concerning (alleged) pre-Closing Liens and any other
25 (alleged) interest(s) in and to the Assets, including the extent, validity, enforceability, priority
26 and nature of all such (alleged) Liens and any other (alleged) interest(s);

27 6. Adjudicate any and all issues and/or disputes relating to the Debtors' right,
28 title or interest in the Assets and the proceeds thereof, the Motion and/or the APA; and,

1 7. Adjudicate any and all remaining issues concerning the Debtors' right and
2 authority to assume and assign the Assumed Executory Contracts and Buyer's rights and
3 obligations with respect to such assignment and the existence of any default under an Executory
4 Contract.


5 R. No bulk sales law or any similar law of any state or other jurisdiction shall apply
6 in any way to the Transaction.

7 S. The sale of the Assets is in contemplation of a plan of reorganization and,
8 accordingly, is a transfer pursuant to section 1146(c) of the Bankruptcy Code which shall not be
9 taxed under any law imposing a stamp tax, recording tax, transfer tax, or similar tax.

10 T. The failure specifically to include any particular provisions of the APA in this
11 Order shall not diminish or impair the efficacy of such provision, it being the intent of the Court
12 that the APA and each and every provision, term, and condition thereof be and, therefore is,
13 authorized and approved in its entirety.

14 U. This Order and the Judgment Order entered in connection herewith shall be
15 effective immediately upon entry pursuant to Rule 7062 and 9014 of the Federal Rules of
16 Bankruptcy Procedure, and no automatic stay of execution, pursuant to Rule 62(a) of the Federal
17 Rules of Civil Procedure, or Rule 6004(g) or 6006(d) of the Federal Rules of Bankruptcy
18 Procedures applies with respect to this Order and/or the Judgment Order entered in connection
19 herewith.

20
21 Dated: 5/23/02



United States Bankruptcy Judge

NOTE TO USERS OF THIS FORM:
Physically attach this form as the last page of the proposed Order or Judgment.
Do not file this form as a separate document.

In re BMK, INC., et al., Debtor(s).	(SHORT TITLE)	CHAPTER 11 CASE NUMBER: LA 01-45961-AA (Jointly Administered with Case Nos.: LA 01-45965-AA; LA 01-45969-AA; LA 01-45971-AA; LA 01-45972-AA; LA 01-45975-AA; LA 01-45976-AA; and LA 01-45979-AA)
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**NOTICE OF ENTRY OF JUDGMENT OR ORDER
AND CERTIFICATE OF MAILING**

TO ALL PARTIES IN INTEREST ON THE ATTACHED SERVICE LIST:

1. You are hereby notified, pursuant to Local Bankruptcy Rule 116(1)(a)(iv), that a judgment or order entitled,
(specify):

ORDER AND FINDINGS OF FACT AND CONCLUSIONS OF LAW: (1) AUTHORIZING AND APPROVING SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE, AND (2) AUTHORIZING AND APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE

was entered on (specify date): **MAY 23 2002**

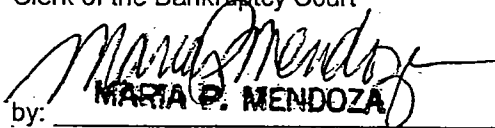
2. I hereby certify that I mailed a copy of this notice and a true copy of the order or judgment to the persons and entities on the attached service list on (specify date):

MAY 23 2002

DATED: **MAY 23 2002**

JON D. CERETTO
Clerk of the Bankruptcy Court

by: _____


MARIA P. MENDOZA

IN RE BMK
CH 11 CASE NO. LA-01-45961-AA
SALE ORDER NOTICE OF ENTRY SERVICE LIST

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apter 11 Bankruptcy Case No. LA-01-
er re Sale Service List May 23 02

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In Re BMK
Chapter 11 Bankruptcy Case No. LA-01-
Order re Sale Service List May 23 02

RECORDED: 09/21/2005

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