

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 16-10527 (MFW)

(Jointly Administered)

Ref. Nos. 9, 15, 20 and 644

**JOINDER OF SP IMAGES, INC. TO OMNIBUS OBJECTION OF
ASICS AMERICA CORPORATION TO DEBTORS' MOTIONS FOR ORDERS
ON THE (1) CONSIGNMENT MOTION; (2) GOB MOTION; AND (3) DIP MOTION**

SP Images, Inc. ("SPI") by and through its undersigned counsel, hereby concurs with and joins (the "**Joinder**"), for the reasons set forth therein, in all respects to the omnibus objection of ASICS America Corporation ("ASICS") [Docket No. 644] (the "**ASICS Objection**") to the above-captioned Debtors (the "**Debtors**") (i) *Debtors' Motion for Interim and Final Orders (A) Authorizing the Debtors to (I) Continue to Sell Consigned Goods in the Ordinary Course of Business Free and Clear of all Liens, Claims and Encumbrances and (II) Grant Administrative Expense Priority to Consignment Vendors for Consigned Goods Delivered Postpetition; and (B) Grant Replacement Liens to Consignment Vendors with Perfected Security Interests in Consigned Goods and/or Remit the Consignment Sale Price arising from Sale of Consigned Goods to Putative Consignment Vendors* [Docket No. 9] (the "**Consignment Motion**"); (ii) *Debtors' Emergency Motion for Interim and Final Orders (A) Authorizing the Debtors to Assume the Closing Store Agreement, (B) Authorizing and Approving Store Closing Sales Free and Clear of all Liens, Claims and Encumbrances, (C) Authorizing the Implementation of*

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings, Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.



Customary Employee Bonus Program and Payments to Non-Insiders Thereunder, (D) Approving Dispute Resolution Procedures, and (E) Approving the Debtors' Store Closing Plan [Docket No. 15] (the "**GOB Motion**"); and (iii) *Debtors' Motion for Interim and Final Orders (I) Authorizing Debtors to Obtain Post-Petition Secured Financing Pursuant to 11 U.S.C. §§ 105, 362, 363, and 364; (II) Granting Liens and Superpriority Claims to Post-Petition Lenders Pursuant to 11 U.S.C. §§ 364 and 507; (III) Authorizing the Use of Cash Collateral and Providing Adequate Protection to Prepetition Secured Parties and Modifying the Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, and 364; and (IV) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(B) and (C) And Local Rule 4001-2* [Docket No. 20] (the "**DIP Motion**" and together with the Consignment Motion and GOB Motion, the "**Motions**"²). In support of this Joinder, SPI respectfully submits as follows:

BACKGROUND

1. On March 2, 2016 (the "**Petition Date**"), each of the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Court**").

2. The Debtors continue in possession of their respective properties and the management of their respective businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases.

² Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such term in the respective Motions.

3. The Debtors operate a retail sporting goods and accessories business. The Debtors obtain a substantial portion of their inventory through consignment arrangements with various consignors, including SPI.

4. Prior to the Petition Date, SPI and TSA Stores, Inc. (“TSA”) had entered into a consignment agreement (the “**Consignment Agreement**”), pursuant to which SPI periodically consigned goods to TSA for sale in various Sports Authority brand stores across the country. SPI’ consigned goods and the proceeds derived therefrom that were in the Debtors’ possession as of the Petition Date are referred to herein collectively as the “**SPI Property**”.

5. At all times during their consignment relationship, including under the Consignment Agreement, the parties acknowledged and agreed that all right, title, and interest in and to any consigned SPI goods, including the SPI Property, remained with SPI and never transferred to TSA. The Agreement expressly provided that:

“[SPI] shall retain title to all goods subject to this agreement until the date of sale at which time title shall pass from [SPI] to the purchaser of such goods.”

Consignment Agreement, at p. 2 (emphasis added). Thus, in the Consignment Agreement drafted by the Debtors, the Debtors admit that they hold no title to SPI’s goods consigned under the Consignment Agreement, including the SPI Property. Pursuant to the Consignment Agreement, title to any of SPI’s goods transfers, if at all, directly from SPI to the ultimate purchaser of such goods.

6. On or about March 15, 2016, the Debtors commenced an adversary proceeding against SPI by filing a complaint seeking, among other things, declaratory judgment that the Debtors have a senior interest in the SPI Property (the “**Complaint**”). SPI intends to strongly defend the Complaint and reserves the right to seek any and all claims, causes of action, and damages against the Debtors arising out of or relating to the Agreement and/or the Complaint.

7. Prior to the Petition Date, SPI filed a UCC-1 financing statement to perfect its interests in the SPI Property. Contemporaneous with the filing of its financing statement, SPI provided written notice of its security interest to each of the existing secured lenders of TSA.

8. As a result of pre-petition sales of certain Consigned Merchandise, SPI has significant prepetition claims arising from the Debtors' breach of the Consignment Agreement and failure to remit payment.

JOINDER

9. SPI objects to any request by the Debtors to sell or grant a security interest in or lien upon the SPI Property without SPI's consent. Each of the Motions seek to irreparably harm and impair SPI's rights in its owned property, either by seeking authority to sell SPI's property, including at substantially discounted prices at GOB sales, or to grant a security interest in or lien upon property outside of the Debtors' estates (to the extent that is arguably possible).

10. SPI hereby joins in, and incorporates herein by reference, the ASICS Objection, and adopts the arguments therein as its own. For the reasons stated in the ASICS Objection, SPI objects to the Motions.

11. To the extent not inconsistent with the relief sought herein, SPI joins in any other objections that may be filed to the Motions.

12. SPI reserves the right to make other and further objections to the Motions as appropriate as additional information is provided.

WHEREFORE, SPI respectfully requests this Court to (i) modify the Consignment Motion, the GOB Motion and the DIP Motion as requested herein, and (ii) grant such further relief to SPI as the Court deems appropriate under the circumstances.

Dated: March 22, 2016
Wilmington, Delaware

CHIPMAN BROWN CICERO & COLE, LLP

/s/ Mark D. Olivere

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