

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11  
BORDERS GROUP, INC., et al., : Case No. 11-10614 (MG)  
: (Jointly Administered)  
Debtors. :  
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**NOTICE OF APPOINTMENT OF CONSUMER PRIVACY OMBUDSMAN**

Tracy Hope Davis, United States Trustee for Region 2 (the "United States Trustee"), hereby appoints Michael St. Patrick Baxter, as Consumer Privacy Ombudsman in these cases in respect of the sale transaction approved by the Order Pursuant To Sections 332, 363, 365 and 105 Of The Bankruptcy Code And Rules 2002, 6004 And 6006 Of The Federal Rules Of Bankruptcy Procedure Approving Bidding Procedures In Connection With The Sale Of The Debtors' IP Assets Free And Clear Of All Liens, Interests, Claims And Encumbrances (the "Bidding Procedures Order"). (Docket No. 1513). The Verified Statement of Mr. Baxter is attached hereto.

This appointment is made pursuant to the Bidding Procedures Order which, among other things, directs the United States Trustee to appoint a Consumer Privacy Ombudsman pursuant to Bankruptcy Code section 332. Bidding Procedure Order at ¶ 11.

Dated: New York, New York  
August 12, 2011

TRACY HOPE DAVIS  
UNITED STATES TRUSTEE

By: /s/ Paul K. Schwartzberg  
Paul K. Schwartzberg  
Trial Attorney  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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: **Chapter 11**  
: **Case No. 11-10614 (MG)**  
: **(Jointly Administered)**  
: **Debtors.**  
: **(Jointly Administered)**  
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**DECLARATION OF DISINTERESTEDNESS  
OF MICHAEL ST. PATRICK BAXTER**

Michael St. Patrick Baxter, under penalty of perjury, hereby declares as follows:

1. I am a partner at the law firm of Covington & Burling LLP (“Covington”), which maintains offices for the practice of law in, among other locations, New York and Washington, D.C. I am a member of the bar of the District of Columbia.

2. This Declaration is based either on my personal knowledge and belief or upon client/matter and accounting records of Covington reviewed by employees of Covington acting under my supervision and direction.

3. In connection with my proposed engagement as consumer privacy ombudsman in above-captioned Chapter 11 cases, I have caused a search of Covington’s conflicts database to determine whether Covington has any client relationships with any of the above-captioned debtors (“Debtors”), their revolving credit agreement agents and lenders, their

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: Borders Group, Inc. (4588); Borders International Services, Inc. (5075); Borders, Inc. (4285); Border Direct, LLC (0084); Borders Properties, Inc. (7978); Borders Online, Inc. (8425); Borders Online LLC (8996); and BGP (UK) Limited.

term loan agents and lenders, their largest unsecured creditors, and certain other related parties known to me. A list of the entities searched is attached as **Exhibit A**.

4. With respect to my “disinterestedness” under Section 101(14) of the Bankruptcy Code, I provide the following information:

a. I am not, and I have never been, a creditor, an equity security holder, or an insider of any of the Debtors.

b. I am not, and I have never been, a director, officer, or employee of any of the Debtors.

c. I am not related to the Honorable Martin Glenn or to any other United States Bankruptcy Judge or United States District Judge in the Southern District of New York.

d. I do not have an interest materially adverse to the interest of the Debtors’ estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, any of the Debtors.

e. I am not related to the United States Trustee for Region 2 (“**U.S. Trustee**”), and do not have any connection with the U.S. Trustee or with members of the Office of the U.S. Trustee.

5. As a result of the conflicts search described in paragraph 3 above, Covington, in matters wholly unrelated to these bankruptcy cases, currently represents the financial institutions (or affiliates thereof) set forth in **Exhibit B**, which, I understand, may be, directly or through their affiliates, revolving credit agreement or term loan agents or lenders of the Debtors. None of the entities listed on **Exhibit B** accounted for more than one percent of Covington’s aggregate annual revenue for the last fiscal year, with the exception of Wells Fargo,

which did not account for more than two percent of aggregate annual revenue for the last fiscal year.

6. As a result of the conflicts search described in paragraph 3 above, Covington, in matters wholly unrelated to these bankruptcy cases, currently represents the entities (or affiliates thereof) set forth in **Exhibit C**, which, I understand, may be, directly or through their affiliates, unsecured creditors of the Debtors. None of the entities listed on **Exhibit C** accounted for more than one percent of Covington's aggregate annual revenue for the last fiscal year.

7. Based on the conflicts search described in paragraph 3, and except as set forth in this Declaration, Covington does not have any connection with any person identified in paragraph 3 above, with the U.S. Trustee, or with any person employed in the Office of the U.S. Trustee, to the best of my knowledge and belief.

8. With respect to my qualifications for appointment as consumer privacy ombudsman, I provide the following information:

a. I recently served as the consumer privacy ombudsman in the Chapter 11 bankruptcy case of DMCT, L.L.C., formerly known as The World Egg Bank, in the District of Arizona.

b. I am a member of the American Law Institute, a Fellow of the American College of Bankruptcy, a Conferee of the National Bankruptcy Conference, and a founding member of the International Insolvency Institute.

c. I have served for almost a decade as an adjunct professor at The George Washington University Law School, where I teach a course on business bankruptcy.

I am the outgoing Chair of the American Bar Association's Business Bankruptcy Committee. I am also a contributing editor of NORTON BANKRUPTCY LAW AND PRACTICE 3D.

d. Covington has been advising clients on a wide range of privacy and data-security matters on a global basis for over a decade. We have been recognized as a leader in this area by a range of publications, including *Chambers Global*, *Chambers UK*, *Chambers USA*, and *Legal 500*, among others. We are familiar with federal privacy laws as well as state analogs and industry best practices.

e. In discharging my duties as consumer privacy ombudsman, I intend to utilize and rely on the services of other lawyers and paraprofessionals at Covington.

9. To the extent that any information disclosed herein requires amendment or modification upon my completion of further review, as additional party-in-interest information becomes available to me (including any prospective purchasers), or if any conflict becomes known, I will file a supplemental declaration with the Court.

I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Michael St. Patrick Baxter  
Michael St. Patrick Baxter

Dated: August 11, 2011

## Exhibit A

1903 Onshore Funding	MPS
Banc of America Securities	Pearson Education Inc.
Bank of America, N.A.	Penguin Putnam Inc.
Bank of New York Mellon	Perseus Distribution Services
Bennett S. LeBow	Pershing Square Capital Management, L.P.
BGP (UK) Limited	PNC Bank, NA
BMO Capital Markets Financing	Random House, Inc.
Borders Direct, LLC	RBS Business Capital
Borders Group, Inc.	RBS Citizens, N.A.
Borders International Services, Inc.	Regions Bank
Borders Online, Inc.	Rosetta Stone Ltd.
Borders Online, LLC	SB Capital Group, LLC
Borders Properties, Inc.	Simon & Schuster Inc.
Borders, Inc.	Sony Music Entertainment Inc.
CIT Bank	Sony Pictures Home Entertainment
Comerica Bank	Source Interlink Companies
Diamond Comic Distributors	Special Value Continuation Partners, LP
F&W Media Inc.	Streambank, LLC
Fifth Third Bank	SunTrust Bank
Fortis Capital Group	TD Bank, N.A.
GA Capital, LLC	Tennenbaum Capital Partners, LLC
GB Merchant Partners	Tennenbaum Opportunities Partners, V LP
General Electric Capital Corporation	The McGraw-Hill Companies
Gordon Brothers Retail Partners, LLC	Tiger Capital Group, LLC
Great American Group, LLC	Twentieth Century Fox
HarperCollins Publishers	U M G D
Hatchette Book Group USA	U.S. Bank National Association
Hilco Merchant Resources, LLC	UBS AG
Houghton Mifflin Harcourt	Union Bank, N.A.
John Wiley and Sons Inc.	Wells Fargo Retail Finance, LLC
JP Morgan Chase Bank N.A.	Workman Publishing Company
KeyBank National Association	
LeBow Gamma Limited Partnership	

**Exhibit B**

Bank of America N.A.  
Bank of Montreal  
Bank of New York Mellon  
Comercia Incorporated  
Fifth Third Bank  
Fortis Property Group  
General Electric Capital Corporation  
JP Morgan Chase Bank N.A.  
Mitsubishi UFJ Financial  
PNC Financial Services Group, Inc.  
Regions Financial Corporation  
Royal Bank of Scotland  
TD Bank N.A.  
Tennebaum Capital  
U.S. Bank National Association  
UBS AG  
Wells Fargo & Company



**Exhibit C**

Bertelsmann AG  
Fairfield Language Technologies  
Houghton Mifflin Harcourt Publishing Company  
John Wiley & Sons  
National Amusements  
News Corporation  
Pearson Education, Inc.  
Penguin Group  
Perseus Book Group  
Sony Music Entertainment  
Sony Pictures Entertainment  
The McGraw Hill Companies  
Vivendi Universal