

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In Re	:	
	:	Chapter 11
DIA DEB INTERNATIONAL, INC.,	:	
	:	Case No.: 11-13376 (MG)
Debtor,	:	
	:	
	X	

**NOTICE OF MOTION FOR AN ORDER COMPELLING RELEASE OF DUE
DILIGENCE MATERIALS AND EXTENDING THE ALTERNATIVE BID DEADLINE**

PLEASE TAKE NOTICE that on September 8, 2011, K.P. Sanghvi Inc. (“Sanghvi”), by and through its attorneys, Archer & Greiner, P.C., has filed a Motion for an Order Compelling Release Of Due Diligence Materials And Extending The Alternative Bid Release pursuant to 11 U.S.C. § 105 (the “Motion”) in the manner of the form of Order attached hereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Motion and entry of the proposed order annexed hereto as Exhibit A shall be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in Room of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004, on September 22, 2011 at 10:00 a.m. (prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that responses and objection, if any, to the Motion and the relief requested therein must be made in writing, conform to the Bankruptcy Rules and the Local Bankruptcy Rules for the Bankruptcy Court and be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (General Order M-242 and the User’s Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court), by registered users of

the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and shall be served in accordance with General Order M-242 and upon: (1) Archer & Greiner, P.C., 21 Main Street, Suite 353, Court Plaza South – West Wing, Hackensack, New Jersey 07601, Attention: Patrick Papalia, Esq., counsel to K.P. Sanghvi Inc., and (2) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004, **so as to be actually received by no later than 4:00 p.m. (prevailing Eastern Time) on _____**. Only those responses that are timely filed, served and received will be considered at the hearing.

Dated: New York, New York
September 8, 2011

ARCHER & GREINER, P.C.

/s/ Patrick Papalia
Patrick Papalia, Esq.
2 Penn Plaza, Suite 1500
New York, New York 10121
Telephone: (201) 342-6000
Facsimile: (201) 342-6611
Email: ppapalia@archerlaw.com

Attorneys for K.P. Sanghvi Inc.

Patrick Papalia, Esq.
ARCHER & GREINER, P.C.
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Email: ppapalia@archerlaw.com

Attorneys for K.P. Sanghvi, Inc.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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		Chapter 11
DIA DEB INTERNATIONAL, INC.,		:
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		Case No.: 11-13376 (MG)
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Debtor,		:
		:
		Hon. Martin Glenn
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MOTION FOR AN ORDER COMPELLING RELEASE OF DUE DILIGENCE MATERIALS AND EXTENDING THE ALTERNATIVE BID DEADLINE PURSUANT TO 11 U.S.C. SECTION 105(a)

TO: THE HONORABLE MARTIN GLENN,
UNITED STATES BANKRUPTCY JUDGE:

K.P. Sanghvi Inc. (“Sanghvi”), by and through its undersigned counsel, hereby files this motion for an Order Compelling the Release of Due Diligence Materials and Postponing the Alternative Bid Deadline (“Motion for Equitable Relief”), and in support thereof, respectfully represents as follows:

I. INTRODUCTORY STATEMENT

1. At the present, Dia Deb International, Inc. (“Debtor”) is scheduled to conduct an auction aimed at selling to the highest bidder certain of its assets on September 13, 2011.

Pursuant to this Court's order approving bidding procedures, alternative bids ("Alternative Bids") to the stalking horse bid ("Stalking Horse Bid") from Sumit Diamond Corporation ("Sumit") are due on or before September 8, 2011 at 4:00PM ("Alternative Bid Deadline").

2. Since August 26, 2011, Sanghvi has attempted to obtain from Debtor basic due diligence materials in order to properly evaluate the assets being sold, the Stalking Horse Bid and craft its bid for the assets accordingly. Despite the various requests, Debtor has only very recently provided documents, while other documents and information requests continue to be open. As a result, with only today left before the Alternative Bid Deadline is set to pass, Sanghvi is left with no alternative but to seek the Court's intervention, and request that the Court enter an Order compelling Debtor to provide Sanghvi with the remainder of the requested due diligence materials and postponing the asset sale in order to afford it an opportunity to properly review the outstanding and belatedly provided materials and make a "Alternative Bid."

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. Section 157 and 1334 and pursuant to the Standing Order of Referral of Cases to the Bankruptcy Court of the District Court for the Southern District of New York, dated July 10, 1984. The statutory predicates for the relief sought herein is Section 105(a) of the U.S. Bankruptcy Code ("Code"). This matter concerns a core proceeding pursuant to 28 U.S.C. Section 157(b). Venue is proper before this Court based on 28 U.S.C. Section 1409.

III. PROCEDURAL AND FACTUAL BACKGROUND

A. Debtor's Bankruptcy Case, Debtor's DIP Financing Application, and Debtor's Motion for an Order Approving Bidding Procedures With Respect to the Sale of the Debtor as a Going Concern and Certain of its Assets and Scheduling a Hearing to Approve the Sale to the Highest or Best Bidder.

4. On July 14, 2011, various creditors of Debtor, Apex Gems, Inc., Sanghavi Diamonds Inc., Bluerays, Inc., and D&P Diamond Inc. filed an involuntary bankruptcy petition against Debtor in the United States Bankruptcy for the Southern District of New York.

5. On August 10, 2011, Debtor moved to convert Debtor's involuntary bankruptcy case to a case under Chapter 11 of the Code, and the Court granted Debtor's motion on August 11, 2011.

6. On August 11, 2011, Debtor submitted a motion to approve debtor in possession financing with Sumit. According to this DIP Financing application, Sumit "is to cover all go-forward expenses of the Debtor's business as a going concern and essentially fund the purchase and production of inventory, the sale of New Inventory, (iii) the creation of and collection of new receivables generated by the sale of new inventory and the payroll and other operating expenses associated with each of the foregoing." See DIP Financing Motion, ¶15. Sumit also agreed to make advances in an aggregate amount not to exceed \$1,000,000. In return, Sumit and Debtor executed a Non-Recourse Secured Promissory Note, whereby Debtor granted Sumit a binding, continuing, enforceable, fully-perfected first priority senior lien on, and security interest in, the property of the Debtor, the New Inventory and the New Receivables. See *id.*, ¶ 20. On or about August 16, 2011, the Court entered an order approving Debtor's application. See Docket Report, Entry #16.

7. Simultaneously with filing the DIP financing motion, Debtor also filed a Motion for Orders (i) Scheduling Hearing to Consider Approval of Bidding Procedures for the Conduct

of an Auction, among other things. (“Bidding Procedures Motion”). The application itself offers a summary of a Sale Agreement by and between Debtor and Sumit, which enables Sumit to purchase the New Inventory and New Receivables, along with other assets listed on Exhibit A to the Sale Agreement, subject to higher and better offers. Exhibit A identified the following assets, among others: New Inventory (as defined in the Secured Note), New Receivables (as defined in the Secured Note), jewelry samples, molds, purchase orders, customer accounts, Judith Ripka license agreement, general intangibles, telephone numbers, customer lists, internet names, domain names (aka URL’s) and intellectual property, trademarks, patents, copyrights, trade names, the name “Dia Deb International.” These specific assets are the assets (“Assets”) of interest to Sanghvi.

The purchase price for the Assets is the sum of (i) Three Hundred Eighty One Thousand Dollars (\$381,000) (the “Cash Portion”) plus (ii) the Sales Portion. Sales Portion is defined as the sum of (A) seven percent (7%) of the net sales from the sales by Purchaser of the Seller’s line of inventory to the Seven Percent Vendors (Set forth on Exhibit B to the Sale Agreement); plus (B) three and one-half percent (3.5%) of the net sales from the sales by Purchaser of the Seller’s line of inventory to the Three and a One-Half Percent Vendors (Set forth on Exhibit B to the Sale Agreement). See Bidding Procedures Motion, ¶7.

8. Apart from containing the terms of the Sales Agreement, the application also reveals Sumit’s intend “to employ Michael Roshanzamir, the Debtor’s President, in the event Sumit is the successful bidder for the Assets. According the Debtor, to date, no formal agreement exists between Mr. Roshanzamir and Sumit governing the terms of such employment. See id., ¶15.

9. With respect to the Bidding Procedures, the application proposes an Alternative Bid Deadline of September 13, 2011 at 4:00PM and also states that “[t]o the extent any proposed bidder wants to undertake any due diligence with respect to the Assets, such proposed bidder must execute a non-disclosure agreement ... in form and substance acceptable to the Debtor prior to undertaking any such due diligence and all such due diligence must be undertaken and completed prior to the Alternative Bid Deadline.” Id., ¶23.

10. By order, dated August 16, 2011, the Court approved the Bidding Procedures Motion. The Alternative Bid Deadline was changed from September 13, 2011 to September 8, 2011, with an auction scheduled for September 13, 2011, followed by a hearing approving the sale on September 15, 2011. See Docket Report Entry #21.

B. Sanghvi’s Interest in the Assets and its Effort to Conduct Due Diligence.

11. On August 26, 2011, my office contacted Debtor’s counsel requesting documents and back up materials regarding the Assets. Debtor’s counsel indicated there was no due diligence package prepared, but that a request for documents should be submitted to Debtor. On August 29, 2011, Sanghvi’s counsel submitted a memorandum to Debtor’s counsel requesting documents. See Papalia Declaration, Exhibit A. Debtors’ counsel subsequently indicated that the any document review must be done at the offices of Debtor.

12. On August 31, 2011 Sanghvi’s counsel provided Debtor’s counsel with the requested non disclosure agreement and once again urged that the requested due diligence documents be produced. See id., Exhibit B. Thereafter, Debtor’s counsel arranged for a meeting between Sanghvi and Debtor’s President, Michael Zamir, at Debtor’s offices for September 1, 2011.

13. On September 1, 2011, Sanghvi's principal and the company's accountant, William Nissel, C.P.A. visited Debtor's offices and met with Debtor's President. In contrast to the expectations on the part of Sanghvi's principal and the assurances by Debtor's counsel, Debtor stated that the requested due diligence materials were not available. Instead of providing Sanghvi with the due diligence documents, Debtor's President revealed his future plans for the his company post bankruptcy with Sumit Diamonds. See Affidavit of William Nissel, C.P.A.

14. By e-mails, dated September 1, 2011, and September 2, 2011, Sanghvi's counsel contacted Debtor's counsel and, in light of Debtor's failure to produce the requested documents, urged him to provide Sanghvi with the due diligence materials. See Papalia Declaration, Exhibit C and Exhibit D.

15. On September 2, 2011, Debtor's counsel sent an e-mail indicating that he provided a partial response to Sanghvi's due diligence materials request. Upon receipt and review of the documents from Debtor's counsel, most of the documents proved to have been filed with the Court on a previous occasion. The Asset Purchase Agreement executed by Debtor and Sumit, the Debtor's factoring agreement with Rosenthal & Rosenthal, and the Non-Recourse Secured Promissory Note with Sumit, were not among the documents requested by Sanghvi. Payroll details and Debtor's licensing agreement with Judith Ripka were also among the documents provided, but were inadequate to conduct due diligence on the Assets and to assess the Stalking Horse Bid. In response to Debtor's production of due diligence materials, Sanghvi's counsel indicated that Debtor provided only a fraction of what Sanghvi requested and asked for an indication when the remaining documents would be provided. See id., Exhibit E. In response, Debtor's counsel suddenly questioned the relevance of the outstanding documents, but indicated that more documents would be forthcoming. See id., Exhibit F.

16. Late in the afternoon of September 2, 2011, Debtor's counsel e-mailed a customer list, employee bio and sample inventory list of August, 2011, among other documents. By e-mail, dated September 4, 2011, Sanghvi's counsel that the documents he e-mailed were not responsive to the requested information and were inadequate to allow proper assessment of the Stalking Horse Bid. Sanghvi's counsel also listed the items which were lacking. See id., Exhibit G.

17. On September 6, 2011, Debtor's counsel indicated that a "List of All Open PO/ List of all Current PO, Customer Aging- as of Aug. 31, 2011, Sales by customer for 2010 and year to date, Current aged payables, Detail List of any Other Inventory (Closeout/ Diamond)" would be provided later that day. See id., Exhibit H.

18. On September 7, 2011, Debtor's counsel, with Debtor's accounting staff, counsel for Sanghvi and Sanghvi's accountant conducted a telephone conference call regarding the outstanding due diligence materials. Unfortunately, while information was provided after the telephone conference, data requests still remain open and insufficient time exists to review all of the late provided materials yesterday evening. Early in the evening of September 7, 2011, counsel for Sanghvi requested that in light of the circumstances Debtor postpone the Alternative Bid Deadline. Debtor's counsel was reluctant to honor this request.

III. REQUEST FOR ORDER COMPELLING THE PRODUCTION OF DUE DILIGENCE MATERIALS AND POSTPONING THE ASSET SALE.

19. Section 363(b) of the Code provides that a debtor in possession such as Debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. Section 363(b). A Debtor must articulate a valid business judgment justification to obtain court approval to proceed with assets sales outside the ordinary course of business under Section 363(b) of the Code. See, e.g., Comm. Of Equity Sec. Holders

v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070-71 (2d Cir. 1983); In re Abbotts Diaries of Pennsylvania, Inc., 788 F.2d 143, 147-48 (3d Cir. 1986) (implicitly adopting the “sound business judgment” test).

20. Courts have applied four (4) factors in determining whether a sound business justification exists: (i) whether a sound business reason exists for the proposed transaction; (ii) whether fair and reasonable consideration has been provided; (iii) whether the transaction has been proposed and negotiated in good faith; and (iv) whether adequate and reasonable notice has been provided. See Lionel Corp., 722 F.2d at 1071 (setting forth the “sound business purpose” test); Abbotts Diaries, 788 F.2d at 145-47.(implicitly adopting the articulated business justification test of Lionel and adding the “good faith” requirement); see, e.g., Licensing by Paolo, Inc. v. Sinatra (In re Gucci), 105 F.3d 837, 839 (2d Cir. 1997). Good Faith is shown by the integrity of the conduct during the course of the sale proceedings. “Where there is a lack of such integrity – as a result of “fraud, collusion between purchaser and other bidders or the trustee...” a good faith finding may not be made.” In re Motors Liquidation Company, 430 B.R. 65, 78 (Bankr. S.D.N.Y. 2010) (citing Licensing by Paolo, Inc. v. Sinatra (In re Gucci) (Gucci II), 126 F.3d 380, 390 (2nd Cir. 1997).

21. In the instant matter, the Debtor’s conduct and the Stalking Horse Bid lack good faith. Debtor’s reluctance to produce the requested due diligence materials and decision to release some materials in piece meal fashion a day or so before the Alternative Bid Deadline is set to lapse works to discourage Sanghvi from submitting an “Alternative Bid.”

22. In addition, the fact that this bankruptcy proceeding started by way of an involuntary bankruptcy, coupled with the extensive business relationship which exists between Debtor, Debtor’s principals, and Summit, the anticipation of there being a possible employer-

employee relationship between Sumit and Debtor's President post bankruptcy, and Debtor's President informing Sanghvi's principal and accountant of his plans for his (new) company, are all factors which create red flags. Debtor's decision not to prepare a due diligence package, and its reluctance to provide Sanghvi with basic due diligence documents create the impression of the proposed sale to Sumit suffering a lack of integrity.

23. At first blush, the Stalking Horse Bid, the Bidding Procedures and its due diligence provision appear to concern a routine sale of assets pursuant to Section 363 of the Code. However, upon close review and in light of the circumstances surrounding Sanghvi's effort to obtain due diligence materials from Debtor, things appear to be otherwise. As opposed to disclosing this scheme to the Court and any interested parties, the Debtor has opted to fashion the proposed acquisition by Sumit as ordinary and allowing Debtor's Principal to be added to Sumit's payroll upon consummation of the sale. Based on the vision of Debtors' President for his company in the future, the Stalking Horse Bid appears to concern nothing but an effort on the part of Debtor, its principals and Sumit to enable Debtor's President to re-acquire Debtor's business free and clear of liens.

24. Pursuant to the Court's Order approving the Bidding Procedures, the Alternative Bid Deadline is set for September 8, 2011 at 4:00 PM.

25. Based on the foregoing, Sanghvi has not received an adequate amount of time to conduct due diligence and formulate a bid.

26. As a result, Sanghvi respectfully requests that the Court enter an order compelling Debtor to provide Sanghvi with any outstanding due diligence materials and extending the deadline by which to submit an Alternative Bid by ten (10) days.

MEMORANDUM OF LAW

27. This Motion includes citations to the applicable authorities and a discussion of their application to this Motion. Accordingly, Sanghvi respectfully submits that such citations and discussion satisfy the requirement that Sanghvi submit a separate memorandum of law in support of this Motion pursuant to Rule 9013-1 of the Local Bankruptcy Rules for the Southern District of New York.

NOTICE

28. Notice of this Motion has been given via facsimile, hand delivery, or electronic mail to (i) the Debtor, (ii) the Office of the United States Trustee, (iii) the Debtor's known pre-petition secured and unsecured creditors, and (iv) parties that filed a notice of appearance pursuant to Fed. R. of Bankr. P. 9010(b).

CONCLUSION

29. WHEREFORE, Sanghvi respectfully requests that this Court enter an Order in the form annexed to the Notice of Motion as Exhibit A, and for such other and further relief as this Court may deem just.

Dated: New York, New York
September 8, 2011.

Respectfully Submitted,

ARCHER & GREINER
A Professional Corporation
Attorneys for K.P. Sanghvi Inc.

By: /s/ Patrick Papalia
Patrick Papalia

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re	:	
	:	Chapter 11
DIA DEB INTERNATIONAL, INC.,	:	
	:	Case No.: 11-13376 (MG)
Debtor,	:	
	:	
	X	

**ORDER COMPELLING RELEASE OF DUE DILIGENCE MATERIALS
AND EXTENDING THE ALTERNATIVE BID DEADLINE**

Upon consideration of the Motion for Limited Relief from Automatic Stay pursuant to 11 U.S.C. § 105 (the “Motion”) filed by K.P. Sanghvi Inc. (“Sanghvi”), for an Order Compelling Release of Due Diligence Materials and Extending the Alternative Bid Deadline¹, and the Court having subject matter jurisdiction to consider the Motion and the relief request therein pursuant to 28 U.S.C. section 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward Acting C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. section 157(b); and venue being proper before the Court pursuant to 28 U.S.C. sections 1408 and 1409; and due and proper notice of the Motion having been provided to (i) the Debtor, (ii) the Office of the United States Trustee, (iii) the Debtor’s known pre-petition secured and unsecured creditors; and (iv) parties that filed a notice of appearance pursuant to Rule 9010(b) of the Bankruptcy Rules; and no other or further notice need be provided; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court; and the Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore; it is hereby

ORDERED, that Debtor, Dia Deb International, Inc., shall hereby release the documents as set forth in the Affidavit of William Nissle, C.P.A. authorized pursuant to 11 U.S.C. § 105 to take such acts as are necessary to permit them to obtain confirmation of the Referee's Report and Recommendations on or before September 10, 2011; and it is further

ORDERED, that the alternative bid deadline is extended to September 18, 2011 at 4:00 p.m.; and it is further

ORDERED, that notwithstanding any applicability of Rule 9014 of the Federal Rules Bankruptcy Procedure, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: New York, New York
September 8, 2011

HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re	:	
	:	Chapter 11
DIA DEB INTERNATIONAL, INC.,	:	
	:	Case No.: 11-13376 (MG)
Debtor,	:	
	:	Hon. Martin Glenn
	X	

AFFIDAVIT FROM WILLIAM NISSEL, C.P.A.

I, William Nissel, of full age, hereby state and deposes under oath as follows:

1. I am a certified public accountant and am retained as K.P. Sanghvi Inc.'s accountant. In that capacity, I am currently assisting K.P. Sanghvi Inc. in evaluating the Assets subject to the proposed sale by Debtor, Debtor's business and the Stalking Horse Bid from Sumit Diamond Corporation.

2. As part of the due diligence effort, I assisted K.P. Sanghvi with composing a list of various routine documents to be obtained from Debtor. On September 1, 2011 I accompanied K.P. Sanghvi's officers to Debtor's offices with the expectation that Debtor would accommodate our document request and permit an onsite inspection. Debtor's President, Mr. Michael Zamir, was present and informed us that the requested documents were not available. Instead, Mr. Zamir presented us with a vision of his company post bankruptcy.

3. As of this moment, the following items are outstanding:

1. Historical and Current Charge Back and Advertising Allowance and Other Cost of sales (In absolute Values and Percentage of Sales) – By Customer.
2. DIP Financing Data needs clarification and explanation as it is not clear how utilized and much money was used from DIP Financing.
 - a. It has a negative balance.
3. The Open order List that was sent to today added Up to 1.75 + 0.83 Million = 2.58 Million – but the GP analysis - Totals only 1.774 Million – balance data needs to be provided or reason for difference explained.

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Debtor,	:	
	:	
	X	

DECLARATION OF PATRICK PAPALIA, ESQ. IN SUPPORT OF K.P. SANGHVI INC.'S MOTION FOR AN ORDER COMPELLING RELEASE OF DUE DILIGENCE MATERIALS AND EXTENDING THE ALTERNATIVE BID DEADLINE PURSUANT TO 11 U.S.C. SECTION 105(e)

Pursuant to 28 U.S.C. § 1746, Patrick Papalia, declares as follows:

1. I am an attorney at law to practice in the federal and state courts of this State, and am a partner with the law firm of Archer & Greiner, P.C., attorneys for Creditor, K.P. Sanghvi Inc. ("Sanghvi"). As such, I have personal knowledge of the matters set forth herein.
2. I make this Declaration in order to put before the Court certain documents relevant to Sanghvi's motion for an order compelling the release of due diligence materials and extending the alternative bid deadline.
3. Attached hereto as Exhibit A to this Declaration is a true and correct copy of the August 29, 2011 e-mail from Sanghvi's counsel.
4. Attached hereto as Exhibit B to this Declaration is a true and correct copy of the August 31, 2011 e-mail from Sanghvi's counsel.
5. Attached hereto as Exhibit C to this Declaration is a true and correct copy of the September 1, 2011 e-mail from Sanghvi's counsel.

6. Attached hereto as Exhibit D to this Declaration is a true and correct copy of part of the September 2, 2011 e-mail from Sanghvi's counsel.

7. Attached hereto as Exhibit E to this Declaration is a true and correct copy of the September 9, 2011 e-mail from Sanghvi's counsel.

8. Attached hereto as Exhibit F to this Declaration is a true and correct copy of the September 2, 2011 e-mail from Debtor's counsel.

9. Attached hereto as Exhibit G to this Declaration is a true and correct copy of the September 4, 2011 e-mail from Sanghvi's counsel.

10. Attached hereto as Exhibit H to this Declaration is a true and correct copy of the September 6, 2011 e-mail from Debtor's counsel.

Dated: New York, New York
September 8, 2011

ARCHER & GREINER, P.C.
2 Penn Plaza, Suite 1500
New York, New York 10121
Telephone: (201) 342-6000

By: /s/ Patrick Papalia
Patrick Papalia

Patrick Papalia

From: Patrick Papalia
Sent: Monday, August 29, 2011 6:03 PM
To: 'iwinters@klestadt.com'

Subject: Dia Deb - Bidding
Attachments: 2011.08.26-List for Valuation.pdf

Dear Ian:

I represent a diamond client interested in bidding at the bankruptcy asset sale for Dia Deb. My colleague Anthony Hope called you and I understand you indicated you do not have a due diligence package to send out and instead are requesting a written request for information. Attached is an exhibit provided by debtor containing the assets for sale. I have crossed out items in which I do not need further information.

I need back up and detail on each of the assets on the list so my client can make an informed decision on the bid submission. For instance on the inventory up for sale I need ledgers and company records identify the inventory for sale which includes the items and cost. I need a list of the receivables identifying the party and amount. I need a list identifying and itemizing the jewelry sample lines. Please provide all of the purchase orders and the contracts that are the basis for the purchase orders. If you have a summary of the purchase orders it would be of assistance also.

Please provide a copy of the Judith Ripka License Agreement along with sales under the agreement for the immediately preceding twelve month period. Please provide a list of all customer accounts along with sales over the last year, open balances and identities of the customers.

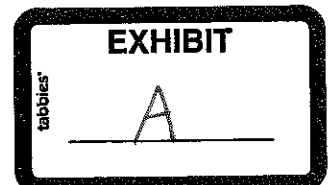
Please identify and provide and itemized list of the general intangibles up for sale. Please provide the customer lists with a historical sales history, to the extent this is redundant of the customer accounts you do not need to reproduce it here.

Please list and identify the molds for sale. Photographs if available would be of assistance in determining condition if not otherwise available for inspection.

Please provide a list of the telephone numbers. Please identify the Internet Names and Domain Names. Please identify and provide the Intellectual Property - Trademarks, Patents, Copyrights, Trade Names, including the name "Dia Deb International and all documents evidencing the filings and approvals with the USPTO.

All of the foregoing should be a part of the business records of Dia Deb. As such it should not be an issue for retrieval and production. Additionally I suspect I am not the only person requesting data and others have requested too so I am optimistic you will have a quick turnaround time on sending me the details. Please let me know when I can expect the requested information. Should you have any questions or comments please feel free to call me.

Patrick Papalia, Esq.
Court Plaza South - West Wing
21 Main Street
Hackensack, New Jersey 07601



9/7/2011

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Archer&Greiner P.C.
ATTORNEYS AT LAW

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9/7/2011

EXHIBIT A

ASSETS

All of the following items wherever located:

New Inventory (as defined in the Secured Note)
New Receivables (as defined in the Secured Note)
jewelry sample lines
molds
purchase orders
customer accounts
Judith Ripka license agreement
general intangibles
telephone numbers
customer lists
web sites
web site files
internet names, domain names (aka URL's), ~~log in names and passwords to third party~~
~~accounts, website hosting account(s), domain registration account(s)~~
~~Google Analytics account(s)~~
~~Google Adwords account(s)~~
~~FaceBook login(s)~~
~~Twitter and eBay logins~~
intellectual property, trademarks, patents, copyrights, trade names
the name "Dia Deb International"

Patrick Papalia

From: Patrick Papalia
Sent: Wednesday, August 31, 2011 11:04 AM
To: 'Ian Winters'

Subject: Dia Deb Inspection
Attachments: Dia Deb - NDA 08.31.2011.PDF

Dear Ian:

Please see attached executed NDA. My client would like to review the documents today, tomorrow or Friday, the sooner the better please. Please advise of available times to perform on site document inspection.

Patrick Papalia, Esq.
Court Plaza South - West Wing
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Hackensack, New Jersey 07601
(201) 342-6000 Ext. 204
(201) 342-6611 (Fax)
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Archer & Greiner P.C.
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9/7/2011

CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT dated this 30th day of August 2011 by and between, KP Sanghvi Inc., a corporation with offices located at 589 Fifth Avenue, Suite 1008, New York, NY 10017 ("Receiving Party") and Dia Deb International Inc, a New York corporation with offices located at 587 Fifth Avenue, 10th Floor, New York, NY 10017 (the "Disclosing Party" or the "Debtor").

WITNESSETH:

WHEREAS, on August 10, 2011, the Debtor moved to convert the Debtor's Chapter 7 case to a case under Chapter 11 of the Bankruptcy Code and on August 11, 2011 (the "Commencement Date"), the Bankruptcy Court entered an order for relief and converted the case to a case under Chapter 11 (the "Bankruptcy Case"). Since the Commencement Date, the Debtor has continued in the management and operation of its business as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code; and

WHEREAS, in connection with the Bankruptcy Case the Debtor has filed a motion (the "Sale Motion") seeking Bankruptcy Court approval to sell its going concern business and certain of its assets to Sumit Diamond Corporation ("Sumit"), free and clear of liens, claims and encumbrances, subject to higher or better offers (the "Asset Sale"); and

WHEREAS, Receiving Party has expressed a desire to conduct a due diligence investigation of the Debtor's assets and operations in order to evaluate its interest in submitting a higher and better bid for an alternative transaction for the purchase of the Debtor's assets, subject to Bankruptcy Court approval (the "Transaction"); and

WHEREAS, the Debtor and the Receiving Party may disclose confidential and proprietary information about itself to the other party on the condition that the other party maintain the confidentiality of all such confidential and proprietary information and refrain from using such information for any purpose whatsoever other than in connection with an evaluation of the Transaction; and

WHEREAS, the Debtor and the Receiving Party are willing to maintain such confidentiality and to cause their respective directors, officers, shareholders, employees, advisors, agents and affiliates to maintain such confidentiality, all as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

(a) Confidential Information means (i) all confidential or proprietary information provided by a Disclosing Party to a Receiving Party and includes, but is not limited to, business or management methods, marketing data, operational methods or procedures, technical information, pricing, profit margins, acquisition plans and negotiations, business plans,

financial statements, tax returns, sales and profit figures, budgets, spending plans, forecasts, projections, accounting and other financial information, research and development, customer, supplier and employee lists, contracts, correspondence and other data; (ii) the existence of a possible Transaction, and (iii) the fact that such information has been or will be made available to each Receiving Party, that discussions, investigations or negotiations are taking place or have concluded concerning a possible Transaction, or any of the terms, conditions or other facts with respect to any such possible Transaction (including the status thereof).

(b) Disclosing Party means that party which furnishes Confidential Information and includes such party's directors, officers, shareholders, employees, advisors, agents and affiliates.

(c) Receiving Party means that party which receives Confidential Information and includes such party's directors, officers, shareholders, employees, advisors, agents and affiliates.

2. Treatment of Confidential Information. All Confidential Information shall be kept strictly confidential by the Receiving Party and shall not be used for any purpose or disclosed or disseminated to any third party other than those officers, directors, employees, agents and advisors of a Receiving Party who have a need to know such information in connection with the Transaction and who have agreed to maintain the confidentiality thereof in accordance herewith. A Receiving Party shall use a high degree of care to maintain the confidentiality of the Confidential Information, which shall be no less than the degree of care the Receiving Party would use with respect to its own Confidential Information. Each party agrees that it shall not use the Confidential Information of the Disclosing Party in any way detrimental to the Disclosing Party, in any manner designed to divert business from customers of the Disclosing Party or for any purpose other than in connection with the possible Transaction.

3. Exceptions. The obligations contained in this Agreement shall not apply to Confidential Information which (i) is required by applicable law, the rules and regulations of any governing securities exchange or by order of a court of competent jurisdiction to be disclosed; provided, however, the Receiving Party gives the Disclosing Party prompt written notice upon learning of such disclosure requirement and, to the extent practicable, a reasonable opportunity prior to the disclosure to allow the Disclosing Party to seek a protective order; (ii) is or becomes a matter of public knowledge other than as a result of any breach of the Receiving Party's obligations hereunder; (iii) was known by the Receiving Party prior to its disclosure thereof by the Disclosing Party, as evidenced by prior documentation thereof, provided that the source of such information was not under any obligation of confidentiality to the Disclosing Party in respect thereof to the best of the Receiving Party's knowledge; (iv) is independently developed by the Receiving Party, as evidenced by independent documentation; or (v) is disclosed to the Receiving Party on a nonconfidential basis by a third party who, to the best of the Receiving Party's knowledge, is under no obligation of confidentiality to the Disclosing Party.

4. Return or Destruction of Proprietary Information. Upon the prior request of a Disclosing Party, all Confidential Information of such party in the possession of a Receiving Party shall be promptly returned to the Disclosing Party and all work papers, memoranda or other data prepared by a Receiving Party or its agents or advisors based upon or incorporating

any Confidential Information shall be destroyed, and a certificate of such return and destruction, executed by an executive officer of the Receiving Party, shall be delivered to the Disclosing Party.

5. Non-Solicitation. Each Receiving Party further agrees that, without the Disclosing Party's prior written consent, until the earlier to occur of (i) eight (8) months from the date hereof or (ii) the consummation of the Transaction, no Receiving Party will directly or indirectly engage or participate in any act or effort to (1) hire, recruit or offer to hire any person who at the time of such act or effort is an officer, employee or consultant of the Disclosing Party for itself or on behalf of any other person whether or not a competitor; (2) offer, induce, recruit, solicit or influence any person who, at the time of such offer, inducement, recruitment, solicitation or inducement is an officer, employee or consultant of a Disclosing Party, to terminate its, her or his employment or business relationship with the Disclosing Party for the purpose of providing employment, consulting or other services to the Receiving Party or any other person whether or not a competitor; or (3) use any Confidential Information of a Disclosing Party to induce or influence any vendor, customer, supplier or independent contractor who has a business relationship with the Disclosing Party to cease or adversely alter such business relationship. Nothing contained herein shall prevent a party from hiring or seeking to hire any person who responds to a blind advertisement or who initiates contact with such party.

6. Remedy. The parties acknowledge that there may be no adequate remedy at law for a breach or threatened breach of this Agreement and that money damages may not be an appropriate remedy for such a breach. Accordingly, each party agrees that the other party shall have the right to injunctive relief and specific performance of this Agreement in the event of any breach or threatened breach hereof by the other party in addition to any rights they may have for damages, which shall include out of pocket expenses, loss of business opportunities and any other damages, direct and indirect, consequential, punitive or otherwise. The prevailing party in any dispute brought in respect of this Agreement shall be entitled to an award of its costs and reasonable attorneys' fees incurred in connection with any such dispute.

7. Miscellaneous. This Agreement constitutes the entire understanding of the parties hereto concerning the subject matter hereof and no provision hereof may be amended or waived unless such amendment or waiver is in writing and signed by all the parties hereto. The provisions of this Agreement shall be severable in the event that any of the provisions hereof are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be binding upon, and shall inure to the benefit of, the parties' respective affiliates, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to its conflicts of laws principles. This Agreement may be signed in counterparts, each of which shall be deemed an original and together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.



KP SANGHVI INC.

By: *Gautam Begani*
Name: GAUTAM BEGANI
Title: MANAGER 08/31/2011

DIA DEB INTERNATIONAL INC.

By: _____
Name:
Title:

From: Patrick Papalia
Sent: Thursday, September 01, 2011 12:39 PM
To: 'Ian Winters'

Subject: Dia Deb - Bidding

Dear Ian:

My client met with Michael Zamir this morning the only person to appear at the meeting from Dia Deb. Michael Zamir did not turnover any documents and instead made a presentation about his business and his vision of his business for the future. This is absolutely unacceptable and further evidence of delay and obstructive behavior. Michael Zamir further claimed he had no idea of what he needed to produce. As you know I sent you an email indicating what was needed, which I include below again. I am further providing you with the following specify and itemized requests to avoid any uncertainty. These documents must be produced today to allow my client to review them. If your client continues to obstruct the review and production of documents an application will be made on Tuesday with the court to postpone the bidding dead line and sale date and for sanctions against Dia Deb and Michael Zamir. It is becoming more readily apparent that Dia Deb will do what ever it can to preserve its inside deal with Sumit to the exclusion of outside bidders.

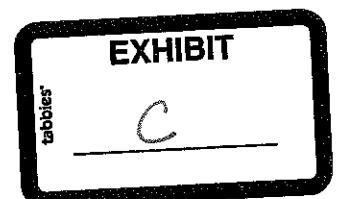
The itemized list is as follows:

1. Detail List of Sample Inventory
2. Detail List of any Other Inventory (Closeout / Diamond)
3. Detail List of Memo Inventory
4. New Inventory (As Defined in Secured Notes)
5. New Receivables (As defined by Secured Notes)
6. List of All Open PO / List of all Current PO
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13. Last years tax filing
14. Financial statements
15. Current trial balance
16. Secured Notes Contract
17. Contract with DIP
18. Contract with Rosenthal

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From: Patrick Papalia [<mailto:ppapalia@hertenburstein.com>]
Sent: Monday, August 29, 2011 06:02 PM
To: Ian Winters

Subject: Dia Deb - Bidding

Dear Ian:

I represent a diamond client interested in bidding at the bankruptcy asset sale for Dia Deb. My colleague Anthony Hope called you and I understand you indicated you do not have a due diligence package to send out and instead are requesting a written request for information. Attached is an exhibit provided by debtor containing the assets for sale. I have crossed out items in which I do not need further information.

I need back up and detail on each of the assets on the list so my client can make an informed decision on the bid submission. For instance on the inventory up for sale I need ledgers and company records identify the inventory for sale which includes the items and cost. I need a list of the receivables identifying the party and amount. I need a list identifying and itemizing the jewelry sample lines. Please provide all of the purchase orders and the contracts that are the basis for the purchase orders. If you have a summary of the purchase orders it would be of assistance also.

Please provide a copy of the Judith Ripka License Agreement along with sales under the agreement for the immediately preceding twelve month period. Please provide a list of all customer accounts along with sales over the last year, open balances and identities of the customers.

Please identify and provide and itemized list of the general intangibles up for sale. Please provide the customer lists with a historical sales history, to the extent this is redundant of the customer accounts you do not need to reproduce it here.

Please list and identify the molds for sale. Photographs if available would be of assistance in determining condition if not otherwise available for inspection.

Please provide a list of the telephone numbers. Please identify the Internet Names and Domain Names. Please identify and provide the Intellectual Property - Trademarks, Patents, Copyrights, Trade Names, including the name "Dia Deb International and all documents evidencing the filings and approvals with the USPTO.

9/7/2011

All of the foregoing should be a part of the business records of Dia Deb. As such it should not be an issue for retrieval and production. Additionally I suspect I am not the only person requesting data and others have requested too so I am optimistic you will have a quick turnaround time on sending me the details. Please let me know when I can expect the requested information. Should you have any questions or comments please feel free to call me.

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9/7/2011

From: Patrick Papalia
Sent: Friday, September 02, 2011 4:36 AM
To: 'Patrick Orr'

Subject: Dia Deb - Document Request List

Dear Patrick:

Please see below, your client is looking for a "list" of data to be provided, I am cutting and pasting below for your ease of reference the emails and list of information my client has previously requested, please send to your client and get us the material today. You indicated your office has due diligence materials. Please email these today to me also. Your prompt attention to the matter is appreciated.

From: Patrick Papalia [mailto:ppapalia@hertenburstein.com]
Sent: Monday, August 29, 2011 06:02 PM
To: Ian Winters

Subject: Dia Deb - Bidding

Dear Ian:

I represent a diamond client interested in bidding at the bankruptcy asset sale for Dia Deb. My colleague Anthony Hope called you and I understand you indicated you do not have a due diligence package to send out and instead are requesting a written request for information. Attached is an exhibit provided by debtor containing the assets for sale. I have crossed out items in which I do not need further information.

I need back up and detail on each of the assets on the list so my client can make an informed decision on the bid submission. For instance on the inventory up for sale I need ledgers and company records identify the inventory for sale which includes the items and cost. I need a list of the receivables identifying the party and amount. I need a list identifying and itemizing the jewelry sample lines. Please provide all of the purchase orders and the contracts that are the basis for the purchase orders. If you have a summary of the purchase orders it would be of assistance also.

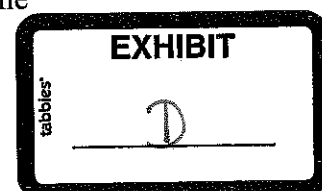
Please provide a copy of the Judith Ripka License Agreement along with sales under the agreement for the immediately preceding twelve month period. Please provide a list of all customer accounts along with sales over the last year, open balances and identities of the customers.

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Please provide a list of the telephone numbers. Please identify the Internet Names and Domain Names. Please identify and provide the Intellectual Property - Trademarks, Patents, Copyrights, Trade Names, including the name "Dia Deb International and all documents evidencing the

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filings and approvals with the USPTO.

All of the foregoing should be a part of the business records of Dia Deb. As such it should not be an issue for retrieval and production. Additionally I suspect I am not the only person requesting data and others have requested too so I am optimistic you will have a quick turnaround time on sending me the details. Please let me know when I can expect the requested information. Should you have any questions or comments please feel free to call me.

The itemized list is as follows:

1. Detail List of Sample Inventory
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17. Contract with DIP
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9/7/2011

From: Patrick Papalia
Sent: Friday, September 02, 2011 2:35 PM
To: 'Patrick Orr'

Subject: Dia Deb

Attachments: 1A-Asset Purchase Agreement.PDF; 2-Factoring Agreement Rosenthal & Rosenthal Notes.PDF; 3-Sumit DIP Note.PDF; 4B-Trademarks.PDF; 4-Judith Ripka Licence.PDF; 5-Payroll - Core team.PDF

Dear Patrick:

I am attaching the documents you sent by FEDEX and will email you in a second email with the rest so there is no issue as to what you have sent. The documents are only of fraction of what has been requested and what would otherwise be required to permit a proper assessment for a bid. Please advise when the remaining documents are being provided as time is running out to review documents in advance of being able to formulate a bid, time is of the essence. A sampling of some of the items that continue to remain outstanding are below but I refer you to my email of August 29 with the list I sent you for a more comprehensive request of requested items.

- List of All Open PO / List of all Current PO
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- Current aged payables
- Last years tax filing
- Financial statements
- Current trial balance
- Detail List of Memo Inventory
- Last 2 years financials
- Detail List of any Other Inventory (Closeout / Diamond)

Please have a good and safe Labor Day weekend.

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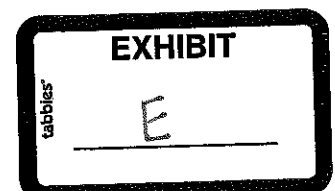
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9/7/2011



From: Ian Winters [IWinters@klestadt.com]
Sent: Friday, September 02, 2011 3:00 PM
To: Patrick Papalia; Patrick Orr

Subject: Re: Dia Deb

Patrick:

We do not believe that much of the information you have requested is relevant for consideration of a bid (ie tax returns, financial statements, current trial balance, A/P aging, etc.)

Having said that, we will provide your client with information concerning open PO's, customers, etc. You have already been provided with detailed information concerning the sample line and certain other requested information.

It is our understanding that the little of the current inventory, if any, can be used for open PO's so I'm not sure how relevant the inventory information you seek is relevant as well.

The Debtor is working with a skeleton crew and is trying to respond to inquiries from several potential interested parties while simultaneously keeping its business running.

We need to keep focused to that which is necessary for reasonable diligence.

Ian.

From: Patrick Papalia [mailto:ppapalia@hertenburstein.com]
Sent: Friday, September 02, 2011 02:35 PM
To: Patrick Orr

Subject: Dia Deb

Dear Patrick:

I am attaching the documents you sent by FEDEX and will email you in a second email with the rest so there is no issue as to what you have sent. The documents are only of fraction of what has been requested and what would otherwise be required to permit a proper assessment for a bid. Please advise when the remaining documents are being provided as time is running out to review documents in advance of being able to formulate a bid, time is of the essence. A sampling of some of the items that continue to remain outstanding are below but I refer you to my email of August 29 with the list I sent you for a more comprehensive request of requested items.

- List of All Open PO / List of all Current PO
- List of Customers (Active)
- Customer Aging – As of Aug 31 '11
- Sales by customer for 2010 and year to date
- Current aged payables
- Last years tax filing
- Financial statements
- Current trial balance



9/7/2011

- Detail List of Memo Inventory
- Last 2 years financials
- Detail List of any Other Inventory (Closeout / Diamond)

Please have a good and safe Labor Day weekend.

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9/7/2011

From: Patrick Papalia
Sent: Sunday, September 04, 2011 8:10 AM
To: Patrick Orr

Subject: Dia Deb

Attachments: Accountants Note.PDF; Customer List.PDF; DWECK Sample List - First and Last Page.PDF; Employee Bio - Incomplete - NO JOB DESCRIPTION.PDF; Line Sample List - First and Last page - NO TOTALS.PDF; Ripka Samples - First and Last Page.PDF

Patrick:

Attached are the documents your client delivered at or about 5:30 p.m. on Friday and what you emailed me. The documents do not respond to the requested information and are woefully inadequate to allow proper assessment of the bid. While the documents contained a list of customers it does not say if this is active or nor is there any information provided on the customers. Needless to say much is lacking below is a short list of some of the items still lacking:

- List of All Open PO / List of all Current PO
- Customer Aging – As of Aug 31, 2011
- Sales by customer for 2010 and year to date
- Current aged payables
- Last years tax filing
- Audited Financial statements
- Current trial balance
- Detail List of Memo Inventory
- Last 2 years financials
- Detail List of any Other Inventory (Closeout / Diamond)

The financial records are needed to make an assessment on the bid, while approximately \$400,000 of the bid relates to assets a substantial part of the bid relates to the potential for future sales, with a complete set of historical financial records, a proper review for the bid is not possible. There is no doubt Sumit had all this data available to it in making its bid. Additionally in order to properly assess the 3.5% and 7% commission on sales, profit data and margin information must be produced by Dia Deb. My client needs sufficient data to value the business and items for sale and to have verifying data on the numbers such as tax returns to assure accuracy and integrity with the numbers. This data is need to make ROI assessments, inventory turnover and interest and other costs going into the sales. The bid contemplates the successful bidder to pay essentially \$1.7 which includes repayment of DIP, based on the data your client has provided to date no one can assess the business or make a decision.

At the time that documents were dropped off late Friday, the Dia Deb representatives indicate “more” would be forthcoming, as of yet nothing more has been sent. Please expedite further production of documents. Please note that KP Sanghvi reserves all rights for relief from the court with regard to the continued delay and deficient production of necessary and proper due diligence and financial materials.

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From: Patrick Orr [POrr@klestadt.com]
Sent: Tuesday, September 06, 2011 2:35 PM
To: Patrick Papalia

Subject: RE: Dia Deb

Patrick:

My client will be providing your client with the following additional information later today:

- List of All Open PO / List of all Current PO
- Customer Aging – As of Aug 31, 2011
- Sales by customer for 2010 and year to date
- Current aged payables
- Detail List of any Other Inventory (Closeout / Diamond)

The Debtor has not yet filed tax returns for 2010 and has not had audited financial statements prepared in at least 2 years. The Debtor is in the process of reconciling its memo inventory such that a detailed list, as requested, is not available right now. This should, in no way, negatively impact a good faith bidder from valuing the assets.

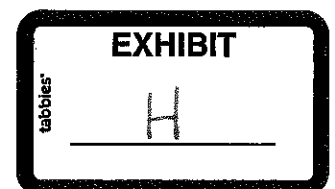
The Debtor has advised us that your client has not sent a single communication directly to its business people since last week's meeting. Michael Zamir, the Debtor's President, sent a follow-up email to all of the individuals that attended that meeting offering to provide further information and he received no response. Instead, your client has chosen to have its counsel send email after email threatening to make motions and alleging an insider transaction almost as if the parties were engaged in contentious litigation as opposed to working to enter into a transaction. Furthermore, much of the information your client is requesting is immaterial to the assets being sold, which, giving your client's motives the benefit of the doubt, indicate a fundamental misunderstanding about what is being sold at this time.

If your client is interested in making a bid and has additional questions, they should contact Michael Zamir directly and ask him, as opposed to wasting precious time with emails between counsel since the bid deadline is now 48 hours away.

Patrick J. Orr
Klestadt & Winters, LLP
570 Seventh Avenue, 17th Floor
New York, New York 10018
T: (212) 972-3000
F: (212) 972-2245
Email: porr@klestadt.com

From: Patrick Papalia [mailto:ppapalia@hertenburstein.com]
Sent: Sunday, September 04, 2011 8:10 AM
To: Patrick Orr

9/7/2011



Subject: Dia Deb

Patrick:

Attached are the documents your client delivered at or about 5:30 p.m. on Friday and what you emailed me. The documents do not respond to the requested information and are woefully inadequate to allow proper assessment of the bid. While the documents contained a list of customers it does not say if this is active or nor is there any information provided on the customers. Needless to say much is lacking below is a short list of some of the items still lacking:

- List of All Open PO / List of all Current PO
- Customer Aging – As of Aug 31, 2011
- Sales by customer for 2010 and year to date
- Current aged payables
- Last years tax filing
- Audited Financial statements
- Current trial balance
- Detail List of Memo Inventory
- Last 2 years financials
- Detail List of any Other Inventory (Closeout / Diamond)

The financial records are needed to make an assessment on the bid, while approximately \$400,000 of the bid relates to assets a substantial part of the bid relates to the potential for future sales, with a complete set of historical financial records, a proper review for the bid is not possible. There is no doubt Sumit had all this data available to it in making its bid. Additionally in order to properly assess the 3.5% and 7% commission on sales, profit data and margin information must be produced by Dia Deb. My client needs sufficient data to value the business and items for sale and to have verifying data on the numbers such as tax returns to assure accuracy and integrity with the numbers. This data is need to make ROI assessments, inventory turnover and interest and other costs going into the sales. The bid contemplates the successful bidder to pay essentially \$1.7 which includes repayment of DIP, based on the data your client has provided to date no one can assess the business or make a decision.

At the time that documents were dropped off late Friday, the Dia Deb representatives indicate “more” would be forthcoming, as of yet nothing more has been sent. Please expedite further production of documents. Please note that KP Sanghvi reserves all rights for relief from the court with regard to the continued delay and deficient production of necessary and proper due diligence and financial materials.

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9/7/2011

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