

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
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In re:	Chapter 11
SAM ASH MUSIC CORPORATION, <i>et al.</i> ,	Case No.: 24-14727 (SLM)
Debtors. ¹	(Jointly Administered)

**STATEMENT OF E-DISTRIBUTORS INC. REGARDING THE PROPOSED
SALE OF CERTAIN OF THE DEBTORS' ASSETS [Dkt. #229]**

E-Distributors Inc. ("E-Distributors"), by and through the undersigned counsel, submits this statement (the "Statement") to the proposed sale of certain of the Debtors' assets, and hereby states as follows:²

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sam Ash Music Corporation (3915); Samson Technologies Corp. (4062); Sam Ash Megastores, LLC (9955); Sam Ash California Megastores, LLC (3598); Sam Ash Florida Megastores, LLC (7276); Sam Ash Illinois Megastores, LLC (8966); Sam Ash Nevada Megastores, LLC (6399);

² E-Distributors should not be approved as a back-up bidder unless the Sale Order is reasonably satisfactory to E-Distributors. See E-Distributors APA, p. 18. E-Distributors, through its counsel, is attempting to work with counsel to the Debtors to work out language in the proposed Sale Order reasonably satisfactory to E-Distributors now that E-Distributors has seen a complete copy of the proposed Sale Order, which was not provided to E-Distributors before it was filed.

BACKGROUND

1. On May 8, 2024 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101 *et seq.* (the “Bankruptcy Code”). The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to Bankruptcy Code Section 1107(a) and 1108.

2. On May 10, 2024, the Debtors filed the Bidding Procedures/Sale Motion (Dkt. #47).

3. Pursuant to the Sale Motion, to the extent no other qualified bids came in, the Debtors planned to move forward with an asset purchase agreement dated May 10, 2024 (the “Stalking Horse APA”) with Tiger Finance, LLC (“Tiger”), pursuant to which Tiger agreed to purchase *inter alia* certain claims and causes of action (the “Causes of Action”), as described in more detail in subsection (u) of the “Acquired Assets” definition in E-Distributors’ APA. A true and correct copy of the APA is attached as an exhibit to the Notice of Bidder identified below in paragraph 8.

4. On May 31, 2024, the Committee filed an Omnibus Objection to the Bidding Procedures/Sale Motion (the “Bidding Procedures Objection”) (Dkt. #153), where the Committee objected to, among other things, the sale of the Causes of Action.

5. On June 5, 2024, the Court entered the Bidding Procedures Order (Dkt. #204), which the Committee represents was consensual and entered only after extensive negotiations with the Debtors. Limited Objection, ¶ 7.

6. Pursuant to the Bidding Procedures Order, the Court approved the Stalking Horse APA, substantially in the form attached thereto, “as the form of asset purchase agreement for

subsequent Bids.” Bidding Procedures Order, ¶ 14. The Causes of Action were included in the Stalking Horse APA.

7. In compliance with the Bidding Procedures Order, E-Distributors submitted a qualified bid, which including an asset purchase agreement (the “E-Distributors APA”). The E-Distributors APA included the purchase of the Causes of Action.

8. Because other parties submitted qualified bids, the Debtor conducted an auction which was held on June 20, 2024.

9. E-Distributors attended and participated in the auction. At the auction, the Debtors selected Gonher Distribuidora (“Gonher”) as the winning bidder and E-Distributors as the back-up bidder by the Debtors.

10. As a result of the auction, subsequent changes were made to the E-Distributors APA, to among other things reflect a higher purchase price.

11. The E-Distributors APA, which the Debtors attached to the June 21, 2024 Notice of Successful Bidder with Respect to the Sale of Certain of the Debtors’ Assets (the “Notice of Bidder”) (Dkt. #298), likewise included the purchase of the Causes of Action.

12. On June 21, 2024, the Committee filed its limited objection to the proposed sale of certain of the Debtors’ assets (the “Limited Objection”) (Dkt. #299), pursuant to which the Committee argues that any sale should exclude the Causes of Action.

13. However, the Committee originally sought to remove the Causes of Action from the scope of the Sale in its Bidding Procedures Objection. Nonetheless, the Committee subsequently consented to the entry of the Bidding Procedures Order, which approved the Stalking Horse APA as the template upon which other bidders should base their bid.

14. The Stalking Horse APA includes the sale of the Causes of Action.

15. Like the Stalking Horse APA, E-Distributors' APA includes the purchase of the Causes of Action.

16. In reliance on the terms of its APA, E-Distributors engaged in the auction process where it ultimately agreed to pay \$15,100,000.00 to purchase the Debtors' assets, as further set forth in its APA, including the Causes of Action and increased the cash component of its original bid by \$5,800,000.00.

17. There is simply no basis to remove the Causes of Action from the scope of E-Distributors APA.

18. If the Causes of Action were not for sale, they should not have been included with the Stalking Horse APA.

19. E-Distributors is not willing to go forward with its APA without the agreed upon terms for which it negotiated, including the purchase of the Causes of Action by E-Distributors. There is no basis to force E-Distributors to be a back-up bidder if the Court will not approve the sale of the Causes of Action to E-Distributors as part of its APA.

20. E-Distributors requests that the Court approve E-Distributors as a back-up bidder based on the APA signed by E-Distributors. If the Court will not approve E-Distributors' APA in its present form, then E-Distributors requests that E-Distributors not be approved as a back-up bidder.

RESERVATION OF RIGHTS

21. E-Distributors reserves the right to supplement this Statement prior to or at the hearing on the sale.

CONCLUSION

WHEREFORE, for the reasons set forth herein, E-Distributors respectfully requests any sale order be consistent with this Statement, and grant such other and further relief as the Court deems just and proper.

**McELROY, DEUTSCH, MULVANEY
& CARPENTER, LLP**

Dated: June 27, 2024

/s/ Jeffrey Bernstein

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