

**Court File No. CV-20-00642970-00CL**

**GNC Holdings, Inc.,  
General Nutrition Centres Company *et al***

**FIRST REPORT OF THE INFORMATION OFFICER**

**July 24, 2020**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36,  
AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF GNC HOLDINGS, INC., GENERAL NUTRITION  
CENTRES COMPANY, GNC PARENT LLC, GNC CORPORATION,  
GENERAL NUTRITION CENTERS, INC., GENERAL NUTRITION  
CORPORATION, GENERAL NUTRITION INVESTMENT COMPANY,  
LUCKY OLDSCO CORPORATION, GNC FUNDING INC., GNC  
INTERNATIONAL HOLDINGS INC., GNC CHINA HOLDSCO, LLC, GNC  
HEADQUARTERS LLC, GUSTINE SIXTH AVENUE ASSOCIATES,  
LTD., GNC CANADA HOLDINGS, INC., GNC GOVERNMENT  
SERVICES, LLC, GNC PUERTO RICO HOLDINGS, INC. AND  
GNC PUERTO RICO, LLC

APPLICATION OF GNC HOLDINGS, INC., UNDER SECTION 46 OF  
*THE COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

**FIRST REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.  
IN ITS CAPACITY AS INFORMATION OFFICER**

**INTRODUCTION**

1. GNC Holdings, Inc. ("**GNC Holdings**"), an entity registered in the state of Delaware, is the ultimate parent of General Nutrition Centres Company ("**GNC Canada**"). GNC Holdings is also the ultimate parent for those entities listed in **Appendix A** hereto (collectively, with GNC Holdings and GNC Canada, the "**Debtors**"). On June 23, 2020 (the "**Petition Date**"), the Debtors commenced cases under Chapter 11 of the United States Bankruptcy Code (the "**Chapter 11 Cases**") in the U.S. Bankruptcy Court in Delaware (the "**U.S. Court**").

2. On June 24, 2020, GNC Holdings in its capacity as the proposed foreign representative of the Debtors in respect of the Chapter 11 Cases filed an application (the “**Recognition Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) to the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) for:
  - (a) An interim order (Foreign Main Proceeding) granting a stay of proceedings against the Debtors (the “**Interim Stay Order**”);
  - (b) An initial recognition order (the “**Initial Recognition Order**”) recognizing the Chapter 11 Cases and granting, *inter alia*, a stay of proceedings against the Debtors;
  - (c) A supplemental recognition order (the “**Supplemental Order**”) seeking certain relief including the recognition of various orders issued in the Chapter 11 Cases and the appointment of FTI Consulting Canada Inc. (“**FTI Canada**”) as Information Officer (in such capacity, the “**Information Officer**”); and
  - (d) An order (the “**Consulting Agreement Approval Order**”) approving the consulting agreement (the “**Consulting Agreement**”) entered into between GNC Canada and a joint venture of comprised of Tiger Asset Solutions Canada, ULC and GA Retail Canada ULC (collectively, the “**Canada Consultant**”).
3. The Interim Stay Order was granted on June 24, 2020. Pursuant to the Interim Stay Order, FTI Consulting Canada Inc. (“**FTI Canada**”), in its capacity as the proposed (as that time) Information Officer, established a case website for the Recognition Proceedings at <http://cfcanada.fticonsulting.com/GNCC> (the “**Canada Case Website**”).

4. On June 25, 2020 and June 26, 2020, the U.S. Court granted the First Day Orders to permit the Debtors to continue to operate their business in the ordinary course and to advance their proposed reorganization. The First Day Orders included the Foreign Representative Order, the Interim DIP Order, the Interim Cash Management Order, the Interim Store Closing Order, and the Interim Wages Order, each as defined in the Pre-Filing Report of the Proposed Information Officer dated June 28, 2020 (the “**Pre-Filing Report**”). The U.S. Court also issued an order consolidating the administration of the Chapter 11 Cases for procedural purposes only under Case No. 20-11662.
5. All publicly available information filed in the Chapter 11 Cases is available at <https://cases.primeclerk.com/gnc> (the “**U.S. Case Website**”).
6. On June 29, 2020, the Honourable Madam Justice Conway of the Canadian Court granted:
  - (a) The Initial Recognition Order, *inter alia*, declaring that GNC Holdings is a “foreign representative” as defined in section 45 of the CCAA (the “**Foreign Representative**”), that the centre of main interests for each of the Debtors is the United States of America and recognizing the Chapter 11 Cases as a “foreign main proceeding”;
  - (b) The Supplemental Order, *inter alia*, recognizing several of the First Day Orders, appointing FTI Canada as information officer (the “**Information Officer**”), granting a stay of proceedings against the Debtors and granting a super-priority charge (the “**DIP Lenders’ Charges**”) on the Debtors’ property in Canada for the benefit of GLAS Trust Company LLC, as administrative collateral agent for and on behalf of itself and the other lenders party thereto (the “**DIP Term Lenders**”), and JP Morgan Chase N.A. as administrative agent and collateral agent for an on behalf of themselves and the other lenders party thereto (the “**DIP ABL FILO Lenders**”, and collectively with the DIP Term Lenders, the “**DIP Lenders**”);

- (c) The Consulting Agreement Approval Order, *inter alia*, recognizing the Interim Store Closing Order in the Chapter 11 Cases, approving the Consulting Agreement and approving and authorizing the Debtors to conduct the going-out-of-business sale process in Canada (the “**GOB Sale**”) in accordance with the Interim Store Closing Order, the Canadian Store Closing Procedures, the Canadian Sale Guidelines (as defined in the Interim Store Closing Order) and the Consulting Agreement.
7. The purpose of this, the first report of the Information Officer (the “**First Report**”), is to provide information to the Canadian Court with respect to the following:
- (a) The activities of the Information Officer since the granting of the Initial Recognition Order;
  - (b) GNC Canada’s actual receipts and disbursements for the period June 21 to July 18, 2020;
  - (c) GNC Canada’s revised and extended cash flow forecast for the period July 19 to October 17, 2020 (the “**July 20 Forecast**”);
  - (d) Events in the Chapter 11 Cases since the granting of the Initial Recognition Order, including:
    - (i) The formation of the Official Committee of Unsecured Creditors (the “**UCC**”);
    - (ii) The scheduling of a meeting of creditors;
    - (iii) The filing of the July 15 Plan and Disclosure Statement; and
    - (iv) The entering of various orders by the U.S. Court on July 20, July 21, and July 22, 2020 (the “**Second Day Orders**”).

- (e) The Information Officer's comments and recommendations in respect of the Foreign Representative's request for an order recognizing the following Second Day Orders (collectively, the "**Second Day Recognition Orders**"):
- (i) Final Cash Management Order;
  - (ii) Final Critical Vendors Order;
  - (iii) Final Customer Programs Order;
  - (iv) Final DIP Order;
  - (v) Final Equity Trading NOL Order;
  - (vi) Final Insurance Order;
  - (vii) Final Lien and Import Claims Order;
  - (viii) Final Store Closing Order;
  - (ix) Final Tax Order;
  - (x) Final Utilities Order;
  - (xi) Final Wages Order;
  - (xii) Bar Date Order;
  - (xiii) Bidding Procedures Order;
  - (xiv) First Omnibus Motion to Reject Certain Unexpired Leases; and
  - (xv) Third Omnibus Motion to Reject Certain Unexpired Leases.

## TERMS OF REFERENCE

8. In preparing this First Report, the Information Officer has relied upon unaudited financial information of the Debtors, the Debtors' books and records, certain financial information prepared by the Debtors and discussions with various parties, including the Canada Consultant and other various legal, financial, and other advisors to the Debtors (collectively, the "**Information**").
9. Except as described in this First Report:
  - (a) The Information Officer has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
  - (b) The Information Officer has not examined or reviewed financial forecasts and projections referred to in this First Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
10. The Information Officer has prepared this First Report in connection with the Debtors' motion for recognition of the Second Day Recognition Orders, which is scheduled to be heard on Monday, July 27, 2020 (the "**Second Day Recognition Hearing**"), and this Report should not be relied on for any other purposes.
11. Future oriented financial information reported or relied on in preparing this First Report is based on the assumptions of management of the Debtors ("**Management**") regarding future events; actual results may vary from forecast and such variations may be material.
12. Unless otherwise stated, all monetary amounts contained herein are expressed in **United States Dollars**. Capitalized terms not otherwise defined herein have the meanings defined in the Initial Tolivar Affidavit, the U.S. First Day Declarations, or the Pre-Filing Report.

## **EXECUTIVE SUMMARY**

13. In summary, for the reasons set out in this First Report, the Information Officer is of the view that, in the circumstances:
- (a) Recognition of the Second Day Final Orders is appropriate;
  - (b) The proposed notice provisions of the Bar Date Order are adequate, and that recognition of the Bar Date Order is appropriate;
  - (c) The procedures and timelines set out in the Revised Bidding Procedures are reasonable in the circumstances and that recognition of the Revised Bidding Procedures Order is appropriate; and
  - (d) Recognition of the Lease Rejection Orders is appropriate.
14. Accordingly, the Proposed Information Officer respectfully recommends that the Foreign Representative's request for an Order recognizing the Second Day Recognition Orders be granted by this Honourable Court.

## **ACTIVITIES OF THE INFORMATION OFFICER**

15. Since its appointment, the Information Officer has monitored events in the Chapter 11 Cases and worked with the Debtors' Canadian counsel to address matters that are of relevance to Canadian stakeholders and the Canadian Court, including:
- (a) Responding to inquiries from stakeholders regarding the Recognition Proceedings and the Chapter 11 Cases;
  - (b) Monitoring the Prime Clerk Case Website for activity in the Chapter 11 Cases;
  - (c) Monitoring the receipts and disbursements of GNC Canada;
  - (d) Assisting the Foreign Representative with the preparation of the July 20 Forecast;



- (e) Assisting the Foreign Representative with the publication of notices required pursuant to the Initial Recognition Order, which notices were published in the *Globe and Mail (National Edition)* on July 7 and July 14, and in *La Presse* on July 6 and July 13; and
- (f) Communicating with management, advisors to the Debtors including FTI US and the Canada Consultant, the Debtors' U.S. legal counsel, the Debtors' Canadian legal counsel, and the Information Officer's Counsel regarding matters relevant to the Chapter 11 Cases and the Recognition Proceedings.

### RECEIPTS AND DISBURSEMENTS FOR THE PERIOD TO JULY 18, 2020

16. GNC Canada's actual net cash flow for the period from June 21 to July 18, 2020 was approximately \$3.8 million better than the June 23 Forecast as summarized below:

	Forecast	Actual	Variance
	US\$000	US\$000	US\$000
<b>Receipts</b>	<b>4,586</b>	<b>3,644</b>	<b>(942)</b>
<b>Operating Disbursements</b>			
Merchandise Vendors	(1,002)	0	1,002
Non-Merchandise Vendors	(1,033)	(206)	827
Payroll & Employee Related Disbursements	(2,442)	(823)	1,619
Occupancy Disbursements	(1,162)	(803)	359
Sales Taxes	(119)	0	119
Capital Expenditures	(33)	0	33
Corporate and Other Disbursements	(90)	(17)	73
<b>Total Operating Disbursements</b>	<b>(5,881)</b>	<b>(1,849)</b>	<b>4,032</b>
<b>Net Operating Cash Flow</b>	<b>(1,294)</b>	<b>1,795</b>	<b>3,089</b>
Professional Fees	(237)	(118)	119
Liquidation Disbursements	(649)	0	649
<b>Net Cash Flow</b>	<b>(2,180)</b>	<b>1,677</b>	<b>3,857</b>
<b>Cash, opening balance</b>	<b>3,104</b>	<b>3,305</b>	<b>201</b>
Net Cash Flow	(2,180)	1,677	3,857
Cash Transfers from/(To) GNC US	0	0	0
<b>Cash, ending balance</b>	<b>924</b>	<b>4,982</b>	<b>4,058</b>

17. Explanations for the key variances in actual receipts and disbursements as compared to the June 23 Forecast are as follows:
- (a) The unfavourable variance of approximately \$0.9 million in receipts comprises of the following:
    - (i) An unfavourable variance of approximately \$0.7 million in receipts at GOB Sale stores believed to result from lower discounting on merchandise than the June 23 Forecast had contemplated in order to maintain higher margins at the start of the sale. GNC Canada is of the view that this is a timing variance which will reverse in future periods; and
    - (ii) An unfavourable variance of approximately \$0.2 million at stores that are not in the GOB Sale as a result of the reopening of stores temporarily closed due to the COVID-19 pandemic being delayed, together with lower than forecast volume once stores re-opened;
  - (b) The favourable variance of \$1.0 million for merchandise vendors is a timing variance that is expected to reverse in future periods. The variance arose as many vendors are providing better payment terms than had been assumed and certain payments have been delayed pending completion of the negotiation of go-forward supply arrangements;
  - (c) The favourable variance of \$0.8 million for non-merchandise vendors is a timing variance that is expected to reverse in future periods. The variance arose as many vendors are providing better payment terms than had been assumed;

- (d) The favourable variance of \$1.6 million for payroll and employee-related disbursements comprises a permanent variance of approximately \$0.2 million arising from reduced staffing needs due to the slower opening of stores than had been assumed, a permanent variance of approximately \$0.1 million arising from additional regional office staff terminations, a permanent variance of approximately \$0.2 million in assumed severance and termination costs and a timing variance of approximately \$1.1 million arising as termination and severance payments, which had been assumed would be paid by lump-sum, are being paid over time in accordance with agreed arrangements;
- (e) The favourable variance of \$0.4 million for occupancy disbursements is a combination of a permanent variance of \$0.2 million resulting from certain stores being closed earlier than originally anticipated and a \$0.2 million timing variance arising from the delay in payment of rent for the stub-period from the Petition Date to June 30, 2020. Pursuant to the Final DIP Order, the Debtors are required to pay these amounts within five business days of the entry of the Final DIP Order;
- (f) The favourable variance of approximately \$0.1 million in professional fees is a timing variance expected to reverse in future; and
- (g) The favourable variance of approximately \$0.6 million in liquidation disbursements is a timing variance expected to reverse in future periods once invoices are received from the Consultant;

## THE JULY 20 FORECAST

18. The July 20 Forecast, a copy of which is attached hereto as **Appendix B**, shows a net cash outflow of approximately \$2.7 million. The July 20 Forecast is summarized as follows:

	<b>US\$000</b>
<b>Receipts</b>	<b>12,981</b>
<b>Operating Disbursements</b>	
Merchandise Vendors	(5,326)
Non-Merchandise Vendors	(2,278)
Payroll & Employee Related Disbursements	(3,342)
Occupancy Disbursements	(2,023)
Sales Taxes	(418)
Capital Expenditures	(66)
Corporate and Other Disbursements	(321)
<b>Total Operating Disbursements</b>	<b>(13,775)</b>
<b>Net Operating Cash Flow</b>	<b>(794)</b>
Professional Fees	(569)
Liquidation Disbursements	(1,383)
<b>Net Cash Flow</b>	<b>(2,746)</b>
<b>Cash, opening balance</b>	<b>4,982</b>
Net Cash Flow	(2,746)
Cash Transfers from/(To) GNC US	-
<b>Cash, ending balance</b>	<b>2,236</b>

19. Certain key assumptions have been revised for the purposes of the July 20 Forecast relative to the June 23 Forecast, summarized as follows:
- (a) Timing variances arising in the period to July 18, 2020 have been carried forward to the July 20 Forecast;
  - (b) The volume of merchandise expected to be sold in the GOB Sale has been reduced;
  - (c) Forecast receipts from the 45 continuing stores has been reduced by approximately \$0.9 million for the period of the July 20 Forecast to reflect recent store performance and the continued impact of the COVID-19 pandemic;

- (d) An amount of approximately \$0.8 million has been included in the July 20 Forecast for the payment of claims under Section 503(b)(9) of the U.S. Bankruptcy Code, which provides “administrative priority” for goods and services delivered to the Debtors in the twenty days prior to the Petition Date;
  - (e) The projected closing date of certain stores included in the GOB Sale has been accelerated;
  - (f) Estimated store and corporate payroll disbursements have been reduced to reflect GNC Canada’s revised forecast staffing requirements;
  - (g) Estimated termination and severance payments have been adjusted to reflect GNC Canada’s updated estimate for the amount to be paid as well as to reflect the expected timing such payments. Termination and severance amounts and the timing of such payments are subject to change based on their actual termination dates and final agreements with terminated employees; and
  - (h) The payment of stub rent for the period from the Petition Date to June 30, 2020 is forecast to be made during the week ending July 25, 2020, as required under the Final DIP Order.
20. Consistent with the June 23 Forecast, the July 20 Forecast does not contemplate any cash transfers from GNC Canada to Debtors domiciled in the United States. As stated in the Pre-Filing Report, if any such cash transfers are to be made, GNC Canada will consult with the Information Officer prior to executing any such transfer to ensure that GNC Canada maintains sufficient cash to settle post-filing debts, priority payables, sales taxes, professional fees, and other similar items.

## **EVENTS IN THE CHAPTER 11 CASES SINCE THE INITIAL RECOGNITION ORDER**

21. On July 7, 2020, the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) filed a notice (the “**UCC Notice**”) that the UCC has been appointed. A copy of the UCC Notice, which includes details of the persons appointed to the UCC by the U.S. Trustee is attached hereto as **Appendix C**.
22. On July 14, 2020, the U.S. Trustee issued a Notice of Telephonic Section 341 Meeting stating that a meeting of creditors will be held telephonically on August 5, 2020 at 2:00 p.m. prevailing Eastern time. The purpose of the meeting is to provide creditors and parties in interest an opportunity to examine the Debtors’ financial affairs.
23. On July 15, 2020, the Debtors filed a joint Chapter 11 plan of reorganization of GNC Holdings, Inc. and its debtor affiliates under Chapter 11 of the Bankruptcy Code (as may be amended from time to time, the “**Plan**”). The Plan is a preliminary joint plan of reorganization for the resolution of the outstanding claims against, and equity interests in, the Debtors. The Plan is proposed jointly for administrative purposes; however, it constitutes a separate plan of reorganization for each Debtor pursuant to the Bankruptcy Code.
24. The Plan contemplates the execution of steps pursuant to the Restructuring Support Agreement, or a Sale Transaction to the extent a Successful Bid is declared in accordance with the Bidding Procedures Order. The dual-track approach is as agreed to by the Debtors and the requisite consenting parties in the Restructuring Support Agreement. If a Sale Transaction is terminated or is not consummated by the applicable outside date, the Debtors intend, subject to plan approval, to consummate the restructuring pursuant to the Plan. If a Sale Transaction is consummated, the proceeds therefrom shall be distributed in accordance with the terms of the Plan.

25. The Plan and related disclosure statement (the “**Disclosure Statement**”) are available on the U.S. Case Website. The Information Officer understands that the Debtors will be seeking U.S. Court approval of the Disclosure Statement and authorization to convene meetings of creditors to vote on the Plan at a hearing currently scheduled for August 19, 2020, and recognition of the relevant Orders thereafter. The Information Officer will provide further details of the Plan in a further report to be filed in connection with any request for recognition of such Orders.
26. On July 22, 2020, the U.S. Court entered the Second Day Orders. Those Second Day Orders that are of particular relevance to Canadian stakeholders are the Second Day Recognition Orders, which are described later in this Report.
27. Among the Second Day Orders is an order approving a key employee retention program (the “**KERP**”) for forty (40) key non-insider employees (the “**KERP Participants**”) and authorizing the payments contemplated by the KERP (the “**KERP Order**”).
28. None of the KERP Participants are employed or paid by GNC Canada nor are residents of Canada. Accordingly, the Foreign Representative is not seeking recognition of the KERP Order. However, as GNC Canada is a guarantor of the DIP Facility from which the KERP payments will be funded, the Information Officer has reviewed the KERP and provides the following summary of its key aspects:
  - (a) The Debtors require the services of the selected KERP Participants to continuing operating their business, successfully navigate through the chapter 11 process, and maintain going-concern value during the Chapter 11 Cases;
  - (b) The KERP compensates the KERP Participants for the additional workload stemming from the Chapter 11 Cases that is in addition to their normal day-to-day tasks, and assists with the Debtors’ ability to retain their key employees – particularly those that are highly skilled, in-demand in the industry, and would be costly and inefficient to replace;

- (c) Overall, the KERP Participants selected by the Debtors receive an average annual salary of approximately \$210,000, hold an average tenure of 8 years, and possess representative job levels of Vice President, Managing Director, Senior Director, and Director;
  - (d) The total cost of the KERP is \$3.145 million, and retention bonuses are to be paid as follows:
    - (i) Initial payment of 50% of retention bonus at the earlier of (i) the date of the Debtors' emergence from the Chapter 11 Cases or (ii) the date that is six months after the Petition Date; and
    - (ii) Final payment of 50% of retention bonus on the date of the 12-month anniversary of the Petition Date.
  - (e) Each retention bonus is based on the KERP Participant's level in the organization;
29. The Debtors' compensation consultant, Korn Ferry, provided an analysis of various non-insider retention plans approved for similarly situated companies subject to chapter 11 proceedings in recent years (the "**Comparable Programs**"). The Comparable Programs covered a median of 53 participants, held a median cost of \$3.1 million, had similar average retention bonuses to the KERP, and were structured in a similar format with either time-based or bankruptcy-based milestones.
30. GNC Canada issued notices of termination to 145 employees at stores permanently closed immediately prior to the Petition Date. Since the commencement of the Recognition Proceedings, notices of termination have been issued to a further 18 employees including:
- (a) Certain personnel who provided services at the Canadian regional office but whose employment has become redundant as a result of the reduction in GNC Canada's operations; and



- (b) Employees located at four stores to be closed on or prior to July 31, 2020.
31. For the terminated employees, GNC Canada has provided working notice to the extent possible and is intending to adhere to existing termination and severance programs and policies for their Canadian employees, including payment of any severance or termination entitlements in excess of the working notice.

### **REQUEST FOR RECOGNITION OF THE SECOND DAY RECOGNITION ORDERS**

32. The Foreign Representative is seeking recognition of the Second Day Recognition Orders, which fall into two categories:
- (a) Final orders in respect of interim orders previously recognized by the Canadian Court (collectively, the “**Second Day Final Orders**”); and
  - (b) Orders granted in respect of new motions brought in the Chapter 11 Cases that were heard by the U.S. Court on July 22, 2020 (collectively, the “**Second Day New Orders**”).

### **THE SECOND DAY FINAL ORDERS**

33. The Second Day Final Orders are summarized as follows:

(a) *Final Order (a) authorizing continued use of existing cash management system, including maintenance of existing bank accounts, checks, and business forms, (b) authorizing continuation of existing deposit practices, (c) authorizing continuation of intercompany transactions, and (d) granting administrative claim status to postpetition intercompany claims* (the “**Final Cash Management Order**”). The Final Cash Management Order, *inter alia*, authorized the Debtors to continue to maintain and use their cash management system, authorized the Debtors to continue to maintain and use their existing deposit practices, authorized the Debtors to continue certain ordinary course intercompany transactions, and accorded administrative claim status to postpetition intercompany claims. The Final Cash Management Order continues to authorize the Debtors to operate and maintain account balances in their Canadian bank accounts. The key changes to the Interim Cash Management Order incorporated in the Final Cash Management Order are the following:

- (i) For any cash transfers from a Debtor to a non-Debtor affiliate that exceed \$20,000 in any calendar month, the Debtors shall provide advance notice and an opportunity to object to the U.S. Trustee, counsel to the UCC, counsel to the Ad Hoc Group of Crossover Lenders, and counsel to any Stalking Horse Bidder(s) approved by the U.S. Court, subject to certain limited exceptions; and
- (ii) The requirement for advance notice of certain actions of the Debtors, including opening new bank accounts and adjustments to credit limits, to be given to counsel to the UCC, counsel to the Ad Hoc Group of Crossover Lenders, and counsel to any Stalking Horse Bidder(s) in addition to those parties identified in the Interim Cash Management Order;

- (b) *Final Order authorizing payment of certain prepetition critical vendor claims* (the “**Final Critical Vendors Order**”). The Final Critical Vendors Order, *inter alia*, authorized but did not direct or require the payment of certain prepetition critical vendor claims subject to the holders thereof providing the Debtors with customary trade terms for an amount up to \$40.0 million (inclusive of amounts paid pursuant to the Interim Critical Vendors Order) of which approximately \$12.5 million is for goods received in the 20 days prior to the Petition Date. The Final Critical Vendors Order applies to critical vendors located in both the U.S. and Canada. The Final Critical Vendors Order contains only minor changes to the Interim Critical Vendors Order;
- (c) *Final Order authorizing the Debtors to (i) maintain and administer prepetition customer programs and (ii) pay prepetition obligations related thereto* (the “**Final Customer Programs Order**”). The Final Customer Programs Order, *inter alia*, authorized the Debtors to maintain their customer programs and satisfy certain prepetition obligations related thereto, including those that exist in Canada, which includes loyalty and subscription programs, special pricing and other incentives, return and exchange policies, and gift cards (collectively, the “**Customer Programs**”). The only substantive change to the Final Customer Programs Order is the proviso that the Customer Programs shall not be terminated or altered without further order of the U.S. Court;
- (d) *Final Order (i) authorizing the Debtors to obtain postpetition financing, (ii) authorizing the Debtors to use cash collateral, (iii) granting liens and providing superpriority administrative expense claims, (iv) granting adequate protection to prepetition secured lenders, (v) modifying the automatic stay, and (vi) granting related relief* (the “**Final DIP Order**”). The Final DIP Order is described in further detail below;

- (e) *Final Order establishing certain notice and hearing procedures for transfers of, or worthlessness deductions with respect to, common stock and convertible preferred stock of GNC Holdings, Inc. (the “**Final Equity Trading NOL Order**”).* The Final Equity Trading NOL Order, *inter alia*, established certain notice and hearing procedures that must be satisfied before certain shareholders may make transfers of, or worthlessness deductions with respect to, common stock and Series A convertible preferred stock in GNC Holdings, and directed that any transaction in respect of the common stock or Series A convertible preferred stock shall be null and void *ab initio* in order to permit the Debtors to maintain certain tax attributes. The Final Equity Trading NOL Order contains certain amends to the procedures and notices that shall apply to transfers of Common Stock and Convertible Preferred Stock;
- (f) *Final Order authorizing (a) payment of prepetition insurance obligations and prepetition bonding obligations, and (b) maintenance of postpetition insurance coverage and bonding program (the “**Final Insurance Order**”).* The Final Insurance Order, *inter alia*, authorized the Debtors to pay prepetition claims to a maximum of \$91,250 inclusive of amounts paid pursuant to the Interim Insurance Order arising under their ordinary course insurance and bonding programs, and maintain, renew, and supplement such programs in the ordinary course postpetition. The Final Insurance Order incorporates the following key changes to the Interim Final Insurance Order:
- (i) Confirmation that nothing in the Final Insurance Order shall limit payments arising under or in connection with any of the U.S. Workers’ Compensation Policies or the Canadian Workers’ Compensation Program; and

- (ii) Confirmation that nothing in the Final Insurance Order shall enlarge, abridge, or otherwise modify the Debtors', Chubb's or any other party in interest's rights or claims with regard to such Insurance Policies (as defined in the Final Insurance Order);
  
- (g) *Final Order (a) authorizing payment of prepetition lien claims and import claims and (b) confirming administrative expense priority of outstanding orders* (the "**Final Lien and Import Claims Order**"). The Final Lien and Import Claims Order, *inter alia*, authorized the Debtors to pay any prepetition and postpetition amounts owing on account of shippers, warehousemen, other non-merchant lienholders, and import claims in an amount not to exceed \$6,251,000 inclusive of amounts paid pursuant to the Interim Final Lien and Import Claims Order, and confirmed administrative expense priority status for outstanding orders. The Final Lien and Import Claims Order includes only minor changes to the Interim Lien and Import Claims Order;
  
- (h) *Final Order granting Debtors' motion for interim and final orders (a) approving procedures for store closing sales, (b) authorizing customary bonuses to managers of stores, (c) authorizing assumption of the consulting agreements and (d) granting related relief* (the "**Final Store Closing Order**"). The Final Store Closing Order, *inter alia*, authorized the Debtors on a final basis to assume the Consulting Agreement, continue the store closing sales in accordance with the U.S. and Canada Sale Guidelines, and authorized customary bonuses to non-insider closing store employees who remain employed for the duration of the store closing process. The following key amendments were included in the Final Store Closing Order:
  - (i) The ability of the Debtors and/or the Consultant to enter into agreements with the landlords of the Closing Stores to modify the Store Closing Procedures without further order of the U.S. Court, subject to certain approvals and consultation requirements;

- (ii) The addition of a provision preventing the Debtors from selling or otherwise transferring any personal identifying information, subject to certain exceptions, and instructing the Debtors to remove confidential personal information from all equipment to be sold or disposed; and
- (iii) The requirement for the Consultant to accept return of any goods that contain a defect that could not be readily identified at time of purchase, subject to compliance with the Debtors' return policies in effect at that time;
- (i) *Final Order authorizing payment of prepetition taxes and fees* (the "**Final Tax Order**"). The Final Tax Order, *inter alia*, authorized the Debtors to pay certain taxes and fees accrued or incurred prepetition, and to maintain certain tax payments to avoid disruption to business operations, including payments to Canadian federal and provincial tax authorities. Only minor changes were made to the Final Tax Order;

- (j) *Final Order (a) prohibiting utility companies from altering or discontinuing service on account of prepetition invoices, (b) approving deposit as adequate assurance of payment, (c) establishing procedures for resolving requests by utility companies for additional assurance of payment, and (d) authorizing payment of any prepetition service fees (the “**Final Utilities Order**”).* The Final Utilities Order, *inter alia*, prohibited the Debtors’ utility companies, including those in located in Canada, from altering or discontinuing service, approved a deposit in the amount of \$947,000 to the extent not already funded pursuant to the Interim Utilities Order as adequate assurance of postpetition payment to utility companies, established procedures to resolve subsequent requests for additional assurance of payment, and authorized the payment of any prepetition service fees to the payment processor in an amount not to exceed \$2,915. Prior to the objection deadline, the Debtors received an objection from certain utility companies (the “**Utility Objection**”) and informal comments from Harbin. The Debtors agreed to adjourn the hearing with respect to the Utility Objection to allow for additional time to resolve the issues. The Final Utilities Order carves out the Utility Objection and addresses the informal comments received from Harbin. Certain utility companies will continue to be bound by the Interim Utilities Order until the Utility Objection is resolved; and
- (k) *Final Order (a) authorizing payment of certain prepetition workforce obligations, (b) authorizing continuance of workforce programs, (c) authorizing payment of withholding and payroll-related taxes, and (d) authorizing payment of prepetition claims owing to workforce program administrators or providers (the “**Final Wages Order**”).* The Final Wages Order authorized aggregate payments up to \$23.9 million in aggregate inclusive of any amounts paid pursuant to the Interim Order for prepetition workforce obligations or for the benefit of the workforce under the various workforce programs. This amount includes Canadian workforce wage, incentive, benefits, paid time off, and workers’ compensation obligations totalling approximately \$2.3 million. The key changes in the Final Wages Order are as follows:

- (i) Confirmation that the Debtors are authorized but not directed to pay any prepetition employee related obligations including U.S. Workers' Compensation Policies, and are authorized to continue the U.S. Workers' Compensation Policies and make payments in the ordinary course of business;
- (ii) The inclusion of notice requirements in the event that total non-employee director expenses are expected to exceed \$10,000 in any given fiscal quarter;
- (iii) A lifting of the automatic stay under section 362(a) of the Bankruptcy Code to permit: (i) current and former employees to proceed with any U.S. Workers Compensation Claims or Canadian Workers' Compensation Claims; (ii) insurance carriers and third party administrators to administer, defend, and/or settle related claims; and (iii) insurance carriers and third party administrators to draw on any and all collateral provided by or on behalf of the Debtors if and when the Debtors fail to pay for amounts in relation thereto, subject to applicable policies and agreements;
- (iv) The requirement of the Debtors to consult with: (i) counsel to the UCC; (ii) counsel to any stalking horse bidder(s); and, (iii) counsel to the Ad Hoc Group of Crossover Lenders, prior to implementation of any new or resuming incentive programs; and
- (v) Additional relief in relation to Chubb to ensure that nothing in the Final Wages Order will enlarge or modify their rights, interest, claims or otherwise ability to handle and/or pay claims with regards to U.S. Workers' Compensation Policies.



### ***The Final DIP Order***

34. As described in the Pre-Filing Report, on June 26, 2020, the U.S. Court entered the Interim DIP Order that, among other things, authorized the Debtors to enter into the following two DIP credit agreements (collectively, the “**DIP Agreements**”) on a super-priority basis (the “**DIP Facility**”) to provide the Debtors with the necessary liquidity to finance their operations during the Chapter 11 Cases and Recognition Proceedings:
- (a) The DIP Term Credit Agreement, which provides for \$100 million in “new money” and a “roll-up on a dollar-for-dollar basis” of \$100 million of term loans outstanding under the prepetition Term Credit Agreement (the “**DIP Term Loan Amount**”); and
  - (b) The DIP ABL FILO Credit Agreement, which provides for a “roll-up” on a dollar-for-dollar basis of all the \$275 million of outstanding principal plus accrued and unpaid interest on the prepetition ABL FILO Credit Agreement on terms that provide amendments to the borrowing base formula and reserve restrictions, which amendments will free up cash that will be used to repay the prepetition ABL Revolving Credit Facility, which had approximately \$60 million in principal outstanding as of June 24, 2020, and provide an additional \$30 million of liquidity.
35. The DIP Facility is described in further detail in the Pre-Filing Report.
36. Prior to the objection deadline on July 15, 2020 in relation to the proposed Final DIP Order, the Debtors received multiple objections and informal comments from various stakeholders. The Final DIP Order contains several amendments compared to the Interim DIP Order, which the Information Officer understands were made to address issues raised by various stakeholders and conform revisions made to the Interim DIP Order prior to its entry. The key amendments incorporated in the Final DIP Order include the following:

- (a) The Debtors are authorized to borrow the remaining \$70 million (out of the \$100 million total) of “new money” (in addition to the \$30 million authorized under the Interim DIP Order);
- (b) As security for the Debtors’ obligations for the DIP Facility, the DIP Lenders are granted perfected security interest in the proceeds of any avoidance actions, with the exception of any actions brought under section 549 of the Bankruptcy Code to recover any post-petition transfer of collateral under the DIP Facility, provided that: i) the obligations for the DIP Facility remain outstanding; and, ii) the Debtors covenant not to prosecute any avoidance actions, subject to certain events and limitations;
- (c) The reservation of rights under section 363(k) of the Bankruptcy Code by the UCC, and its challenge rights under paragraph 36 of the Final DIP Order with respect to any credit bid;
- (d) The ability to extend any such “milestones” as stipulated in Schedule 2 to the Final DIP Order with the written consent of the Required Term Lenders in their sole and absolute discretion;
- (e) An increase in the Investigation Budget Amount in an amount not to exceed \$150,000 to be incurred solely by the UCC investigating the enforceability of the Prepetition Liens before the Challenge Deadline;
- (f) The approval of the amendments to the DIP Agreements as of the entry of the Final DIP Order. A summary of the amendments to the DIP Agreements is attached as Exhibit C to the Final DIP Order;
- (g) The Debtors are authorized and directed to pay landlords of unexpired non-residential real property leases postpetition stub rent owing for the period commencing on the Petition Date and ending on June 30, 2020 within five business days of the entry of the Final DIP Order;

- (h) The Debtors are authorized and directed to establish a segregated account as security for the payment of claims against the Debtors that may be allowed under section 503(b)(9) of the Bankruptcy Code, and deposit proceeds of the New Money DIP Term Loans sufficient to satisfy all remaining unpaid and reasonably anticipated 503(b)(9) Claims. The Debtors shall pay the 503(b)(9) Claims of any creditor upon the earlier of: i) obtaining acceptable trade terms, or ii) upon agreement of a creditor's 503(b)(9) Claims after the relevant bar date has passed.
- (i) The reservation of rights of ACE American Insurance Company with its predecessors and affiliates (the "**Chubb Liens**") so that the DIP Liens shall not prime or have priority over the Chubb Liens to the extent that it had perfected security that was senior to the Prepetition Secured Parties.

***Recommendation Regarding Second Day Final Orders***

37. The Information Officer has reviewed the Second Day Final Orders, including the Final DIP Order and the terms of the DIP Agreements, and is of the view that recognition of the Second Day Final Orders is appropriate in the circumstances.

**THE SECOND DAY NEW ORDERS**

38. The Second Day New Orders, each of which is described in greater detail below, are as follows:
- (a) *Order establishing bar dates and related procedures for filing proofs of claim (including for claims arising under section 503(b)(9) of the Bankruptcy Code) and approving the form and manner of notice thereof (the "**Bar Date Order**")*;

- (b) *Order approving (i) the Debtors' entry into stalking horse agreement and approving related bid protections; (ii) the bidding procedures in connection with the sale of all, substantially all of the Debtors' assets, (iii) the procedures for the assumption and assignment of executory contracts and expired leases, (iv) the form and manner of notice of the sale hearing, assumption procedures, and auction results, (v) dates for an auction and sale hearing and (vi) granting related relief (the "**Bidding Procedures Order**")*;
- (c) *First (1<sup>st</sup>) omnibus order (a) authorizing rejection of certain unexpired leases effective as of the petition date and (b) granting related relief (the "**First Lease Rejection Order**"); and*
- (d) *Third (3<sup>rd</sup>) omnibus order (a) authorizing rejection of certain unexpired leases effective as of the petition date and (b) granting related relief (the "**Third Lease Rejection Order**" and, together with the First Lease Rejection Order, the "**Lease Rejection Orders**").*

### ***The Bar Date Order***

- 39. The Bar Date Order, *inter alia*, sets out the deadlines by which creditors must file proofs of claim against the Debtors in the Chapter 11 Cases and certain other bar dates (collectively, the "**Bar Dates**"), approved the proposed notice to creditors regarding the bar dates and approved the form and manner for filing proofs of claim.
- 40. The Bar Date Order established the following Bar Dates:
  - (a) General Claims Bar Date: Except for claims filed by governmental units and certain other exceptions set out in the Bar Date Order, all proofs of claim must be received on or prior to 5:00 p.m. (prevailing Eastern Time) on the date that is 37 days after the later of (i) the date the Debtors file their schedules of assets and liabilities (the "**Schedules**") with the U.S. Court, and (ii) the date of entry of this Bar Date Order;

- (b) Governmental Bar Date: The deadline for governmental units to file a proof of claim against the Debtors is December 21, 2020 at 5:00 p.m. (prevailing Eastern Time);
  - (c) Rejection Damages Bar Date: For any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease must file a proof of claim based on such rejection by the later of (i) the General Bar Date; or (ii) 5:00 p.m. (prevailing Eastern Time) on the date that is thirty (30) days following service of an order approving such rejection; and
  - (d) Amended Schedules Bar Date: If the Debtors amend their Schedules, then the deadline to submit a proof of claim for creditors affected by any such amendment shall be the later of: (i) the applicable Bar Date; or (ii) 5:00 p.m. (prevailing Eastern Time) on the date that is twenty-one (21) days from the date that the Debtors provide written notice to the affected creditor that the Schedules have been amended.
41. The Bar Date Order also sets out the form of proofs of claim and specifies the support that must be submitted with each proof of claim. All claimants that hold or seek to assert a prepetition claim against the Debtors must file with the Debtors' claims and noticing agent, Prime Clerk LLC ("**Prime Clerk**"), by the applicable Bar Date, an original, written proof of such claim that substantially conforms to the proof of claim form attached to the Bar Date Order either by (i) mailing the original proof of claim to Prime Clerk by regular mail, (ii) delivering such original proof of claim by overnight mail, courier service, hand delivery, or in person to Prime Clerk, or (iii) completing the electronic proof of claim form available on the Prime Clerk Case Website.
42. Any entity that is required, but fails, to file a proof of claim pursuant to the Bar Date Order on or before the applicable Bar Date shall forever be barred, estopped, and enjoined from asserting such claim against the Debtors. Such an entity will also be prohibited from voting to accept or reject any plan of reorganization filed in the Chapter 11 Cases, participating in any distribution in the Chapter 11 Cases, and receiving further notices.

43. To provide adequate notice to creditors including creditors located in Canada or a party on the service list in the Recognition Proceedings, the Debtors intend to serve the bar date notice and proof of claim form (the “**Bar Date Package**”) via prepaid postage first-class U.S. mail within five business days of the later of (i) the date the Debtors file their Schedules with the U.S. Court, and (ii) the date of entry of the Bar Date Order.
44. The Debtors may make supplemental mailings of notices in the event that: (a) notices are returned by the post office with forwarding address; (b) certain parties acting on behalf of parties in interest decline to pass along notices; and (c) additional potential claimants or parties in interest become known after the initial mailing of the Bar Date Package.
45. To address any unknown potential claims that are not recorded in the Debtors’ books and records in Canada, the Debtors are to publish notice of the Bar Dates (the “**Publication Notice**”) in the *Globe and Mail (National Edition)* as soon as practicable after entry of the Bar Date Order, and such other local newspapers or publications as the Debtors deem appropriate. The Debtors have informed the Information Officer that a French translation of the notice will also be published in *La Presse*.
46. The Information Officer has reviewed the Bar Date Order and related materials and is of the view that the proposed notice provisions are adequate and that recognition of the Bar Date Order is appropriate in the circumstances.

### ***The Bidding Procedures Order***

47. The Debtors initially filed a motion on July 1, 2020, for entry of an Order (as amended and revised, the “**Bidding Procedures Order**”) approving:
  - (a) The Debtors’ entry into a stalking horse agreement and related bid protections;
  - (b) The bidding procedures in connection with the sale of all or substantially all of the Debtors’ assets;
  - (c) The procedures for the assumption and assignment of executory contracts and unexpired leases; and

- (d) The form and manner of notice of the sale hearing, assumption procedures, and auction results.
48. The Debtors were unable to finalize a stalking horse agreement before the deadline to do so and, consequently, on July 16, 2020, the Debtors filed a Notice of Filing of Revised Bidding Procedures to notify the U.S. Court and stakeholders of:
- (a) The revision of the Bidding Procedures (as defined in the motion for the Bidding Procedures Order) subsequent to the filing of the motion for the Bidding Procedures (as revised, the “**Revised Bidding Procedures**”); and
  - (b) The revision of the Bidding Procedures to reserve the rights of the Debtors to return to the U.S. Court on seven (7) days’ notice to request approval of a stalking horse bid and certain stalking horse bid protections (for greater certainty, the Revised Bidding Procedures do not seek pre-approval of any stalking horse bid protections).
49. The Debtors received various objections and informal comments from stakeholders and, upon further discussions, resolved all objections and informal comments. The U.S. Court advised the Debtors it would enter the revised order subject to changing certain hearing dates, which when combined with the changes that addressed the objections and informal comments, resulted in a further revised Bidding Procedures Order (the “**Revised Bidding Procedures Order**”, which included the “**Final Revised Bidding Procedures**”).
50. The key provisions of the Final Revised Bidding Procedures are summarized as follows:

- (a) Purpose: The purpose of the bidding procedures is to set out the process by which the Debtors are authorized to solicit the highest or otherwise best bid or bids (each a “**Bid**”) for the Debtors’ assets via a sale implemented under section 363(b) of the Bankruptcy Code (the “**Sale**”) pursuant to the terms and conditions of an asset purchase agreement. The Debtors’ proposed plan of reorganization (the “**Plan**”), filed pursuant to the comprehensive restructuring agreement supported by the Debtors and their major prepetition secured creditors (the “**Restructuring Support Agreement**”), contemplates that the proceeds from the Sale will be distributed in accordance with the Plan;
  
- (b) Due Diligence: Access to initial due diligence materials and non-public information will be granted up to the Bid Deadline (as defined below) to any potential bidder who executes a satisfactory confidentiality agreement, provides evidence of intent to participate in the Sale process for a bona fide purpose, and possesses the financial capacity to execute a transaction;
  
- (c) Bid Deadline: Bidders must submit their Qualified Bids so as to be actually received by the Debtors’ advisors no later than September 4, 2020 at 4:00 p.m. (prevailing Eastern Time) (the “**Bid Deadline**”);



- (d) Stalking Horse Bidder and Bid Protections: Up until August 3, 2020 and subject to the requisite approvals from the Required Sales Consenting Parties (as defined in the Restructuring Support Agreement attached to the Tolivar Declaration), the Debtors are authorized but not obligated to: i) select one or more bidders to act as stalking horse bidders (“**Stalking Horse Bidder(s)**”), and enter into purchase agreements with such Stalking Horse Bidder(s); ii) provide a breakup fee (the “**Breakup Fee**”); iii) agree to reimburse reasonable and documented out-of-pocket fees and expenses; and/or iv) agree to provide minimum overbid protections (together with the breakup fee and expense reimbursement, the “**Bid Protections**”) – all as reasonably acceptable to the Debtors after consultation with the Consultation Parties<sup>1</sup> and subject to U.S. Court approval (collectively, the “**Bid Protections**”). No later than one business day after the selection of a Stalking Horse Bidder, the Debtors shall file a notice with the Court of such selection and a copy of an executed and binding Stalking Horse Agreement, and provide notice of the Stalking Horse Bidder and Bid Protections (the “**Stalking Horse Selection Notice**”);
- (e) Bid Requirements: To be eligible to participate in the auction (the “**Auction**”), a bidder other than a Stalking Horse Bidder must deliver to the Debtors and their advisors in advance of the Bid Deadline, a written, irrevocable offer that must be determined by the Debtors in consultation with the Consultation Parties to satisfy certain including those noted below:

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<sup>1</sup> Each “**Consultation Party**,” and collectively, the “**Consultation Parties**” means: (i) counsel and financial advisors to the ad hoc group of holders of Tranche B-2 Obligations and FILO Term Loan Obligations (the “**Crossover Ad Hoc Group**”), (ii) counsel and financial advisors to the ad hoc group of holders of FILO Term Loan Obligations (the “**FILO Ad Hoc Group**”); and (iii) counsel and financial advisors to the UCC – all with certain limitations.

Category	Key components
Purchase Price	<ul style="list-style-type: none"> <li>• The purchase price for the assets (the “<b>Purchase Price</b>”) must indicate the source of cash consideration, including funding commitments, contingent funding sources, and identification of cash and non-cash purchase price components.</li> <li>• The Purchase Price must include: i) sufficient cash to settle all DIP Facility Claims outstanding at closing; ii) additional cash to settle all Allowed Tranche B-2 Term Loans or other terms agreed by the Required Lenders (as defined in Tranche B-2 Term Loan Agreement); iii) assumption or payment in cash of all Allowed Administrative Claims, Allowed Tax Priority Claims, Allowed Other Priority Claims and All Allowed Other Secured Claims; iv) payment of all cure amounts in relation to assumed contracts and unexpired leases; and v) the assumption of certain liabilities (collectively, the “<b>Minimum Purchase Price</b>”).</li> </ul>
Minimum Bid	<ul style="list-style-type: none"> <li>• A Bid must exceed the Minimum Purchase Price plus the amount of Bid Protections payable to any Stalking Horse Bidder, plus minimum bid increment of \$5 million.</li> </ul>
Bid Deposit	<ul style="list-style-type: none"> <li>• A Bid must be accompanied by a cash deposit equal to 7.5% of the aggregate value of the cash and non-cash consideration of the Bid.</li> </ul>
Committed Financing	<ul style="list-style-type: none"> <li>• Each Bid must provide evidence of the financial wherewithal to consummate the Sale with cash on hand, or fully approved debt or equity funding commitments.</li> </ul>
Marked Agreement	<ul style="list-style-type: none"> <li>• The Debtors have drafted a form of purchase and sale agreement (the “<b>PSA</b>”) for parties interested in acquiring the assets, and each Bid must be accompanied by clean and duly executed transaction documents including a draft purchase agreement with exhibits and schedules, and any related material documents.</li> </ul>
Contracts and Leases, and Employees	<ul style="list-style-type: none"> <li>• Each bid must schedule the executory contracts and unexpired leases to be assumed and assigned in the Sale, including the specific store leases to be assumed, and the Debtors’ employees or groups that will be offered employment.</li> <li>• All Bids must assume the Debtors’ Compensation and Benefits Programs (as defined in the Plan).</li> </ul>
No Contingencies	<ul style="list-style-type: none"> <li>• A Bid must state that it is not conditioned on any contingency.</li> </ul>

Time Frame for Closing	• A Bid must be reasonably likely to be consummated if selected as the winning Bid within a time frame reasonably acceptable to the Debtors in consultation with the Consultation Parties.
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Bids fulfilling all of the requirements noted in the Revised Bidding Procedures as determined by the Debtors and their Advisors in reasonable business judgment and in consultation with the Consultation Parties will be deemed the “**Qualified Bids**”;

- (f) Evaluation of Qualified Bids: In determining the best bid of the Qualified Bids, the Debtors will consider the following, among other things: i) amount and nature of consideration offered; ii) impact on customers, vendors, and employees; iii) the certainty of a Qualified Bid; iv) the execution risk; v) the number, type, and nature of any changes to the PSA; vi) the net economic effect from the transaction contemplated; vii) the tax consequences; viii) the employee impact; ix) the assumption of liabilities; and, x) the cure amounts to be paid (collectively, the “**Evaluation Criteria**”);
- (g) Only One Qualified Bid: If only one Qualified Bid is received by the Bid Deadline and such Bid is acceptable to the Debtors after consultation with the Consultation Parties, the Auction will not occur and the Debtors will move to have the transaction approved and authorized by the U.S. Court;
- (h) Credit Bidding and Credit Bid Backup Bid: Credit bids are permitted with certain provisions and notifications to certain stakeholder groups, including certain requirements to settle certain claims including any Bid Protections of any Stalking Horse Bidder;
- (i) Auction: If more than one Qualified Bid is received before the Bid Deadline, the Debtors will conduct an auction on September 8, 2020 at 10:00 a.m. (prevailing Eastern Time) in accordance with the auction procedures (the “**Auction Procedures**”), which include the following:

- (i) The Auction will be conducted openly;
- (ii) Only Qualified Bidders, including any Stalking Horse Bidder(s), will be entitled to bid at the Auction;
- (iii) Each Qualified Bidder will be informed of the terms of the previous Bids and the Debtors shall promptly inform each Qualified Bidder of which subsequent Bids reflect the highest or otherwise best bid(s);
- (iv) The Auction will not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an overbid at the Auction, subject to the Debtors' right to call for last and final Bids to be submitted on a "blind" basis; and
- (v) The Debtors reserve the right to adjourn the Auction one or more times to facilitate discussions, allow Qualified Bidders to consider how they wish to proceed, and provide Qualified Bidders the opportunity to provide additional evidence to the Debtors in support of their Bid and its viability;
- (j) Acceptance of the Successful Bid: The Debtors in consultation with the Consultation Parties will identify the highest or otherwise best bid based on, *inter alia*, the factors previously noted (each, a "**Successful Bid**");

- (k) The Auction Objection and Sale Objection Deadlines: The deadline to file an objection to: i) the Sale and/or, ii) the potential assumption or assumption and assignment of the contracts to be assigned and cure amounts related thereto is August 21, 2020 at 4:00 p.m. (prevailing Eastern Time) (the “**Sale Objection Deadline**”). If the Auction is held, subject to extension as set forth in paragraph 10 of the Revised Bidding Procedures Order, the deadline to file an objection to the conduct of the Auction and the choice of Successful Bidder and/or Back-Up Bidder is September 9, 2020 at 4:00 p.m. (prevailing Eastern Time) (the “**Auction Objection Deadline**”); and
- (l) The Sale Hearing: A hearing before the U.S. Court to consider approval of the Successful Bid will be held on September 14, 2020, at 1 p.m. (prevailing Eastern Time).
- (m) Adequate Assurance Objection and Hearing: In the event the Successful Bidder is not the Stalking Horse Bidder, objections to adequate assurance of future performance of the contracts to be assigned must be filed with the U.S. Court and served no later than September 15, 2020 at 8:00 p.m. (prevailing Eastern Time) (the “**Adequate Assurance Objection Deadline**”). Any objections received will be heard by the U.S. Court on September 18, 2020 at 2:00 p.m. (prevailing Eastern Time) (the “**Adequate Assurance Hearing**”).

(n) Modification of Date: In the event that the Debtors' do not file a Stalking Horse Selection Notice one business day after August 3, 2020, the Sale Objection Deadline will be extended to August 28, 2020, the Bid Deadline will be extended to September 11, 2020, the Auction date will be extended to September 15, 2020, the Auction Objection Deadline will be extended to September 16, 2020, the Sale Hearing will be extended to September 17, 2020 at 1:00 p.m., prevailing Eastern Time, the Adequate Assurance Objection Deadline will be extended to September 22, 2020, and the Adequate Assurance Hearing will be extended to September 29, 2020 at 1:00 p.m., prevailing Eastern Time. The dates and deadlines noted are subject to further modification by the Debtors in accordance with the Final Revised Bidding Procedures.

51. The Information Officer is of the view that the procedures and timelines set out in the Revised Bidding Procedures are reasonable in the circumstances and that recognition of the Bidding Procedures Order is appropriate in the circumstances.

### ***The Lease Rejections Orders***

52. In conjunction with the Debtors' store rationalization strategy, the Debtors have sought and sought and obtained eight Orders from the U.S. Court authorizing the rejection of leases. Only the First Lease Rejection Order and the Third Lease Rejection Order include authorization to reject certain leases for stores in Canada. The other lease rejection orders do not pertain to any leases within Canada and, accordingly, the Foreign Representative is not seeking recognition of those Orders.

53. Prior to the objection deadline, the Debtors received informal comments from various stakeholders, which were resolved using similar language in the First Lease Rejection Order and Third Lease Rejection Order and included the following:

(a) Any furniture, fixtures, and equipment ("FF&E") or other personal property remaining on the premises is deemed abandoned free and clear as of the Petition Date without further order of the U.S. Court, and the landlords are authorized to dispose of the property in their sole discretion without notice.

- (b) The Debtors are required to remove any property leased by the Debtors from third parties on or prior to the Petition Date;
  - (c) Provisions stating that nothing in the First Lease Rejection Order authorizes the Debtors to abandon personal identifying information (“**PII**”), and the Debtors shall remove, cause to be removed, any confidential or PII in any of the Debtors’ assets or equipment, or otherwise dispose of so as to render the PII unreadable.
54. The Lease Rejection Orders include a total of twenty-nine Canadian Leases that were terminated prior to the Petition Date (collectively, the “**Canadian Prepetition Rejected Leases**”). Pursuant to the Lease Rejection Orders, the Debtors are authorized to abandon any property located on the premises.
55. As described in the Pre-Filing Report, GNC Canada does not intend to provide additional notice or rent for the Canadian Prepetition Rejected Leases, consistent with the treatment of U.S. store leases terminated prior to the Petition Date.
56. As stated in the Initial Tolivar Affidavit filed in support of the Recognition Proceedings for leases to be rejected for stores that were occupied or operated after the Petition Date, GNC Canada will provide at least 30 days’ notice to the landlord prior to the effective date of a lease rejection and will continue to pay rent during that notice period.
57. To date, such 30 days’ notice has been provided to landlords in respect of four GNC Canada locations.
58. The Information Officer is of the view that recognition of the Lease Rejection Orders is appropriate in the circumstances.

The Information Officer respectfully submits to the Court this, its First Report.

Dated this 24<sup>th</sup> day of July, 2020.

**FTI CONSULTING CANADA INC.**

Solely in its capacity as Information Officer of GNC Holdings, Inc., General Nutrition Centres Company, GNC Parent LLC, GNC Corporation, General Nutrition Centers, Inc., General Nutrition Corporation, General Nutrition Investment Company, Lucky Oldco Corporation, GNC Funding Inc., GNC International Holdings Inc., GNC China Holdco, LLC, GNC Headquarters LLC, Gustine Sixth Avenue Associates, Ltd., GNC Canada Holdings, Inc., GNC Government Services, LLC, GNC Puerto Rico Holdings, Inc., and GNC Puerto Rico, LLC, and not in its personal or corporate capacity.



Nigel D. Meakin  
Senior Managing Director



Jim Robinson  
Managing Director



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# Appendix A

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## Debtors

GNC HOLDINGS, INC.  
GENERAL NUTRITION CENTRES COMPANY  
GNC PARENT LLC  
GNC CORPORATION  
GENERAL NUTRITION CENTERS, INC.  
GENERAL NUTRITION CORPORATION  
GENERAL NUTRITION INVESTMENT COMPANY  
LUCKY OLDSCO CORPORATION  
GNC FUNDING INC.  
GNC INTERNATIONAL HOLDINGS INC.  
GNC CHINA HOLDCO, LLC  
GNC HEADQUARTERS LLC  
GUSTINE SIXTH AVENUE ASSOCIATES, LTD.  
GNC CANADA HOLDINGS, INC.  
GNC GOVERNMENT SERVICES, LLC  
GNC PUERTO RICO HOLDINGS, INC  
GNC PUERTO RICO, LLC

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# Appendix B

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## The July 20 Forecast

GENERAL NUTRITION CENTRES COMPANY ("GNC Canada")  
Cash Flow Forecast [1]  
(US\$ in 000's)

Week #:	5	6	7	8	9	10	11	12	13	14	15	16	17	Total	
Week Ended:	7/25/20	8/1/20	8/8/20	8/15/20	8/22/20	8/29/20	9/5/20	9/12/20	9/19/20	9/26/20	10/3/20	10/10/20	10/17/20	13 weeks	
<b>Receipts</b>															
Trade Receipts	[2]	\$ 996	\$ 1,020	\$ 1,242	\$ 1,167	\$ 1,267	\$ 1,336	\$ 1,321	\$ 1,342	\$ 1,291	\$ 855	\$ 378	\$ 382	\$ 387	\$ 12,981
Other Receipts		-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
<b>Total</b>		<b>\$ 996</b>	<b>\$ 1,020</b>	<b>\$ 1,242</b>	<b>\$ 1,167</b>	<b>\$ 1,267</b>	<b>\$ 1,336</b>	<b>\$ 1,321</b>	<b>\$ 1,342</b>	<b>\$ 1,291</b>	<b>\$ 855</b>	<b>\$ 378</b>	<b>\$ 382</b>	<b>\$ 387</b>	<b>\$ 12,981</b>
<b>Operating Disbursements</b>															
Merchandise Vendors	[3]	\$ (157)	\$ (887)	\$ (1,293)	\$ (457)	\$ (277)	\$ (982)	\$ (257)	\$ (234)	\$ (157)	\$ (157)	\$ (157)	\$ (157)	\$ (157)	\$ (5,326)
Non-Merchandise Vendors	[4]	\$ (196)	\$ (474)	\$ (254)	\$ (229)	\$ (229)	\$ (232)	\$ (150)	\$ (136)	\$ (75)	\$ (75)	\$ (75)	\$ (75)	\$ (75)	\$ (2,278)
Payroll & Employee Related Disbursements	[5]	\$ (547)	\$ (100)	\$ (418)	-	\$ (400)	-	\$ (398)	-	\$ (388)	-	\$ (574)	-	\$ (516)	\$ (3,342)
Occupancy Disbursements	[6]	\$ (151)	\$ (798)	-	-	-	-	\$ (755)	-	-	-	\$ (319)	-	-	\$ (2,023)
Sales Taxes	[7]	\$ (157)	-	-	-	\$ (8)	-	-	-	-	\$ (254)	-	-	-	\$ (418)
Capital Expenditures	[8]	\$ (11)	\$ (21)	\$ (11)	\$ (11)	\$ (4)	\$ (1)	\$ (2)	\$ (2)	\$ (2)	\$ (1)	\$ (1)	\$ (1)	\$ (1)	\$ (66)
Corporate and Other Disbursements	[9]	\$ (22)	\$ (22)	\$ (47)	\$ (47)	\$ (46)	\$ (22)	\$ (22)	\$ (15)	\$ (15)	\$ (15)	\$ (15)	\$ (15)	\$ (15)	\$ (321)
<b>Total</b>		<b>\$ (1,241)</b>	<b>\$ (2,302)</b>	<b>\$ (2,023)</b>	<b>\$ (744)</b>	<b>\$ (964)</b>	<b>\$ (1,237)</b>	<b>\$ (1,584)</b>	<b>\$ (387)</b>	<b>\$ (637)</b>	<b>\$ (502)</b>	<b>\$ (1,141)</b>	<b>\$ (248)</b>	<b>\$ (764)</b>	<b>\$ (13,775)</b>
<b>Operating Cash Flow</b>		<b>\$ (245)</b>	<b>\$ (1,282)</b>	<b>\$ (781)</b>	<b>\$ 423</b>	<b>\$ 303</b>	<b>\$ 99</b>	<b>\$ (264)</b>	<b>\$ 955</b>	<b>\$ 654</b>	<b>\$ 352</b>	<b>\$ (763)</b>	<b>\$ 134</b>	<b>\$ (377)</b>	<b>\$ (793)</b>
<b>Non-Operating Disbursements</b>															
Professional Fees	[10]	\$ (29)	\$ (79)	\$ (104)	\$ (48)	\$ (29)	\$ (29)	\$ (29)	\$ (54)	\$ (29)	\$ (29)	\$ (29)	\$ (54)	\$ (29)	\$ (569)
Liquidation Disbursements	[11]	\$ (780)	\$ (84)	\$ (84)	\$ (84)	\$ (84)	\$ (84)	\$ (84)	\$ (84)	\$ (17)	\$ -	\$ -	\$ -	\$ -	\$ (1,383)
<b>Total Non-Operating Disbursements</b>		<b>\$ (809)</b>	<b>\$ (163)</b>	<b>\$ (188)</b>	<b>\$ (132)</b>	<b>\$ (113)</b>	<b>\$ (113)</b>	<b>\$ (113)</b>	<b>\$ (138)</b>	<b>\$ (46)</b>	<b>\$ (29)</b>	<b>\$ (29)</b>	<b>\$ (54)</b>	<b>\$ (29)</b>	<b>\$ (1,952)</b>
<b>Net Cash Flow after Non-Operating Disbursements</b>		<b>\$ (1,054)</b>	<b>\$ (1,445)</b>	<b>\$ (968)</b>	<b>\$ 291</b>	<b>\$ 191</b>	<b>\$ (14)</b>	<b>\$ (376)</b>	<b>\$ 817</b>	<b>\$ 608</b>	<b>\$ 323</b>	<b>\$ (792)</b>	<b>\$ 80</b>	<b>\$ (406)</b>	<b>\$ (2,746)</b>
Cash, opening balance		\$ 4,982	\$ 3,928	\$ 2,484	\$ 1,515	\$ 1,806	\$ 1,997	\$ 1,983	\$ 1,607	\$ 2,424	\$ 3,032	\$ 3,355	\$ 2,563	\$ 2,643	\$ 4,982
Net Cash Flow		(1,054)	(1,445)	(968)	291	191	(14)	(376)	817	608	323	(792)	80	(406)	(2,746)
Cash Transfers from/(To) GNC US		-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Cash, ending balance</b>		<b>\$ 3,928</b>	<b>\$ 2,484</b>	<b>\$ 1,515</b>	<b>\$ 1,806</b>	<b>\$ 1,997</b>	<b>\$ 1,983</b>	<b>\$ 1,607</b>	<b>\$ 2,424</b>	<b>\$ 3,032</b>	<b>\$ 3,355</b>	<b>\$ 2,563</b>	<b>\$ 2,643</b>	<b>\$ 2,236</b>	<b>\$ 2,236</b>

**Notes:**

- [1] The purpose of this cash flow forecast is to estimate the liquidity requirements of GNC Canada as the Canadian operating entity of GNC Holdings, Inc. during the forecast period.
- [2] For the weeks presented up to the week ending October 3, 2020, estimated Trade Receipts are comprised of both: i) the normal sale of inventory at open stores not subject to store closing sales; and, ii) sales receipts generated via store closing sales conducted and operated by GNC Canada with the assistance of a third-party liquidator assisting solely in a consulting capacity to GNC Canada. After the week ending October 3, 2020, estimated Trade Receipts are comprised solely of cash receipts from the normal sale of inventory at open stores not subject to store closing sales.
- [3] Forecast Merchandise Vendor disbursements include estimated payments to vendors for purchase of merchandise goods and other products.
- [4] Forecast Non-Merchandise Vendor disbursements include estimated freight, logistics, marketing, and other third-party goods and service providers.
- [5] Forecast Payroll and Employee Related Disbursements include estimated employee payroll and costs, including wages, benefits, employee bonuses, termination and severance payments, and all other employee related costs, both at the retail store-level as well as for the employees at the Canada region office.
- [6] Forecast Occupancy Disbursements include estimated rent, common-area maintenance costs, utility providers, property taxes, and other miscellaneous occupancy costs.
- [7] Forecast Sales Taxes reflects estimated net GST, HST, and PST amounts remitted to/from the Federal and Provincial governments. Remittances are generally made one month in arrears.
- [8] Forecast Capital Expenditures reflect estimated capital spending required to maintain the stores not subject to a store closure sale in the normal course of business.
- [9] Forecast Corporate and Other Disbursements include estimated store level expenses, IT costs, corporate overhead, and other operating disbursements.
- [10] Forecast Professional Fees include estimated various legal and information officer professional fees associated with these proceedings.
- [11] Forecast Liquidation Disbursements include estimated agency fees, liquidation expenses, store incentive programs, and other liquidation-related disbursements.

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# Appendix C

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## The UCC Notice

UNITED STATES DEPARTMENT OF JUSTICE  
OFFICE OF THE UNITED STATES TRUSTEE  
DISTRICT OF DELAWARE

IN THE MATTER OF:	:	Chapter 11
	:	
GNC Holdings Inc., <i>et al.</i>	:	Case No. 20-11662 (KBO)
	:	
	:	Jointly Administered
	:	NOTICE OF APPOINTMENT OF
Debtor(s).	:	COMMITTEE OF UNSECURED
-----	:	CREDITORS

Pursuant to Section 1102(a)(1) of the Bankruptcy Code, I hereby appoint the following persons to the Committee of Unsecured Creditors in connection with the above captioned cases:

1. **The Bank of New York Mellon Trust Company, N.A. as Trustee.**, Attn: Jennifer Provenzano, 500 Ross Street, 12<sup>th</sup> Floor, Pittsburgh, PA 15262, Phone: 412-236-3190, Email: [Jennifer.j.Provenzano@bnymellon.com](mailto:Jennifer.j.Provenzano@bnymellon.com)
2. **Brookfield Properties Retail, Inc.**, Attn: Julie Minnick Bowden, 350 N. Orleans St., Suite 300, Chicago, IL 60654-1607, Phone: 312-960-2707, Fax: 312-442-6374, Email: [Julie.Bowden@brookfieldpropertiesretail.com](mailto:Julie.Bowden@brookfieldpropertiesretail.com)
3. **Simon Property Group**, Attn: Ronald Tucker, 225 West Washington Street, Indianapolis, IN 46204, Phone: 317-263-2346, Fax: 317-263-7901, Email: [rtucker@simon.com](mailto:rtucker@simon.com)
4. **Woodbolt Distribution, LLC d/b/a Nutrabolt**, Attn: Michael DiMaggio, 4407 Monterey Oaks Blvd, Suite 150, Austin, TX 78749, Phone: 979-773-8937, Email: [mdimaggio@nutrabolt.com](mailto:mdimaggio@nutrabolt.com)
5. **Adaptive Health**, Attn: Brandon Adcock, 615 S. College St., #1300, Charlotte, NC 28202, Phone: 704-557-0985, Email: [brandon@adaptivehealth.com](mailto:brandon@adaptivehealth.com)
6. **Redcon1, LLC**, Attn: Robert Conley, 701 Park of Commerce Blvd, Boca Raton, FL 33487, Phone: 561-239-2494, Email: [rconley@redcon1.com](mailto:rconley@redcon1.com)
7. **Misty Fair, individual and class plaintiff**, c/o Christian Schreiber, Olivier, Schreiber & Chao LLP, 201 Filbert Street, Suite 201, San Francisco, CA 94133, Phone: (415) 484-0161, [christian@osclegal.com](mailto:christian@osclegal.com)

ANDREW R. VARA  
United States Trustee, Region 3

/s/ Jane Leamy for  
T. PATRICK TINKER  
ASSISTANT UNITED STATES TRUSTEE

DATED: July 7, 2020

Debtors' Counsel: Kara Hammond Coyle, Esq., Phone:302-571-6600, Fax: 302-576-3472