

EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
eTOYS DIRECT 1, LLC, <u>et al.</u> , ¹) Case No. 08-13412-BS
) (Jointly Administered)
Debtors.)
) Re: Docket No. 65

ORDER (I) APPROVING ASSET PURCHASE AGREEMENT WITH EAGLE LLC, (II) AUTHORIZING THE DEBTORS TO SELL ASSETS FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES, AND (III) GRANTING OTHER RELATED RELIEF

Upon the Debtors' Motion Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code for Orders (A) Approving Sale Procedures and Bid Protections, Including Break-Up Fees, in Connection With Sale of Substantially All Assets; (B) Scheduling an Auction for and Hearing to Approve One or More Sales; (C) Approving Notice of Respective Date, Time and Place for Auction and for Hearing on Approval of Sale(s); (D) Authorizing the Debtors (X) to Sell Substantially All Assets, Free and Clear of Liens, Claims, and Encumbrances and to Conduct Sales at the Debtors' Headquarters and Warehouse Locations and (Y) to Assume and Assign Executory Contracts and Unexpired Leases of Nonresidential Real Property; (E) Establishing Procedures in Connection with the Rejection of Executory Contracts and Unexpired Leases of Nonresidential Real Property; and (F) Granting Other Related Relief (the "Motion"), of the above-captioned debtors and debtors in possession (the "Debtors") for the entry of an order pursuant to sections 105, 363, and 365 of Title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006, and 9014 of the Federal Rules of

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are: eToys Direct 1, LLC (N/A); The Parent Company (7093); BabyUniverse, Inc. (7990); Dreamtime Baby, Inc. (8047); eToys Direct, Inc. (7296); PoshTots, Inc. (8660); eToys Direct 2, LLC (N/A); eToys Direct 3, LLC (N/A); Gift Acquisition, L.L.C. (0297); and My Twinn, Inc. (1842). The address for each of the Debtors is 717 17th Street, Suite 1300, Denver, CO 80202, with the exception of PoshTots, Inc., the address for which is 5500 Cox Road, Suite M, Glenn Allen, VA 23060.

Bankruptcy Procedure (the “Bankruptcy Rules”) authorizing the Debtors to, *inter alia*, (i) conduct an Auction² and enter into one or more asset purchase agreements, (ii) sell substantially all of the Debtors’ assets (the “Assets”) free and clear of all liens, claims, encumbrances, and interests, with such sale to be in accordance with the terms and conditions of such asset purchase agreements, and (iii) granting related relief; and this Court having entered an order dated January 16, 2009 (the “Procedures Order,” Docket No. 143), authorizing the Debtors to conduct, and approving the terms and conditions of, the Auction and Sale Procedures to consider higher or otherwise better offers for the Assets, establishing a date for the Auction, and approving, *inter alia*, (i) the Sale Procedures in connection with the Auction; (ii) the form and manner of notice of the Auction, the Sale Procedures, the Cure Notice, and the Sale Hearing; and the Court having established the date of the Sale Hearing; and the Auction having been conducted on February 4, 2009; and the Debtors having determined that Eagle, LLC, a Delaware limited liability company, was the Successful Bidder (the “Buyer”) in connection with the form of asset purchase agreement attached hereto as Exhibit A (the “APA”) and the assets described therein (the “Purchased Assets”); and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157(a) and (b)(2) and 1334; and consideration of the Motion, the relief requested therein, and the responses thereto, if any, being a core proceeding in accordance with 28 U.S.C. § 157(b); and the appearance of all interested parties and all responses and objections, if any, to the Motion having been duly noted in the record of the Sale Hearing; and upon the record of the Sale Hearing, and all other pleadings and proceedings in these cases, including the Motion; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest; and after due deliberation and sufficient cause appearing therefore;

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion or the APA attached hereto as Exhibit A.

IT IS HEREBY FOUND, DETERMINED AND CONCLUDED THAT:³

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

C. The Court has jurisdiction over this matter and over the property of the Debtors, including the Purchased Assets, and their respective estates pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. The statutory predicates for the relief sought in the Motions and the basis for the approvals and authorizations herein are (i) Bankruptcy Code sections 102, 105, 363, 1123, 1141, and 1146, and (ii) Bankruptcy Rules 2002, 6004, and 9014.

E. On December 28, 2008 (the "Petition Date"), the Debtors each filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued in possession and management of their businesses and properties as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

F. As evidenced by the affidavits of service filed with the Court, proper, timely, adequate, and sufficient notice of the Motion, the Sale Procedures, the Auction, and the Sale Hearing have been provided in accordance with Bankruptcy Code sections 102(1), 363(b), and 365, Bankruptcy Rules 2002, 6004, 9006, 9007, 9008, and 9014, the local rules of this Court, the procedural due process requirements of the United States Constitution, and in compliance with

³ All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated herein to the extent not inconsistent herewith.

the Sale Procedures Order. No other or further notice of the Motion, the Sale Procedures, the Auction, the Sale Hearing, or of the entry of this Order is necessary or shall be required.

G. A reasonable opportunity to object or be heard regarding the requested relief has been afforded to all interested persons and entities, including, without limitation, (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Debtors' prepetition and postpetition lenders, D.E. Shaw Laminar Lending 3 (C), L.L.C., as Administrative Agent and D.E. Shaw Laminar Portfolios, L.L.C. as Lender, and Laminar Direct Capital, L.L.C. (collectively, the "Lenders"); (iii) counsel to the Official Committee of Unsecured Creditors appointed in these chapter 11 cases (the "Committee"); (iv) all parties who have timely filed requests for notice under Rule 2002 of the Federal Rules of Bankruptcy Procedure; (v) all entities who executed non-disclosure agreements with the Debtors in connection with a potential acquisition of any or all of the Assets or who otherwise have expressed to the Debtors an interest in purchasing the Assets; (vi) all UCC-1 parties; (vii) all landlords; (viii) for each state in which the Debtors operate, the applicable taxing authorities; (ix) the Counterparties to the Assignable Contracts and Leases; and (x) all of the Debtors' known unsecured creditors. Other parties interested in bidding on the Purchased Assets were provided, upon request, sufficient information to make an informed judgment on whether to bid on the Purchased Assets.

H. The Debtors have demonstrated a sufficient basis and the existence of exigent circumstances for them to enter into the APA, and to sell the Purchased Assets under Bankruptcy Code sections 363, 1123, and 1141 effective upon the Closing of a sale to the Buyer, and such actions are appropriate exercises of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors.

I. The Sale Procedures set forth in the Procedures Order were non-collusive, substantively and procedurally fair to all parties, and were the result of arm's-length negotiations between the Debtors and other parties in interest.

J. The Debtors and their professionals have complied, in good faith, in all respects with the Procedures Order. As demonstrated by the testimony and other evidence proffered or

adduced at the Sale Hearing through marketing efforts and a competitive sale process conducted in accordance with the Procedures Order, the Debtors (i) afforded interested potential purchasers a full, fair, and reasonable opportunity to qualify as bidders and submit their highest or otherwise best offer to purchase some or all of the Debtors' Assets, and (ii) provided potential purchasers, upon request, sufficient information to enable them to make an informed judgment on whether to bid on the Purchased Assets.

K. The Sale Procedures obtained the highest and best value for the Purchased Assets for the Debtors and their estates.

L. The offer of the Buyer, upon the terms and conditions set forth in the APA, including the form and total consideration to be realized by the Debtors pursuant to the APA, (i) is the highest and best offer received by the Debtors for the Purchased Assets; (ii) is fair and reasonable; (iii) is in the best interests of the Debtors' creditors and estates; (iv) constitutes full and adequate consideration and reasonably equivalent value for the Purchased Assets; and (v) will provide a greater recovery for the Debtors' creditors and other interested parties than would be provided by any other practically available alternative.

M. The Buyer is not an "insider" or "affiliate" of the Debtors as those terms are defined in the Bankruptcy Code. The Buyer is a buyer in good faith, as that term is used in the Bankruptcy Code and the decisions thereunder, and is entitled to the protections of Bankruptcy Code sections 363(m) with respect to all of the Purchased Assets. The APA was negotiated and entered into in good faith, based upon arm's-length bargaining, and without misconduct, collusion or fraud of any kind, attempted or otherwise. Neither the Debtors nor the Buyer has engaged in any conduct that would prevent the application of Bankruptcy Code section 363(m) or cause the application of or implicate Bankruptcy Code section 363(n) to the APA or to the consummation of the sale transaction and transfer of the Purchased Assets to the Buyer. The Buyer is entitled to all the protections and immunities of Bankruptcy Code section 363(m).

N. The Debtors have full corporate power and authority to execute the APA and all other documents contemplated thereby, and the sale of the Purchased Assets has been duly and

validly authorized by all necessary corporate authority by the Debtors to consummate the transactions contemplated by the APA. No consents or approvals, other than as may be expressly provided for in the APA, are required by the Debtors to consummate such transactions.

O. The Debtors have advanced sound business reasons for seeking to enter into the APA and to sell the Purchased Assets, as more fully set forth in the Motion and as demonstrated at the Sale Hearing, and it is a reasonable exercise of the Debtors' business judgment to sell the Purchased Assets and to consummate the transactions contemplated by the APA. Notwithstanding any requirement for approval or consent by any person, the transfer of the Purchased Assets to the Buyer is a legal, valid and effective transfer of the Purchased Assets.

P. The terms and conditions of the APA, including the consideration to be realized by the Debtors pursuant to the APA, are fair and reasonable, and the transactions contemplated by the APA are in the best interests of the Debtors' estates.

Q. Except as otherwise provided in the APA, the Purchased Assets shall be sold free and clear of all Liens, Claims, Encumbrances, and Interests, with such Liens, Claims, Encumbrances, and Interests to attach to the consideration to be received by the Debtors in the same priority and subject to the same defenses and avoidability, if any, as before the Closing, and the Buyer would not enter into the APA to purchase the Purchased Assets otherwise. All proceeds from the sale of the Purchased Assets, including any deposit constituting a portion of the Purchase Price (the "Proceeds"), shall be paid immediately and directly into an escrow account with an escrow agent reasonably acceptable to the Lenders and the Committee (the "Escrow Account") with the Lenders' Liens to attach to the Proceeds to the same extent, validity, and priority as the Lenders' Liens attached to the Purchased Assets immediately prior to the Closing. The Proceeds shall remain in the Escrow Account until the Court orders the funds released. Under no circumstances shall the use of the escrowed funds under section 363 or otherwise be permitted without the consent of the Lenders in their sole and absolute discretion.

R. The transfer of the Purchased Assets to the Buyer will be a legal, valid, and effective transfer of the Purchased Assets, and shall vest the Buyer with all right, title, and

interest of the Debtors to the Purchased Assets free and clear of any and all Liens, Claims, Encumbrances, and Interests. The Buyer shall not assume or become liable for any Liens, Claims, Encumbrances, and Interests relating to the Purchased Assets being sold by the Debtors.

S. Subject to Paragraph Q hereof, the transfer of the Purchased Assets to the Buyer free and clear of all Liens, Claims, Encumbrances, and Interests will not result in any undue burden or prejudice to any holders of any Liens, Claims, Encumbrances, and Interests as all such Liens, Claims, Encumbrances, and Interests of any kind or nature whatsoever shall attach to the Proceeds of the sale of the Purchased Assets received by the Debtors in the order of their priority, with the same validity, force, and effect that they now have as against the Purchased Assets and subject to any claims and defenses the Debtors or other parties may possess with respect thereto. All persons having Liens, Claims, Encumbrances, or Interests of any kind or nature whatsoever against or in any of the Debtors or the Purchased Assets shall be forever barred estopped and permanently enjoined from pursuing or asserting such Liens, Claims, Encumbrances, or Interests against the Buyer, any of its assets, property, successors or assigns, or the Purchased Assets.

T. Subject to Paragraph Q hereof, the Debtors may sell the Purchased Assets free and clear of all Liens, Claims, Encumbrances, and Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f) has been satisfied. Those (i) holders of Liens, Claims, Encumbrances, and Interests and (ii) non-debtor parties, who did not object, or who withdrew their objections, to the sale of the Purchased Assets and the Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2) in the case of the Lenders such consent being subject to the provisions of Paragraph Q hereof. All objections to the Motion have been resolved or, to the extent not resolved, are hereby overruled. Those holders of Liens, Claims, Encumbrances, and Interests who did object fall within one or more of the other subsections of Bankruptcy Code section 363(f) and are adequately protected by having their Liens, Claims, Encumbrances, and Interests, if any, attach to the proceeds of the sale of the Purchased Assets ultimately attributable to the property against

or in which they claim or may claim any Liens, Claims, Encumbrances, and Interests, with such Liens, Claims, Encumbrances, and Interests being subject to treatment as prescribed in the any plan of liquidation proposed by the Debtors or by other, separate order of this Court.

U. Not selling the Purchased Assets free and clear of all Liens, Claims, Interests, and Encumbrances would adversely impact the Debtors' estates, and the sale of Purchased Assets other than free and clear of all Liens, Claims, Encumbrances, and Interests would be of substantially less value to the Debtors' estates.

V. The Buyer will be acting in good faith, pursuant to Bankruptcy Code section 363(m), in closing the transactions contemplated by the APA at any time on or after the entry of this Order, and cause has been shown as to why this Order should not be subject to the stay provided by Bankruptcy Rules 6004(h).

W. The transactions contemplated under the APA do not amount to a consolidation, merger, or *de facto* merger of the Buyer and the Debtors and/or the Debtors' estates, there is not substantial continuity between the Buyer and the Debtors, there is no continuity of enterprise between the Debtors and the Buyer, the Buyer is not a mere continuation of the Debtors or their estates, and the Buyer does not constitute a successor to the Debtors or their estates.

X. The sale of the Purchased Assets outside of a plan of reorganization pursuant to the APA neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtors. The sale does not constitute a *sub rosa* chapter 11 plan.

Y. The total consideration provided by the Buyer for the Purchased Assets is the highest and best offer received by the Debtors, and the Purchase Price constitutes (a) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (b) fair consideration under the Uniform Fraudulent Conveyance Act, and (c) reasonably equivalent value, fair consideration and fair value under any other applicable laws of the United States, any state, territory or possession, or the District of Columbia, for the Purchased Assets.

Z. Time is of the essence in consummating the Sale. In order to maximize the value of the Purchased Assets, it is essential that the Sale of the Purchased Assets occur within the time constraints set forth in the APA. Accordingly, there is cause to lift the stays contemplated by Bankruptcy Rule 6004.

AA. The Buyer shall have no obligations with respect to any liabilities of the Debtors other than as may be expressly set forth in the APA.

BB. For purposes of section 363(b)(1) of the Bankruptcy Code, the Debtors either (i) have not, in connection with offering a product or service, disclosed to any individual a policy prohibiting the transfer of “personally identifiable information” (as defined in section 101(41A) of the Bankruptcy Code) about individuals to persons that are not affiliated with the Debtors, or (ii) to the extent of any such disclosure, the transfer to the Buyer of all personally identifiable information included with the Purchased Assets is consistent with the privacy policies applicable to such data in accordance with Section 363(b)(1)(A) of the Bankruptcy Code.

NOW, THEREFORE, BASED UPON ALL OF THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The relief requested in the Motion with respect to the Sale of the Purchased Assets and related matters is granted in its entirety, subject to the terms and conditions contained herein.

2. All objections, responses, and requests for continuance concerning the Motion are resolved in accordance with the terms of this Order and as set forth in the record of the Sale Hearing. To the extent any such objection, response or request for continuance was not otherwise withdrawn, waived, or settled, it, and all reservations of rights contained therein, is overruled and denied.

3. Notice of the Sale Hearing was fair and equitable under the circumstances and complied in all respects with all applicable law and rules of Court, including 11 U.S.C. § 102(1) and Bankruptcy Rules 2002 and 6004.

4. The sale of the Purchased Assets, the terms and conditions of the APA (including all schedules and exhibits affixed thereto), the Successful Bid by the Buyer, and the transactions contemplated thereby be, and hereby are, authorized and approved in all respects.

5. The Sale of the Purchased Assets and the consideration provided by the Buyer under the APA is fair and reasonable and shall be deemed for all purposes to constitute a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law.

6. The Buyer is hereby granted and is entitled to all of the protections provided to a good faith buyer under Bankruptcy Code section 363(m).

7. Subject to the terms of the APA, the Debtors hereby are authorized to assume, perform under, consummate, and implement the terms of the APA together with any and all additional instruments and documents that may be reasonably necessary or desirable to implement and effectuate the terms of the APA, this Order and Sale of the Purchased Assets contemplated thereby including, without limitation, deeds, assignments, stock powers and other instruments of transfer, and to take all further actions as may reasonably be requested by the Buyer for the purpose of assigning, transferring, granting, conveying and conferring to the Buyer, or reducing to possession any or all of the Purchased Assets or Assumed Liabilities, as may be necessary or appropriate to the performance of the Debtors' obligations as contemplated by the APA, without any further corporate action or orders of this Court.

