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General Bankruptcy Counsel for John J. Menchaca,  
Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION**

In re:

**HANNIBAL CLASSICS, INC.,**

Debtor.

Case No. 2:21-bk-16478-VZ

Chapter: 7

**CHAPTER 7 TRUSTEE’S MOTION FOR  
AN ORDER:**

**(1) AUTHORIZING THE BIDDING  
PROCEDURES FOR THE SALE OF  
ESTATE PROPERTY;**

**(2) APPROVING SALE OF LITIGATION  
CLAIMS UNDER 11 U.S.C. § 363,  
SUBJECT TO OVERBIDS AND A  
FINDING OF GOOD FAITH PURSUANT  
TO SECTION 363(m); AND**

**(3) APPROVING THE FORM AND  
MANNER OF NOTICE;**

**MEMORANDUM OF POINTS AND  
AUTHORITIES AND DECLARATIONS  
OF JOHN J. MENCHACA AND  
PROPOSED PURCHASER IN SUPPORT  
THEREOF**

**Hearing:**

Date: May 2, 2023

Time: 11:00 a.m.

Place: Courtroom 1368  
255 East Temple Street  
Los Angeles, CA 90012

1           **TO THE HONORABLE VINCENT P. ZURZOLO, UNITED STATES**  
2           **BANKRUPTCY JUDGE; AND ALL INTERESTED PARTIES:**

3           John J. Menchaca, the duly appointed chapter 7 trustee (the “Trustee”) of the chapter 7  
4           bankruptcy estate (the “Estate”) of the above-captioned debtor, Hannibal Classics, Inc. (the  
5           “Debtor”) hereby moves this Court for an order approving sale of all of the Estate’s litigation claims  
6           and affirmative rights, which claims include but are not limited to the State Court Action (defined  
7           below) and any and all avoidance claims under Chapter 5 of the Bankruptcy Code (the “Avoidance  
8           Claims,” and collectively, the “Litigation Rights”). Buyer shall have the right to pursue the  
9           litigation in the Bankruptcy Court in all manner and respects as if standing in the shoes of the  
10          Trustee

11          As set forth herein, the Motion seeks to sell—subject to overbid and Bankruptcy Court  
12          approval—the Litigation Rights to Union Patriot Capital Management, LLC (the “Buyer”) for: (i)  
13          the sum of twenty thousand dollars (\$20,000) due immediately upon the Court’s approval of the  
14          Sale Agreement (the “Cash Component”); (ii) fifteen percent (15%) of Buyer’s ultimate recoveries  
15          from the Litigation Rights net of all attorneys’ fees (including contingency counsel fees incurred  
16          by counsel retained by Buyer) and costs up to a recovery of one million dollars (\$1,000,000), net  
17          of the Cash Component (the “Basic Recovery Component”); and (iii) ten percent (10%) of Buyer’s  
18          ultimate recoveries from the Litigation Rights net of all attorneys’ fees (including contingency  
19          counsel fees incurred by counsel retained by Buyer) and costs in excess of a recovery one million  
20          dollars (\$1,000,000), net of the Cash Component (the “Success Component”). The Cash  
21          Component, the Basic Recovery Component, and the Success Component are collectively  
22          hereinafter referred to as the “Purchase Price.” The terms and conditions of the proposed sale are  
23          summarized herein and set forth in full in that certain binding *Asset Purchase Agreement*, dated  
24          February 27, 2023 attached hereto as **Exhibit 1** (the “Sale Agreement”).

25          **WHEREFORE**, the Trustee respectfully requests that the Court enter an order (1)  
26          authorizing the sale of the Litigation Rights to the Buyer or any successful overbidder(s); (2)  
27          finding that the Buyer or any successful overbidder(s) are “good faith” purchasers entitled to all of  
28          the protections and benefits of 11 U.S.C. § 363(m); (3) waiving the 14-day stay provided in Rule

6004(h); and (4) granting such other and further relief the Court deems just and proper.

Dated: March 29, 2023

**ARENTFOX SCHIFF LLP**

By: /s/ M. Douglas Flahaut

M. Douglas Flahaut

Dylan J. Yamamoto

General Bankruptcy Counsel for Chapter 7

Trustee

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**STATEMENT OF RELEVANT FACTS**

**A. Prepetition Background.**

On October 26, 2017, Union Patriot Capital Management II, LLC and Justice Everywhere Productions LLC filed a complaint in Los Angeles Superior Court against, among others, the Debtor, for breach of contract, conversion, fraud, breach of fiduciary duty, and breach of implied covenant of good faith and fair dealing, styled as *Union Capital Management II et al. vs. Richard Rionda Del Castro et al.*, Case No. BC681300 (and with the related Case BC687697, the “State Court Action”). The State Court Action is currently pending.

**B. Bankruptcy Case.**

On August 15, 2021 (the “Petition Date”), the Debtor initiated this case when it filed a face-sheet, voluntary bankruptcy petition under Chapter 7 of the Bankruptcy Code, assigned case number 2:21-bk-16478-VZ (the “Bankruptcy Case”). The Bankruptcy Case was commenced in order to stay the State Court Action. John J. Menchaca was appointed the chapter 7 trustee.

On August 26, 2021, the Debtor filed its schedules and other case commencing documents [Dkt. No. 18] (the “Schedules”), which revealed, inter alia, that the Debtor alleges it holds a potentially valuable interest in the claims from the State Court Action as well as additional claims against insiders and affiliates under chapter 5 of the Bankruptcy Code and state law.

The Buyer is a creditor of the Debtor, and has filed Proof of Claim No. 6 in this case on behalf of the Buyer and its affiliates, in the amount of \$22,557,179.95.

**C. The Proposed Sale.**

The Trustee engaged in negotiations with the Buyer, through their counsel, regarding a proposed sale of the Litigation Rights. Ultimately, these negotiations resulted in the Sale Agreement, pursuant to which the Buyer agreed to purchase the Litigation Rights, which include the Estate’s rights to the State Court Action and Avoidance Claims, from the Estate for the Purchase Price, subject to overbid. The Purchase Price comprises: (i) the \$20,000 Cash Component; (ii) fifteen percent (15%) of Buyer’s ultimate recoveries from the Litigation Rights net of all attorneys’

1 fees (including contingency counsel fees incurred by counsel retained by Buyer) and costs up to a  
2 recovery of one million dollars (\$1,000,000), net of the Cash Component (the “Basic Recovery  
3 Component”); and (iii) ten percent (10%) of Buyer’s ultimate recoveries from the Litigation Rights  
4 net of all attorneys’ fees (including contingency counsel fees incurred by counsel retained by  
5 Buyer) and costs in excess of a recovery one million dollars (\$1,000,000), net of the Cash  
6 Component (the “Success Component”). The Buyer has made a good faith deposit of \$5,000 to the  
7 Trustee’s counsel.<sup>1</sup>

8 In addition, an integral element of the Litigation Rights being transferred and assigned to  
9 Buyer, is the ability of Buyer to prosecute the Litigation Rights for its benefit and for the benefit of  
10 the Bankruptcy Case (to the extent as set forth below) in the forum of the Bankruptcy Court  
11 presently presiding over the Bankruptcy Case. Accordingly, Buyer shall have the right to pursue  
12 the litigation in the Bankruptcy Court in all manner and respects as if standing in the shoes of the  
13 Trustee.

## 14 II.

### 15 JURISDICTION AND VENUE

16 This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding  
17 pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). The statutory predicates for the relief sought herein  
18 as 11 U.S.C. §§ 105(a) and 363(b) and (m), and Fed. R. Bankr. P. 2002, 6004, 9014 and 9019.

## 19 III.

### 20 THE PROPOSED SALE AND BIDDING PROCEDURES ARE APPROPRIATE AND

### 21 SHOULD BE APPROVED

#### 22 A. There Is Sound Business Justification for the Proposed Sale, and It Should Be 23 Approved.

24 After notice and a hearing, a trustee may sell estate assets outside the ordinary course of his  
25 or her business. 11 U.S.C. § 363(b)(1). A sale of a debtor’s interest in property should be approved  
26 if it is in the best interest of the estate and its creditors. *See e.g. In re Huntington Ltd.*, 654 F. 2d  
27 578, 589 (9th Cir. 1991); *In re Equity Funding Corp.*, 492 F. 2d 793, 794 (9th Cir. 1974). Here,

28 <sup>1</sup> A check representing the good faith deposit was received by the Trustee’s counsel on March 9, 2023.

1 because the sale will be subject to overbid and the parties with the best knowledge of the value of  
2 the claims would appear to already be parties to this case and/or related litigation (be it other  
3 creditors or the Debtor's principals), the Trustee believes an auction in the manner proposed herein  
4 will maximize value to the Estate.

5 In evaluating the propriety of a sale of property of the estate, courts have evaluated whether:  
6 (i) a "sound business purpose" justifies the sale; (ii) "accurate and reasonable notice" of the sale  
7 was provided; (iii) "the price to be paid is adequate, *i.e.*, fair and reasonable;" and (iv) "good faith,  
8 *i.e.*, the absence of any lucrative deals with insiders, is present." *In re Copy Crafters Quick*  
9 *Printing, Inc.*, 92 B.R. 973, 983 (Bankr. N.D.N.Y. 1988); *In re Indus. Valley Refrig. And Air Cond.*  
10 *Supplies, Inc.*, 77 B.R. 15, 21 (Bankr. E.D. Pa. 1987). An examination of each of the four relevant  
11 factors shows the sale here should be approved. *See e.g. Richmond Leasing Co. v. Capital Bank,*  
12 *N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985) ("as long as [the sale] appears to enhance a debtor's  
13 estate, court approval of a [Trustee's decision to [sell]] should only be withheld if the [Trustee's]  
14 judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code  
15 . . .") (emphasis added).

16 1. The Proposed Sale Is Justified By Sound Business Judgment.

17 Section 363(b) of the Bankruptcy Code provides a trustee, after notice and a hearing, may  
18 use, sell, lease property of the estate other than in the ordinary course. *See* 11 U.S.C. § 363(b)(1).  
19 In chapter 7 cases, the trustee has the exclusive right, power, and authority to sell estate assets. *In*  
20 *re Alpha Inds. Inc.*, 84 B.R. 703, 706 (Bankr. D. Mont. 1988).

21 Although Section 363 does not set forth a standard for determining when it is appropriate  
22 for a court to authorize the sale or disposition of a debtor's assets, courts in the Ninth Circuit and  
23 others, in applying this Section, have required that a sale be based upon the sound business  
24 judgment of the trustee. *See Simantob v. Claims Prosecutor LLC (In re Lahijani)*, 325 B.R. 282,  
25 288-89 (B.A.P. 9th Cir. 2005); *In re Ernst Home Center, Inc.*, 209 B.R. 974, 979 (Bankr. W.D.  
26 Wash. 1997); *In re Chateaugay Corp.*, 973 F.2d 141 (2d. 1992). The trustee is afforded great  
27 judicial deference in the exercise of such business judgment. *Lahijani, supra* at 289; *GBL Holding*  
28 *Co., Inc. v. Blackburn/Travis/Cole, Ltd.*, 331 B.R. 251, 254 (N.D. Tex. 2005).

1 Here, a sound business justification exists for the sale of the Litigation Rights. The Trustee  
2 believes that the Sale Price of \$20,000 cash plus the Basic Recovery Component and Success  
3 Component, or a higher bid as may ultimately be accepted at the sale hearing and auction, will  
4 establish a fair value for the Estate's interest in the Litigation Rights. Indeed, the Trustee believes  
5 the parties likely to pay the highest amount for the Litigation Rights are already interested parties  
6 such as the Buyer, other creditors, or the Debtor's principal. The Trustee also believes Buyer's bid  
7 to be an adequate purchase price when all of the circumstances are taken into account. Moreover,  
8 in reaching this proposed sale to the Buyer, the Trustee considered potential delay, complexities,  
9 and uncertainty involved with pursuing the Litigation Rights and the difficulty of collecting,  
10 assuming a favorable judgment or judgment was entered. Therefore, the Trustee's ability to  
11 monetize such rights, which Buyer shall have the right to pursue for its benefit and the benefit of  
12 the Estate in the Bankruptcy Court in all manner and respects as if standing in the shoes of the  
13 Trustee, (1) immediately, which will result in at least \$20,000 of additional funds to be distributed  
14 to the Estate, as well as (2) recover 15% of any net recoveries up to \$1,000,000 and 10% of any net  
15 recoveries exceeding \$1 million, is evidence of sound business justification for the sale.

16 2. The Trustee Has Given Accurate and Reasonable Notice of Sale.

17 The purpose of the notice requirement is to provide an opportunity for objections and a  
18 hearing before the court if there are objections. *See In re Karpe*, 84 B.R. 926, 930 (Bankr. M.D.  
19 Pa. 1998). A notice is sufficient if it includes the terms and conditions of the sale and if it provides  
20 the time for filing objections. *Id.*

21 The Trustee has complied with all of the applicable provisions of the Bankruptcy Code, the  
22 Bankruptcy Rules, and the Local Bankruptcy Rules. Specifically, the Trustee has given notice of  
23 this Motion and the proposed auction, in accordance with Bankruptcy Rules 2002(a)(2), 6004(a)  
24 and (c), 9007, 9014, and 9019, and Local Bankruptcy Rules 6004-1, 9013-1, and to all known  
25 creditors and parties-in-interest in this bankruptcy case by first class mail (the "Auction Notice").  
26 In addition, the Trustee is filing, concurrently with this Motion, a *Notice of Sale of Assets* (Local  
27 Bankruptcy Form F 6004-2) to be posted on the Court's website and has served that notice on all  
28 known creditors and parties in interest. The Trustee believes that such notice constitutes adequate

1 notice pursuant to 11 U.S.C. § 102 and requests that such notice be approved by this Court as being  
2 adequate under the circumstances. Notwithstanding this belief, the Trustee and his professionals  
3 will seek out over-bidders by way of applicable commercially reasonable manners including  
4 reaching out through counsel to the major creditors and the Debtor's principal to inquire as to  
5 whether they know of any other parties not already involved in the case that may be interested in  
6 overbidding.

7 3. The Price for the Litigation Rights Is Adequate.

8 In any sale of estate assets, the ultimate purpose is to obtain the highest price for the property  
9 sold. *In re Chung King, Inc.*, 753 F.2d 547 (7th Cir. 1985); *Alpha Indus., Inc., supra* at 705. Here,  
10 the Trustee submits the consideration provided to the Estate for the Litigation Rights, after auction  
11 and overbid(s), if any, represents adequate and fair consideration. The Purchase Price comprises a  
12 guaranteed Cash Component, as well as the Basic Recovery Component and Success Component.  
13 The Basic Recovery and Success Components will allow the Estate to share in the upside of  
14 Litigation Rights pursued by the Buyer, for its benefit and for the benefit of the Estate, in the  
15 Bankruptcy Court in all manner and respects as if standing in the shoes of the Trustee. In addition,  
16 the Cash Component will provide a floor for the Litigation Rights. But, in order to ensure the  
17 ultimate price received by the Trustee for the Litigation Rights is the highest possible, the Trustee  
18 proposes the Court adopt the proposed bidding procedures outlined below as they are designed to  
19 maximize the consideration received for the Litigation Rights:

20 (1) The Trustee proposes to require prospective purchasers submit a  
21 binding offer to the Trustee's counsel by 5:00 p.m. (Prevailing Pacific Time)  
22 at least five days prior to the above-captioned sale hearing with a copy of  
23 such offer provided concurrently to Buyer's counsel, David W. Meadows,  
24 Esq., email address: david@davidwmeadowslaw.com. To that end, the  
25 Trustee requests a \$5,000 good faith deposit (the "Good Faith Deposit"), in  
26 the form of a cashier's check made payable to "John J. Menchaca, Chapter  
27 7 Trustee for the Hannibal Classics, Inc. Bankruptcy Estate." The Good  
28 Faith Deposit will be non-refundable, if such bidder is the successful over-  
bidder at the sale hearing and the sale does not close due to the purchaser's  
default. These provisions give the Trustee time in advance of the sale  
hearing to evaluate whether a potential bidder is financially capable of  
promptly closing a proposed transaction.

(2) The Trustee also proposes that any overbid(s) must be in increments  
of at least \$7,500 above the Cash Component (the "Minimum Cash



Overbid”) and that such overbid must provide terms no less favorable to the estate than the Basic Recovery and the Success Components set forth above.

(3) Pursuant to the Sale Agreement, a successful overbidder must be found to be a good faith purchaser within the meaning of Section 363(m) of the Bankruptcy Code.

(4) The Trustee proposes to allow qualified bidders to make further bids at the above-captioned sale hearing. This will afford parties the opportunity to increase their bids at the sale hearing. Since the Estate’s rights, claims, and assets will be sold in an auction format, the Trustee submits that the final purchase price offered at the conclusion of the Auction will establish the fair market value for the Litigation Rights.

(5) For purposes of comparing Buyer’s bid as set forth in the Sale Agreement with any potential overbid, given the speculative nature of any portion other than the Cash Component, any improvements to the Basic Recovery Component and to the Success Component shall likewise be considered inherently speculative and therefore shall not be taken into consideration. The Cash Component is separate from and excludes the Close Out Payment. **For clarity, the comparison of competing, qualified bids shall be made only by comparison of the Cash Component.**

4. The Sale Is Proposed In Good Faith.

The Trustee submits that the sale is proposed in good faith. The “good faith” requirement focuses principally on the element of special treatment of insiders in a sale transaction. *See Indus Valley, supra* at 21. Here, the Trustee is an independent fiduciary, and he negotiated with the Buyer through counsel on an arm’s length basis. The negotiations between the Trustee and the Buyer regarding the Sale Agreement and the proposed sale of the Litigation Rights were at all times arm’s length and with no collusion. Additionally, the Buyer appeared to be honest and fully cooperative with the Trustee in the negotiation process and did not, to the Trustee’s knowledge, seek to gain any advantage over any other interested party or chill any other party from bidding for the Litigation Rights. Accordingly, based on the foregoing and the attached declaration by the Buyer or by any successful Overbidder, the Trustee submits that the proposed sale of the Litigation Rights is proposed in good faith and based on his sound business judgment. Therefore, it should be approved.

**B. The Buyer Should Be Entitled to Section 363(m) Protection.**

“[W]hen a bankruptcy court authorizes a sale of assets pursuant to § 363(b)(1) of the Bankruptcy Code, it is required to make a finding with respect to the ‘good faith’ of the purchaser.” *In re Abbotts Diaries*, 788 F.2d 143, 149-50 (3d Cir. 1986). The purpose of such a finding is to

1 facilitate the operation of 11 U.S.C. § 363(m), which provides for certain protections to be provided  
2 to good faith purchasers from the trustee pursuant to 11 U.S.C. § 363. In this respect, 11 U.S.C. §  
3 363(m) provides:

4           The reversal or modification on appeal of an authorization under  
5           section (b) and (c) of this section of a sale or lease of property does  
6           not affect the validity of a sale or lease under such authorization to  
7           an entity that purchased or leased such property in good faith,  
          whether or not such entity knew of the pendency of the appeal, unless  
          such authorization and such sale or lease were stayed pending appeal.

8           11 U.S.C. § 363(m). While the Bankruptcy Code does not define “good faith,” the Ninth Circuit  
9           has held that:

10           [G]ood faith . . . speaks to the integrity of his conduct in the course  
11           of the sale proceedings. Typically, the misconduct that would  
12           destroy a purchaser’s good faith status at a judicial sale involves  
          fraud, collusion between purchaser and other bidders or the trustee,  
          or an attempt to take grossly unfair advantage of other bidders.

13           *Alpha Indus., supra; see Southwest Products, Inc. v. Durkin (In re Southwest Products, Inc.), 144*  
14           *B.R. 100, 103 (B.A.P. 9th Cir. 1992); see also Wilsey v. Central Washington Bank (In re Adams*  
15           *Apple, Inc.), 829 F.2d 1484, 1489 (9th Cir. 1987).*

16           The Trustee submits that the sale of the Litigation Rights to the Buyer pursuant to the Sale  
17           Agreement was conducted in an arm’s length transaction, and the Trustee expects that all further  
18           negotiations and overbid(s), if any, will similarly be conducted in good faith, in an arm’s length  
19           manner, and in open court (for overbidding). In connection with the proposed sale to the Buyer,  
20           the Trustee has evaluated the alternatives and acted with the intent of obtaining the best possible  
21           deal for the Estate in terms of maximizing value, and the Trustee believes the terms of the Sale  
22           Agreement and the proposed sale hearing and auction will accomplish this appropriate objective.  
23           A supporting declaration by a representative of the proposed Buyer is attached. For these reasons,  
24           the Trustee requests that the Court make a factual determination that the Buyer, or any successful  
25           overbidder(s) at the sale hearing, has purchased the Litigation Rights, in good faith as defined under  
26           11 U.S.C. § 363(m).

1 IV.

2 **MANNER AND FORM OF NOTICE**

3 The Trustee has given notice of this Motion and the proposed sale to all known creditors,  
4 parties-in-interest in this bankruptcy case, pursuant to 2002(a)(2) and (a)(3), 6004-1(b) and (c), and  
5 9007, 9019(a) of the Federal Rules of Bankruptcy Procedure, and Rules 6004-1, 9013-1 and 9019-  
6 1 of the Local Bankruptcy Rules. The Trustee believes that such notice constitutes adequate notice  
7 pursuant to 11 U.S.C. § 102 and requests that such Notice be approved by this Court as being  
8 adequate under all of the circumstances.

9 V.

10 **THE COURT SHOULD PERMIT IMMEDIATE RELIEF**

11 The Trustee requests that the Court waive Bankruptcy Rule 6004(h), which provides that  
12 an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days  
13 after entry of the order, unless the court orders otherwise.” Although Rule 6004(h) is silent as to  
14 when a court should “order otherwise”, the 14-day stay period should be waived “in all cases where  
15 there has been no objection to the procedure.” 10 COLLIER ON BANKRUPTCY ¶ 6004.11 (Alan N.  
16 Resnick & Henry J. Sommer eds., 16th ed.). Here, a waiver of Rule 6004(h) will permit the Trustee  
17 to immediately realize the value of the Litigation Rights for the benefit of the Estate and its creditors  
18 and should, therefore, be granted.

19 VI.

20 **CONCLUSION**

21 **WHEREFORE**, the Trustee respectfully requests that the Court enter an order (1)  
22 authorizing the sale of the Litigation Rights to the Buyer or any successful over-bidder(s); (2)  
23 finding that the Buyer or any successful over-bidder(s) are “good faith” purchasers entitled to all  
24 of the protections and benefits of 11 U.S.C. § 363(m); (3) waiving the 14-day stay provided in Rule  
25 6004(h); and (4) granting such other and further relief the Court deems just and proper.

Dated: March 29, 2023

**ARENTFOX SCHIFF LLP**

By: /s/ M. Douglas Flahaut

M. Douglas Flahaut

Dylan J. Yamamoto

General Bankruptcy Counsel for Chapter  
7 Trustee

**DECLARATION OF JOHN MENCHACA**

I, John J. Menchaca, declare that:

1. I am the duly appointed and acting Chapter 7 Trustee (the “Trustee”) for the above-captioned chapter 7 bankruptcy estate of debtor Hannibal Classics, Inc. and am over 18 years of age. I have personal knowledge of the facts described herein and if called as a witness, I could and would testify competently thereto.

2. I submit this declaration in support of the foregoing *Chapter 7 Trustee’s Motion For Order: (1) Authorizing The Bidding Procedures For The Sale Of Estate Property; (2) Approving Sale Of Litigation Claims Under 11 U.S.C. § 363, Subject To Overbids; And (3) Approving The Form And Manner of Notice* (the “Motion”). Capitalized terms not explicitly defined herein shall have the meaning ascribed to them in the Motion.

3. The factual allegations in support of the Motion are set forth in Sections I, III, and IV of the foregoing Motion. I have reviewed and discussed these facts with my counsel, and based upon such review and discussions, believe them to be true and correct to the best of my knowledge, information, and belief.

4. Upon the consideration of: (1) the potential costs, complexities and uncertainty involved in pursuing the Litigation Rights; (2) likelihood of collecting on any resulting judgment or award; and (3) the resolutions reached between myself and the Buyer, I submit that the Sale Agreement is a reasonable settlement of the matter and is in the best interest of the Estate. The Sale Agreement will result in at least a payment of \$20,000 as additional funds to be distributed to the Debtor’s Estate. Furthermore, the Basic Recovery Component and Success Component provides an upside for the Estate. A true and correct copy of the fully executed Sale Agreement, which sets forth the terms and conditions of the proposed sale of the Litigation Rights to the Buyer, is attached hereto as **Exhibit 1** and incorporated herein by this reference.

5. Through counsel I conducted the arm’s length negotiations that ultimately led to the Buyer’s offer as set forth in the Sale Agreement. Therefore, I submit the instant sale was negotiated in good faith and should be afforded the appropriate protections.

1           6.       For these reasons, and for those reasons stated in the Motion, I request that the Court  
2 approve the Motion in its entirety.

3           I declare under penalty of perjury under the laws of the United States of America that the  
4 foregoing is true and correct.

5           Executed on March 16, 2023.

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A handwritten signature in black ink, appearing to read 'J. Menchaca', is written over a horizontal line.

JOHN J. MENCHACA

**DECLARATION OF MICHAEL MENDELSON**

I, Michael Mendelson, declare as follows:

1. I am over 18 years of age. If called as a witness, I could and would testify to the matters set forth in this declaration. I submit this declaration in support of the motion filed by John J. Menchaca in his capacity as the Chapter 7 trustee of the bankruptcy estate of Hannibal Classics, Inc. (the "Trustee") to approve the asset purchase agreement (the "APA") entered into between the Trustee and Union Patriot Capital Management, LLC ("UPCM").

2. I am the Chief Executive Officer of UPCM. I am authorized to have executed the APA on behalf of UPCM and I am authorized to likewise provide this declaration in support of a finding of good faith under Section 363(m) of the Bankruptcy Code.

3. UPCM is a creditor of Hannibal Classics, Inc., the debtor in this chapter 7 case, in addition to being a creditor of affiliates and insiders of the debtor. UPCM filed a proof of claim on behalf of itself and certain of its affiliates, including Union Patriot Capital Management II, LLC, Justice Everywhere Productions, LLC, and I Am Wrath Productions, Inc. in the amount of \$22,557,1179.95 (the "Proof of Claim"). The Proof of Claim with attachments is available on the Claims Register for the debtor, as Claim Number 6, filed on January 26, 2022. The Proof of Claim includes a true and correct copy of the Second Amended Complaint filed by UPCM and its affiliates against Richard Rionda Del Castro, Patricia Eberle Rionda Del Castro, Hannibal Classics, Inc., Marco Polo Production SAS, and Does 1 through 25, filed in the Superior Court of the State of California for the County of Los Angeles, Central District, on April 25, 2018, Case Number BC681300. On account of the Proof of Claim, UPCM asserts the largest claim against the debtor's estate, by far.

4. The APA was negotiated by UPCM's bankruptcy counsel, David W. Meadows, by a series of telephone calls and emails, including the exchange of drafts and redlined versions of the APA, with the

1 Trustee's counsel, M. Douglas Flahaut and Dylan J. Yamamoto at the firm of ArentFox Schiff, LLP. The  
2 drafts included substantial proposed modifications, resulting in the APA as attached to the Motion.

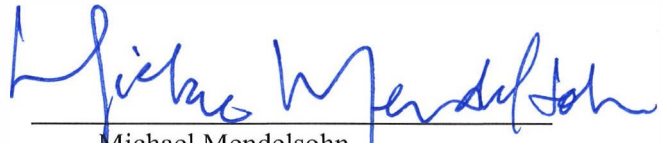
3 5. Neither UPCM nor any of its affiliates are "insiders" of the Debtor under any of the  
4 definitions of the term "Insider" as set out at Section 101(31) of the Bankruptcy Code. I am not aware of  
5 any basis upon which UPCM or any of its affiliates or insiders could be considered an insider of the  
6 Debtor.  
7

8 6. Neither I nor to the best of my knowledge has any other person on behalf of UPCM  
9 discussed the APA or its terms or provisions with any other person who may have or had an interest in  
10 purchasing the same or similar assets as identified and described in the APA.  
11

12 7. I expect that any relationship between UPCM and any insider and/or affiliate of the Debtor  
13 will necessarily be adverse, as a result of prosecuting the litigation rights identified in the APA, as well as  
14 UPCM's rights that are independent of the APA.  
15

16  
17 I declare under penalty of perjury under the laws of the United States of America that the  
18 foregoing is true and correct.

19 This declaration is being executed this 21 of March, 2023, in Los Angeles, California.  
20

21  
22   
23 Michael Mendelsohn  
24  
25  
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28



# EXHIBIT 1

### ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “Agreement”) is entered into by and between Union Patriot Capital Management, LLC, a Delaware Limited Liability Corporation, or its designee, (“Buyer”), on the one hand, and John J. Menchaca, solely in his capacity as the duly appointed Chapter 7 Trustee (“Seller”) of the bankruptcy estate (the “Estate”) of the debtor Hannibal Classics, Inc. (the “Debtor”) on the other hand. Buyer and Seller are referred to collectively as the “Parties.” This Agreement is dated February 27, 2023 for reference purposes only.

### RECITALS

A. On August 15, 2021 (the “Petition Date”), the Debtor initiated this case when it filed a face-sheet, voluntary bankruptcy petition under Chapter 7 of the Bankruptcy Code, assigned case number 2:21-bk-16478-VZ (the “Bankruptcy Case”). The Bankruptcy Case was commenced in order to stay an impending trial in Los Angeles Superior Court, styled as Union Capital Management II et al. vs. Richard Rionda Del Castro et al., Case No. BC681300 and the related Case BC687697 (the “State Court Action”). John J. Menchaca was appointed the chapter 7 trustee. The case was inadvertently opened as an Asset case, and was later changed by docket entry from an Asset case to a No Asset case [Dkt. No. 4].

B. On August 26, 2021, the Debtor filed its schedules and other case commencing documents [Dkt. No. 18] (the “Schedules”), which revealed, inter alia, that the Debtor alleges it holds a valuable interest in the claims from the State Court Action. Following his review of the schedules, and holding of the 341(a) meeting of creditors, the Trustee determined that the Estate may have sufficient assets for administration to the Estate’s creditors. Therefore, on October 28, 2021, the Trustee filed a Notice of Assets to notify the Court and the Debtor’s creditors of the potential of Estate assets [Dkt. No. 45].

C. Buyer wishes to purchase from Seller all of the Estate’s litigation rights, including, but not limited to, rights of the Trustee in or relating to the State Court Action and any and all avoidance claims under Chapter 5 of the Bankruptcy Code (collectively, the “Litigation Rights”), subject to overbid and Bankruptcy Court approval and pursuant to the terms and conditions set forth herein.

D. Seller wishes to sell to Buyer all of the Estate’s Litigation Rights, subject to overbid and bankruptcy court approval and pursuant to the terms and conditions set forth herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the recitals and mutual promises contained in this Agreement, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Purchase and Sale of Litigation Rights.** Subject to the terms and conditions of this Agreement, and in consideration of the Purchase Price (defined below), at the closing, Seller shall sell, assign, convey, and transfer to Buyer, and Buyer shall purchase and accept from Seller, on the Closing Date (defined below), all of the Estate’s rights, title, and interest in and to the

Litigation Rights, subject to Bankruptcy Court approval and overbid. An integral element of the Litigation Rights being transferred and assigned to Buyer, is the ability of Buyer to prosecute the Litigation Rights for its benefit and for the benefit of the Bankruptcy Case (to the extent as set forth below) in the forum of the Bankruptcy Court presently presiding over the Bankruptcy Case. Buyer shall have the right to pursue the litigation in the Bankruptcy Court in all manner and respects as if standing in the shoes of the Trustee. Provisions for such ability of Buyer in form and substance acceptable to Buyer shall be set forth in and be part of an entered, final order of the Bankruptcy Court approving the sale and/or be expressly provided for in the motion to approve this Agreement.

2. **Purchase Price.** Subject to overbid, Buyer shall purchase the Estate's interest in the Litigation Rights by paying to Seller (i) the sum of twenty thousand dollars (\$20,000) due immediately upon the Court's approval of this Agreement (the "Cash Component"); (ii) Fifteen percent (15%) of Buyer's ultimate recoveries from the Litigation Rights net of all attorneys' fees (including contingency counsel fees incurred by counsel retained by Buyer) and costs up to a recovery of one million dollars (\$1,000,000), net of the Cash Component (the "Basic Recovery Component"); and (iii) ten percent (10%) of Buyer's ultimate recoveries from the Litigation Rights net of all attorneys' fees (including contingency counsel fees incurred by counsel retained by Buyer) and costs in excess of a recovery one million dollars (\$1,000,000), net of the Cash Component (the "Success Component"). For an abundance of clarity and to avoid confusion or misunderstanding, the following is illustrative of the payment obligations:

<b>Scenario One: If Nothing in Excess of the Recovery Amount:</b>		
Basic Recovery Component Cap:	\$	1,000,000.00
Recovery amount obtained:	\$	700,000.00
Recovery Percentage:		15%
Amount Payable to Seller under Scenario One:	\$	105,000.00
<b>Scenario Two: Total Recovery in Excess of Recovery Amount:</b>		
Basic Recovery Component Cap:	\$	1,000,000.00
Recovery Percentage:		15%
Amount Payable to Seller:	\$	150,000.00
<i>Plus:</i>		
<b>Example</b> - Success Component based on TOTAL recovery of:	\$	4,500,000.00
Recovery Percentage:		10%
Amount Payable to Seller:	\$	350,000.00
TOTAL payment to Seller under Scenario Two:	\$	500,000.00

Note: Both examples above do not reflect the deduction of the Cash Component. (See Para. 2)

Notwithstanding the foregoing, Buyer will be deemed to have fully satisfied the Purchase Price obligation to Seller by its performance ending on **December 31, 2026** (the "Close Out Date") by a closing out cash payment of \$10,000 (the "Close Out Payment"). In the event that Buyer has collected net funds of less than \$75,000 as of the Close Out Date, the Close Out Payment shall be zero. Together, the Cash Component, the Basic Recovery Component, the Success Component and the optional Close Out Payment constitute the "Purchase Price."

Other than the payment provisions set forth in this Agreement, Buyer shall have no fiduciary obligation or any other duty to Seller or to the Bankruptcy Case. Buyer shall have absolute discretion in all respects as to the manner of its collection efforts relating to the Litigation Rights, including Buyer's determination whether to pursue such Litigation Rights.

3. **Good Faith Deposit and Timing of Payment.** A good faith deposit of \$5,000 (the "Deposit") shall be delivered to the Trustee immediately upon execution of this Agreement. The remainder of the Cash Component shall be due within three (3) days of entry of the order approving the sale of the Litigation Rights to Buyer ("Sale Order"). At the end of each calendar quarter following entry of the Sale Order, Buyer shall provide Seller with an accounting of net recoveries, and, to the extent that Buyer has recovered less than \$1,000,000 from the Litigation Rights after payment of the Cash Component and attorney's fees and costs, Buyer will pay to Seller the Basic Recovery Component for that quarter within thirty (30) days after the end of the quarter; and to the extent that Buyer has recovered in excess of \$1,000,000 from the Litigation Rights after payment of the Cash Component and all related attorneys' fees and costs, Buyer will pay to Seller the Success Component for that quarter within thirty (30) days after the end of the quarter. Buyer's obligation to close under this Agreement shall only arise if Buyer is the successful buyer at the auction sale of the Litigation Rights. The Deposit shall be non-refundable in the event Buyer is the highest bidder for the Litigation Rights and fails to close. In the event Buyer is not deemed by the Bankruptcy Court to be the highest bidder for the Litigation Rights, and/or the Bankruptcy Court fails to approve the sale of the Litigation Rights to Buyer, the Deposit shall be refunded in ten (10) days.

4. **Effectiveness of Agreement and Incorporation of Recitals.** The recitals set forth above are incorporated into this Agreement as though set forth in full. This Agreement shall become effective only when the Bankruptcy Court enters the Sale Order approving this Agreement.

5. **Overbidders.** Buyer understands that Seller will seek overbidders to purchase the Litigation Rights and that an auction for the Litigation Rights will be conducted in open court. It shall be a requirement of any sale that the successful bidder be found to be a good faith purchaser within the meaning of Section 363(m) of the Bankruptcy Code. Any overbid: (i) must provide for the Cash Component to be no less than \$7,500 above the Cash Component (the "Minimum Cash Overbid"); (ii) the Minimum Cash Overbid must be deposited in good funds in the account of the Trustee by no later than five (5) court days prior to the court auction with proof of such delivery provided concurrently to Buyer along with identification of the proposed overbidder; and (iii) must provide terms no less favorable to the estate than the Basic Recovery and the Success Components set forth above.

For purposes of comparing Buyer's bid as set forth in this Agreement with any potential overbid, given the speculative nature of any portion other than the Cash Component, any improvements to the Basic Recovery Component and to the Success Component shall likewise be considered inherently speculative and therefore shall not be taken into consideration. The Cash Component is separate from and excludes the Close Out Payment. For clarity, the comparison of competing, qualified bids shall be made only by comparison of the Cash Component.

6. **Mutual Representations and Warranties.** The Parties hereby represent and warrant to each other the following, each of which is a continuing representation and warranty:

- a. Seller has not assigned or transferred, or purported to assign or transfer, to any person or entity, any rights assigned herein or any claims.
- b. Subject to Bankruptcy Court approval, this Agreement is a valid and binding obligation of Seller and Buyer, enforceable against each of them in accordance with its terms.
- c. Except as otherwise expressly provided in this Agreement, no consent or approval is required by any other person or entity in order for Seller to carry out the provisions of this Agreement. In addition, each person signing this Agreement warrants that he or she is legally competent and authorized to execute this Agreement on behalf of the party whose name is subscribed at or above such person's signature.
- d. Each of the Parties hereto has received independent legal advice from attorneys of their choice with respect to the advisability of making the agreements provided herein and with respect to the advisability of executing this Agreement, and prior to the execution of this Agreement by the parties hereto, their attorneys reviewed this Agreement with them and have made all desired changes.
- e. Except as otherwise expressly stated in this Agreement, Seller and Buyer have not made any statement or representation to the other regarding any facts relied upon by them in entering into this Agreement, and each of them specifically does not rely upon any statement, representation, or promise of the other party hereto or any other person or entity in entering into this Agreement, except as expressly stated in this Agreement. Each party has relied upon their own investigation and analysis of the facts and not on any statement or representation made by any other party in choosing to enter into this Agreement and the transactions contemplated herein.
- f. The Parties hereto and their respective attorneys have made such investigation of the facts pertaining to this Agreement and all of the matters pertaining thereto, as they deem necessary.



7. **No Admission of Liability.** Nothing in this Agreement shall be construed as an admission of liability, fault, or violation of any civil or criminal statute or damage by any party. Each party hereto denies liability to each other.

8. **Notices.** Notices, requests, and other communications hereunder shall be in writing and shall be delivered by hand, by facsimile, by courier service such as Federal Express, e-mail, or by first class mail, postage prepaid, to the Parties at the following addresses:

**Buyer:**

Law Offices of David W. Meadows  
c/o David W. Meadows  
1801 Century Park East, Suite 1201  
Los Angeles, California 90067  
email: [david@davidwmeadowslaw.com](mailto:david@davidwmeadowslaw.com)

**Seller:**

ArentFox Schiff LLP  
c/o M. Douglas Flahaut  
Dylan J. Yamamoto  
555 West Fifth Street, 48th Floor  
Los Angeles, CA 90013  
Tel: (213) 629-7410  
e-mail: [douglas.flahaut@afslaw.com](mailto:douglas.flahaut@afslaw.com)

9. **Miscellaneous.**

a. Except as provided herein, all covenants, releases, warranties, and representations made by the Parties to one another pursuant to this Agreement shall be and remain in full force and effect upon this Agreement becoming effective.

b. The Parties agree to execute and deliver such other instruments and perform such acts, in addition to the matters herein specified, as may be appropriate or reasonably necessary, from time to time, to effectuate the agreements and understandings of the parties, whether the same occur before or after the date of this Agreement.

c. This Agreement is the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, whether oral or written, between the Parties hereto with respect thereto. In addition, this Agreement may not be modified or amended, nor any of its provisions waived, except by an instrument in writing, signed by the Parties hereto.

d. This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Parties hereto.

e. The headings of all sections of this Agreement are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction or interpretation of any term or provision hereof.

f. To the extent that performance is to be governed by time, time shall be deemed to be of the essence hereof.

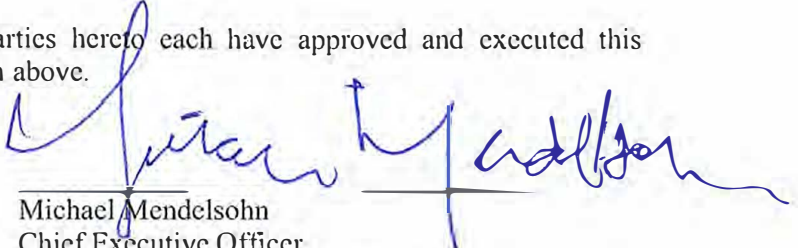
g. This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the provisions of this Agreement.

h. This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same Agreement. This Agreement may also be executed by facsimile followed by delivery of the original executed Agreement.

i. This Agreement is the product of negotiations of the Parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party by reason of that party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

j. Each party hereto shall bear all of their respective costs and expenses, including attorneys' fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and obtaining of the required Bankruptcy Court approval of this Agreement.

IN WITNESS WHEREOF, the Parties hereto each have approved and executed this Agreement, effective as of the date set forth above.

  
\_\_\_\_\_  
Michael Mendelsohn  
Chief Executive Officer  
Union Patriot Capital Management, LLC

\_\_\_\_\_  
John J. Menchaca, solely in his capacity as the  
Chapter 7 Trustee of the Bankruptcy Estate of  
Hannibal Classics, Inc.

f. To the extent that performance is to be governed by time, time shall be deemed to be of the essence hereof.

g. This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the provisions of this Agreement.

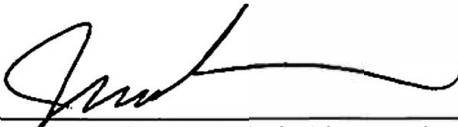
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i. This Agreement is the product of negotiations of the Parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party by reason of that party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

j. Each party hereto shall bear all of their respective costs and expenses, including attorneys' fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and obtaining of the required Bankruptcy Court approval of this Agreement.

IN WITNESS WHEREOF, the Parties hereto each have approved and executed this Agreement, effective as of the date set forth above.

\_\_\_\_\_  
Michael Mendelsohn  
Chief Executive Officer  
Union Patriot Capital Management, LLC

  
\_\_\_\_\_  
John J. Menchaca, solely in his capacity as the  
Chapter 7 Trustee of the Bankruptcy Estate of  
Hannibal Classics, Inc.



## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

ArentFox Schiff LLP, Gas Company Tower, 555 West Fifth Street, 48th Floor, Los Angeles, CA 90013.

A true and correct copy of the foregoing document entitled (*specify*): **CHAPTER 7 TRUSTEE'S MOTION FOR AN ORDER:**

**(1) AUTHORIZING THE BIDDING PROCEDURES FOR THE SALE OF ESTATE PROPERTY;**  
**(2) APPROVING SALE OF LITIGATION CLAIMS UNDER 11 U.S.C. § 363, SUBJECT TO OVERBIDS AND A FINDING OF GOOD FAITH PURSUANT TO SECTION 363(m); AND**  
**(3) APPROVING THE FORM AND MANNER OF NOTICE;**  
**MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF JOHN J. MENCHACA AND PROPOSED PURCHASER IN SUPPORT THEREOF**

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) **03/29/2023** I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:** On (date) **03/29/2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

### JUDGE

Honorable Vincent P. Zurzolo  
United States Bankruptcy Court  
255 E. Temple Street, Suite 1360  
Los Angeles, CA 90012

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

03/29/2023  
Date

AYLIN SOOKASSIANS  
Printed Name

/s/ Aylin Sookassians  
Signature

---

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

Eric Bensamochan on behalf of Interested Party Courtesy NEF  
eric@eblawfirm.us, G63723@notify.cincompass.com

M Douglas Flahaut on behalf of Interested Party Courtesy NEF  
flahaut.douglas@arentfox.com

M Douglas Flahaut on behalf of Trustee John J Menchaca (TR)  
flahaut.douglas@arentfox.com

David W. Meadows on behalf of Interested Party Courtesy NEF  
david@davidwmeadowslaw.com

John J Menchaca (TR)  
jmenchaca@menchacacpa.com, ca87@ecfcbis.com;igaeta@menchacacpa.com

Maureen M Michail on behalf of Attorney Daniels Fine Israel Schonbuch & Lebovits LLP  
michail@dfis-law.com

Maureen M Michail on behalf of Creditor I Am Wrath Production, Inc.  
michail@dfis-law.com

Maureen M Michail on behalf of Creditor Justice Everywhere Productions, LLC  
michail@dfis-law.com

Maureen M Michail on behalf of Creditor Union Capital Management II, LLC  
michail@dfis-law.com

Maureen M Michail on behalf of Creditor Union Capital Management, LLC  
michail@dfis-law.com

Maureen M Michail on behalf of Creditor Maureen Mira Michail  
michail@dfis-law.com

John D Monte on behalf of Creditor American Cinema International  
johnmontelaw@gmail.com

John D Monte on behalf of Creditor Global Media Properties, Inc.  
johnmontelaw@gmail.com

Shai S Oved on behalf of Debtor Hannibal Classics, Inc.  
ssoesq@aol.com, Ovedlaw@hotmail.com

United States Trustee (LA)  
ustprejon16.la.ecf@usdoj.gov

Dylan J Yamamoto on behalf of Trustee John J Menchaca (TR)  
dylan.yamamoto@arentfox.com