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Hearing Date and Time: June 6, 2013 at 10:00 a.m. (ET)

*Attorneys for Alden Global Value Recovery Master Fund, L.P.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                  |   |                         |
|----------------------------------|---|-------------------------|
|                                  | ) |                         |
| In re                            | ) | Chapter 11              |
| ATARI, INC. et al., <sup>1</sup> | ) | Case No. 13-10176 (JMP) |
| Debtors.                         | ) | (Jointly Administered)  |
|                                  | ) |                         |

**STATEMENT OF ALDEN GLOBAL VALUE RECOVERY  
MASTER FUND, L.P. IN SUPPORT OF THE DEBTORS’  
MOTION FOR ENTRY OF AN ORDER AUTHORIZING THE  
DEBTORS TO ADOPT AND IMPLEMENT A SALE INCENTIVE PLAN**

Alden Global Value Recovery Master Fund, L.P., (“*Alden*”), by and through its undersigned counsel, hereby submits this Statement (“*Statement*”) in Support of the Debtors’ Motion (the “*Motion*”)<sup>2</sup> for Entry of an Order Authorizing the Debtors to Adopt and Implement (I) a Sale Incentive Plan (the “*Bonus Plan*”) and (II) a Loyalty Plan, and respectfully states as follows:

1. For the reasons set forth in the Motion, and as will be demonstrated by the Debtors’ reply to the objections to the Motion and at the hearing on the Motion, it is evident that neither the U.S. Trustee’s Office nor the Official Committee of Unsecured Creditors (the

<sup>1</sup> The Debtors are Atari Inc., Atari Interactive, Inc. (“*Interactive*”), Humongous, Inc., and California U.S. Holdings, Inc.

<sup>2</sup> Capitalized, undefined terms shall have the respective meanings set forth in the Motion.

“*Committee*”) have any factual basis to support their conclusory objections to the Bonus Plan. Indeed, with respect to the objection of the Committee, Alden believes that its objection is a complete abdication of its fiduciary duties to the Debtors’ estates. That abdication is expressly evidenced by the words of Harvey Goldstein, the Committee’s chairman, in an email communication to Alden in which the Committee threatens, “[the Committees’] debts have been written off by our companies so our next objective is to make sure if we do not get a return, no one will without opposition.” See email from Harvey Goldstein to Alex Zyngier dated May 30, 2013, attached hereto as Exhibit A (the “*Goldstein Email*”).

2. The Goldstein Email was sent by the Committee after Alden declined to accept a settlement proposal delivered by the Committee on the eve of the scheduled depositions of the Debtors’ investment banker, chief executive officer and chief financial officer. Through its own statements and conduct, it is clear that that Committee believes that it can employ a scorched-earth litigation strategy to destroy value if parties elect to have their legal and economic rights determined by this Court rather than agreeing to the ransom demands of the Committee. See Goldstein Email (“If you are interested in resolving this, saving money for us both and not leaving it up to one person, the judge, let me know.”). Aside from confirming that the Committee’s opposition is not to the substance of the Motion, by threatening to destroy the finite resources of the estate, the chairman has demonstrated that the Committee is not dedicated to maximizing estate value in furtherance of the Committee’s fiduciary duties. Rather, the Committee is using its objection as a means to vindictively pursue the administrative insolvency of the Debtors.

3. In contrast, since the Petition Date, Alden has been a key proponent in minimizing the amount of administrative expenses that will dilute recoveries to stakeholders. By

virtue of its interest as DIP Lender and lender under the EUR 22 million Parent Facility,<sup>3</sup> Alden is directly and indirectly the largest economic stakeholder in these Cases.<sup>4</sup> As the Bonus Plan will directly dilute Alden's recoveries, Alden participated in the formulation of the Bonus Plan with a view to appropriately incentivizing management and employees while still mitigating the costs to the estate and its stakeholders. Based upon these efforts, Alden believes that, as originally proposed and as currently contemplated, the costs associated with implementing the Bonus Plan are far outweighed by the role the participants have had and continue to play in facilitating a robust sale process that will maximize the value of the Debtors' assets. Alden believes that the Bonus Plan strikes the right balance between incentivizing the participants to position the Debtors for a successful sale process and minimizing the costs to the estate. For the reasons set forth herein, Alden supports the approval of the Bonus Plan.

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<sup>3</sup> As defined in the Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 364 and 508 (I) Authorizing the Debtors to Incur Post-Petition Secured Indebtedness, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection and (IV) Modifying Automatic Stay.

<sup>4</sup> The material unencumbered assets are owned by Atari Interactive, Inc., while the vast majority of unsecured claims are against Atari, Inc. The Parent Facility is secured by, among other things, (i) a lien on the intercompany payable of approximately \$252 million owed by Atari Interactive, Inc. to Atari S.A., the borrower under the Parent Facility, (ii) the equity of Atari Interactive, (iii) and the Test Drive Platform owned by Atari Inc., which is believed to represent a significant portion of Atari Inc.'s asset value. Accordingly, a robust sale does not immediately translate into significant distributions to Atari, Inc. creditors. To generate a meaningful recovery, if any, at the Atari, Inc. level, the Committee will be required to prevail on a variety of complex and costly litigation claims, including the recharacterization of prior transactions, avoidance of "old and cold" liens (some of which were granted as far back as 2006) and substantive consolidation of the Debtors' estates.

WHEREFORE, Alden respectfully requests that the Court (i) approve the Motion; (ii) any and all objections to the Motion; and (iii) grant such additional relief as it considers just and proper.

Dated: June 5, 2013

By: /s/ Andrew J. Schouder

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*Attorneys for Alden Global Value Recovery Master  
Fund, L.P.*

**EXHIBIT A**

**Goldstein Email**

**From:** Alex Zyngier <AZyngier@aldenglobal.com>  
**Sent:** Thursday, May 30, 2013 3:55 PM  
**To:** Schouder, Andrew  
**Subject:** FW: In re Atari, Inc., et al. (Case No. 13-10176)  
**Attachments:** Atari - Cohen Letter - 5-29-2013.pdf

**Importance:** High

**Alex Zyngier**

T 212-418-6861 E azyngier@aldenglobal.com  
885 Third Avenue • 34th Floor • New York, NY 10022

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**From:** Harvey Goldstein [mailto:harvey.goldstein@rackspace.com]  
**Sent:** Thursday, May 30, 2013 10:11 AM  
**To:** Alex Zyngier  
**Subject:** FW: In re Atari, Inc., et al. (Case No. 13-10176)  
**Importance:** High

Alex;

I thought you were about keeping costs down. No one said this letter or proposal is not negotiable. However, if you prefer to spend money we can. We both always said only the attorneys and accountants get paid and creditors are last. I am happy to discuss and negotiate, but your attorney's response suggests you want to fight in court and let the judge decide. Remember as creditors while we hope for a return and will do what is best for all, our debts have been written off by our companies so our next objective is to make sure if we do not get a return, no one will without opposition. If you are interested in resolving this, saving money for us both and not leaving it up to one person, the judge, let me know. If not, good luck and see you in court.

Sincerely,

Harvey S. Goldstein  
Senior Revenue Operations Manager

ALL BACKED BY  
FANATICAL SUPPORT.

Rackspace Hosting  
Direct 210-312-4497  
Cellular 210-452-6230



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**From:** Cohen, Jeffrey L. [mailto:jcohen@cooley.com]  
**Sent:** Thursday, May 30, 2013 7:41 AM  
**To:** Gottlieb, Lawrence; Alice Chong; Brent Williams (Brent.Williams@duffandphelps.com); Fred Stevens; Harvey Goldstein; Hershcopf, Cathy; Holly Newman; Indyke, Jay; John C. Leininger, Esq.; Mark Mondello; Michal Nowakowski; Ray Peng; Ryan Bouley; Sessa Devana; Tom Gross; Velinsky, Alex; Vikas Khosla; Winning, Robert  
**Subject:** FW: In re Atari, Inc., et al. (Case No. 13-10176)

We received the below, terse response from Alden's counsel relative to the Committee's settlement offer. We will proceed with the KEIP depositions today.

**Jeffrey L. Cohen**

Cooley LLP • New York, NY 10036  
Direct: (212) 479-6218 • Fax: (212) 202-5200

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**From:** Schouder, Andrew [<mailto:Andrew.Schouder@bglip.com>]  
**Sent:** Wednesday, May 29, 2013 5:50 PM  
**To:** Velinsky, Alex; Burns, Bob; Dizengoff, Ira; Alberino, Scott L.  
**Cc:** Cohen, Jeffrey L.; Hershcopf, Cathy; Brent Williams ([Brent.Williams@duffandphelps.com](mailto:Brent.Williams@duffandphelps.com));  
[Ken.Coleman@AllenOvery.com](mailto:Ken.Coleman@AllenOvery.com); Shane, Adam  
**Subject:** RE: In re Atari, Inc., et al. (Case No. 11-10176)

The proposal is unacceptable.

Andrew J. Schouder | Partner | Bracewell & Giuliani LLP  
1251 Avenue of the Americas 49th Floor | New York, New York | 10020-1104  
T: 212.508.6132 | F: 212.938.3832 | M: 646.982.5330  
[Andrew.Schouder@bglip.com](mailto:Andrew.Schouder@bglip.com) | [www.bglip.com](http://www.bglip.com)

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**From:** Velinsky, Alex [<mailto:avelinsky@cooley.com>]  
**Sent:** Wednesday, May 29, 2013 1:53 PM  
**To:** Burns, Bob; Schouder, Andrew; Dizengoff, Ira; Alberino, Scott L.  
**Cc:** Cohen, Jeffrey L.; Hershcopf, Cathy; Brent Williams ([Brent.Williams@duffandphelps.com](mailto:Brent.Williams@duffandphelps.com));  
[Ken.Coleman@AllenOvery.com](mailto:Ken.Coleman@AllenOvery.com)  
**Subject:** In re Atari, Inc., et al. (Case No. 11-10176)  
**Importance:** High

Please see the attached.

Regards,

**Alex R. Velinsky**

Cooley LLP • New York, NY  
Direct: (212) 479-6125 • Fax: (212) 479-6275  
Email: [avelinsky@cooley.com](mailto:avelinsky@cooley.com) • [www.cooley.com](http://www.cooley.com)

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