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

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

**DECLARATION OF GUY DAVIS IN SUPPORT OF CONFIRMATION
OF THE DEBTORS’ JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Pursuant to 28 U.S.C. § 1746, I, Guy Davis, declare as follows:

1. I am a Managing Director in the Litigation and Restructuring Services practice of Protiviti Inc. (“Protiviti”), which was retained on January 21, 2013 by the above-captioned debtors and debtors in possession (collectively, the “Debtors”) as their financial advisor in connection with these chapter 11 cases. Protiviti is an international risk-management consulting firm with seventy offices in twenty countries and approximately 2,500 employees.

¹ The “*Debtors*” are: Atari, Inc.; Atari Interactive, Inc.; Humongous, Inc.; and California U.S. Holdings, Inc.

2. I am a certified public accountant, a certified insolvency and restructuring advisor and a fellow in the American College of Bankruptcy. I hold a certification in distressed business valuation and a master's degree in business administration. Over the past twenty-four years, I have performed a variety of forensic accounting and financial consulting services in bankruptcy or distressed environments, including operations management, asset liquidation, debt restructuring, asset recovery, fraud investigation and financial analysis. I have served in the roles of acting chief financial officer, liquidation officer, claims and disbursing agent, as well as accountant to chapter 7 and chapter 11 trustees and creditor and equity committees, and have prepared plans of reorganization, business valuations, liquidation analyses, preference and fraudulent conveyance analyses, cash flow projections and other related analyses typically required by debtors and creditors in insolvency situations.

3. Specifically, I have prepared or assisted in the preparation of liquidation analyses with respect to the following bankruptcy proceedings: *In re: The Glebe, Inc.*, No. 10-71553 (Bankr. W.D. Va.); *In re: Greenbrier Hotel Corp., et al.*, No. 09-31703 (Bankr. E.D. Va.); *In re: Circuit City Stores, Inc.*, No. 08-35653 (Bankr. E.D. Va.); *In re: The Rowe Cos., et al.*, Case No. 06-11142 (Bankr. E.D. Va.); *In re: Future Finance Co., Inc., et al.*, No. 02-70457 (Bankr. E.D. Va.); *In re: Heilig Meyers Co., et al.*, No. 00-34533 (Bankr. E.D. Va.).

A. Protiviti's Role in Advising the Debtors

4. Protiviti was retained by the Debtors to, among other things: (i) assist the Debtors with the administration of their debtor-in-possession financing, including weekly reporting, cash management, and responses to due diligence requests; (ii) provide the Debtors' accounting department with assistance and guidance regarding chapter 11 protocols and policies; (iii) assist the Debtors with vendor communications and negotiations of post-petition trade terms and utility deposits; (iv) assist the Debtors with projecting cash flows through a potential sale or plan of

reorganization; (v) interface with creditor groups and prepare any required/agreed upon flash reporting; (vi) assist the Debtors with preparation of the monthly operating reports; (vii) assist Debtors' bankruptcy counsel in preparing evidence and rendering testimony, as needed, in connection with contested matters; (viii) assist the Debtors with the claims reconciliation and administration process; and (ix) provide other analytical support and/or testimony, as required, to facilitate the efficient sale of the Debtors' assets, development and execution of a chapter 11 plan, and possible recovery actions against third parties. Through its work with the Debtors, Proviti has become familiar with the Debtors' capital structure, business operations and affairs, and is familiar with the material provisions of the Plan and the restructuring embodied therein.

5. In addition to the foregoing services, Proviti also (a) reviewed and evaluated the financial projections for the two-year period beginning as of the Effective Date² (the "Financial Projections"), attached to the Disclosure Statement as Exhibit D, (b) assisted in the development of the liquidation analysis (the "Liquidation Analysis"), attached to the Disclosure Statement as Exhibit C and (c) examined and evaluated almost all aspects of the Plan.

6. I submit this declaration in support of confirmation of the Plan. All matters set forth in this declaration are based on: (a) my review of relevant documents; (b) my views, based upon my experience and knowledge of the Debtors' restructuring efforts and financial affairs; and (c) as to legal and certain restructuring issues, advice from the Debtors' legal advisors. Although I have assumed and relied upon the accuracy and completeness of the information underlying the Financial Projections and other financial information provided to Proviti by the Debtors when analyzing the feasibility of the Plan and assisting in preparation of the Liquidation Analysis, nothing has come to my attention to lead me to conclude that reliance on the Financial

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code [Docket No. 379] (the "Plan").

Projections and such other information is not reasonable or not an appropriate basis upon which to base a reorganization plan. If called to testify, I would testify to the facts set forth herein.

B. The Plan Is Feasible

7. I have reviewed and analyzed the Financial Projections prepared by the Debtors and the Sponsor and believe the Plan satisfies the feasibility requirement of Bankruptcy Code section 1129(a)(11). As part of the chapter 11 reorganization process, the Debtors have taken actions projected to improve financial performance. Specifically, the Debtors have (i) streamlined their operations, (ii) significantly reduced their operating expenses, (iii) successfully sold a number of their franchises and refocused their efforts on the remaining game titles, (iv) rejected certain unbeneficial leases and Executory Contracts, and (v) engaged in numerous other cost-reduction initiatives to materially improve their cost structure.

8. Moreover, based on the Financial Projections, including the assumptions underlying such projections (which, in my opinion, are reasonable), the Debtors' businesses are viable. Indeed, based upon my review of the Financial Projections and my familiarity with the assets being retained by the Reorganized Debtors, I believe that the Debtors can reasonably be expected to have sufficient cash flow to service their debt obligations and to fund their operations and the payments contemplated by the Plan.

9. Accordingly, in light of the foregoing, I believe that, as a result of the Plan or any transactions contemplated by the Plan, as of the Effective Date the Reorganized Debtors can, on a consolidated basis, reasonably be expected to (i) service their debts as such debts mature and (ii) have sufficient available capital to operate their businesses.³

³ The Debtors' cash flow from operations in recent weeks is below the projected amounts incorporated in the Sponsor Analysis, annexed as Schedule 1 to the Plan, and it is uncertain whether the cash flow between the Confirmation Date and the Effective Date will be sufficient to eliminate the current shortfall. As such, in an effort to address a possible Effective Date shortfall, the Debtors' and Creditors Committee's professionals have agreed to

10. Further, I am of the opinion, to a reasonable degree of certainty, that the Plan satisfies the “feasibility” test for emergence from bankruptcy under Bankruptcy Code section 1129(a)(11) and will result in the Reorganized Debtors emerging from bankruptcy as a viable business—that is, confirmation of the Plan is not likely to be followed by the liquidation of the Reorganized Debtors or by the need for a further reorganization of the Reorganized Debtors.

C. The Liquidation Analysis

11. As noted above, Protiviti, in consultation with the Debtors and the Debtors’ other advisors, prepared the Liquidation Analysis to determine whether, under the “Best Interests Test” contained in Bankruptcy Code section 1129(a)(7), the holders of Claims and Interests that are Impaired under the Plan will receive or retain value under the Plan that is at least equal to the amount such holders would receive in a chapter 7 liquidation.

12. Unless otherwise noted in the Liquidation Analysis, Protiviti developed the Liquidation Analysis for the Debtors based on projected book values as of November 30, 2013. The recoveries may change based on further refinements of Allowed Claims, as the Debtors’ claims objection and reconciliation process continues.

13. In connection with the Liquidation Analysis, Protiviti, with the assistance of the Debtors’ other advisors, determined the aggregate dollar amount of distributable value that would be available to Claims and Interest holders if these Cases were converted to chapter 7 (the “Liquidation Value”). The Liquidation Value consists primarily of the unencumbered and unrestricted Cash held by the Debtors at the time of conversion of these Cases to chapter 7 and the proceeds resulting from the sale of the Debtors’ remaining assets and properties by a chapter 7 trustee. The gross cash that would be available for distribution would be reduced by the costs

defer receiving payments on a portion of their Professional Fee Claims, if required. The Reorganized Debtors’ cash flow projections in the first year of operation are more than sufficient cover such deferral, if necessary.

and expenses of the chapter 7 liquidation, including the fees and expenses of the chapter 7 trustee and its professionals and costs associated with the litigation of substantive consolidation and re-characterization of intercompany claims issues. In addition, the value available for distribution in a chapter 7 case would be further reduced by any Administrative Claims arising from a breach or assumption of Executory Contracts entered into by the Debtors during the pendency of these Cases.

14. The Liquidation Analysis is premised and conditioned on a number of notes and assumptions (collectively, the “Supporting Information”), all of which are clearly set forth in the Liquidation Analysis and accompanying exhibits. The Supporting Information is integral to understanding the Liquidation Analysis and is incorporated herein by reference. Underlying the analysis are several estimates and assumptions that, although developed and considered reasonable by the Debtors’ management and advisors, are inherently subject to significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. Furthermore, the Liquidation Analysis is based on assumptions with regard to liquidation decisions that are subject to change. Accordingly, the values reflected in the Liquidation Analysis might not be realized if the Debtors would, in fact, undergo liquidation.

15. Based on my experience, it is my belief that the information, conclusions and Supporting Information contained in the Liquidation Analysis, including the estimates of the potential proceeds that would be realized from a chapter 7 liquidation and available to satisfy Claims, are of a kind that typically is relied upon when conducting liquidation analyses and represent a reasonable exercise of the Debtors’ business judgment with respect to such matters.

D. The Best Interests Test

16. It is my understanding that, pursuant to Bankruptcy Code section 1129(a)(7), the Plan may only be confirmed if it is in the “best interests” of each Impaired Class of Claims or

Interests. This requires that each holder of a Claim or Interest in such a Class either (i) accept the Plan or (ii) receive or retain under the Plan on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the Debtors were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code. Specifically, pursuant to the Plan, the value that may be realized by holders of Claims in Classes 3, 4 and 5, which are Impaired under the Plan, must be greater than or equal to the value of the expected recoveries to such holders in a hypothetical chapter 7 liquidation.

17. Classes 1, 2 and 6 are Unimpaired under the Plan, and consequently would not receive a greater recovery in a chapter 7 liquidation than under the Plan.

18. Given the assumptions set forth in the Liquidation Analysis, holders of Claims in Class 3 would receive an estimated recovery of \$1.00 per claim dollar under the Plan and \$1.00 per claim dollar in a chapter 7 liquidation. Holders of Claims in Class 4 would receive an estimated recovery of up to \$0.25 per claim dollar under the Plan and up to \$0.01 per claim dollar in a chapter 7 liquidation. Holders of Claims in Class 5 have agreed to waive their right to receive distributions under the Plan in respect of such Claims and retain their direct or indirect equity interest in the Reorganized Debtors upon the consummation of the Plan. If the Cases are liquidated under chapter 7, however, holders of Class 5 Claims would receive up to \$0.02 per claim dollar. Thus, in no instance would the holders of Claims in any Impaired Class receive more in a hypothetical chapter 7 liquidation than under the Plan.

19. Recoveries in a chapter 7 case in excess of the amounts guaranteed under the Plan would require lengthy and protracted litigation to substantively consolidate the Debtors and re-characterize the Sponsor Intercompany Claims, the outcome of which is very uncertain. Accordingly, I believe that the continued operation of the Debtors as a going concern,

accompanied by the settlements embodied in the Plan, will realize greater value for the Impaired Classes under the Plan than in a chapter 7 liquidation.

20. Based on the foregoing, I respectfully submit that the Liquidation Analysis reflects that the Plan is in the best interests of holders of Claims and Interests. I hereby reserve my right to amend the foregoing as necessary at the Confirmation Hearing. I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 4th day of December 2013.

/s/ Guy Davis

Guy Davis