

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

KMART CORPORATION,

Debtor.

Case No. 02 B 02474

Honorable Susan Pierson Sonderby

Hearing Date: October 28, 2008

Hearing Time: 11:00 a.m.

NOTICE OF MOTION

PLEASE TAKE NOTICE that on Tuesday, October 28, 2008, at the hour of 11:00 a.m., we shall appear before the Honorable Susan Pierson Sonderby, Bankruptcy Judge, in Courtroom 642, in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, or before any other judge who may be sitting in her place and stead, and shall present **Kmart's Motion for Order Authorizing Return of Restricted Documents Filed in Contested Matters Concerning FLOORgraphics, Inc.**, a copy of which is attached hereto and herewith served upon you, at which time and place you may appear if you so see fit.

Dated: October 20, 2008

KMART CORPORATION

By: /s/ William J. Barrett
One of its Attorneys

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CERTIFICATE OF SERVICE

I, William J. Barrett, an attorney, hereby certify that on the 20th day of October, 2008, I caused to be served a copy of the foregoing **Notice of Motion** and **Kmart's Motion for Order Authorizing Return of Restricted Documents Filed in Contested Matters Concerning FLOORgraphics, Inc.** via e-mail transmission to the following parties:

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/s/ William J. Barrett

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

KMART CORPORATION,

Debtor.

Chapter 11

Case No. 02 B 02474

Honorable Susan Pierson Sonderby

Hearing Date: October 28, 2008

Hearing Time: 11:00 a.m.

**KMART'S MOTION FOR ORDER AUTHORIZING
RETURN OF RESTRICTED DOCUMENTS FILED IN CONTESTED MATTERS
CONCERNING FLOORGRAPHICS, INC.**

Kmart Corporation ("Kmart"), pursuant to Local Bankruptcy Rule 5005-4 (D)(2), for its Motion for Order Authorizing Return of Restricted Documents Filed in Contested Matters Concerning re FLOORgraphics, Inc. ("FGI"), states as follows:

1. Kmart commenced its Chapter 11 bankruptcy case on January 22, 2002. Kmart confirmed its Chapter 11 Plan of Reorganization on April 26, 2003, which Plan became effective on May 6, 2003.

2. Kmart and FGI had entered into a pre-petition contract whereby FGI provided floor advertising in Kmart stores. In the course of this bankruptcy case, there has been litigation between Kmart and FGI concerning the rejection of FGI's contract and the claims of FGI. All such litigation has been settled.

4. While engaged in litigation with each other, Kmart and FGI each filed documents that were treated as "Restricted Documents" under the Local Rules of this

Court. Attached hereto as Exhibit A is a listing of the docket entries that identify the Restricted Documents filed in the case.

5. Local Bankruptcy Rule 5005-4 (D) provides that Restricted Documents shall be placed in the public file sixty-three days following the closing of the case unless the parties request some other treatment of the documents. The Local Rule permits that, upon request made by motion, any Restricted Document may be returned to the party that filed the document. Technically, because the Restricted Documents filed in FGI related matters were filed in the main case, the Local Rule has not yet become operative because the main case has not been closed. However, because the FGI related contested matters are now all complete, and as the Court has suggested, the parties believe that the disposition of the Restricted Documents should be taken up at this time.

6. Kmart requests that the Restricted Documents be turned over by the Clerk to the respective filer as set forth below:

<u>Current Docket No.</u>	<u>Filer (Party to return document to)</u>
2021	Mark Mackowiak Barack Ferrazzano Kirschbaum & Nagelberg, LLP 200 W. Madison, Suite 3900 Chicago, IL 60606 Legal Assistant at Counsel for Kmart (hereinafter "Mark Mackowiak")
2041	J. Mark Fisher, Esq. Schiff Hardin LLP 6600 Sears Tower Chicago, IL 60606 Counsel for FLOORgraphics (hereinafter, "Mark Fisher")
2060	Mark Fisher

2290	Mark Mackowiak
2292	Mark Fisher
9947	Mark Fisher
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28317	Mark Mackowiak
29684	Mark Fisher
29726	Mark Mackowiak
31075	Mark Mackowiak Mark Fisher
31090	Mark Fisher
31224	Mark Mackowiak
31225	Mark Mackowiak
31233	Mark Mackowiak
31321	Mark Mackowiak
31322	Mark Mackowiak
31373	Mark Fisher
31374	Mark Fisher
31406	Mark Fisher
31407	Mark Fisher
31465	Mark Mackowiak

31466	Mark Mackowiak
31467	Mark Mackowiak

WHEREFORE, Kmart moves that the Court enter an order authorizing the return of the Restricted Documents as set forth herein.

Dated: October 20, 2008

KMART CORPORATION

By: /s/ William J. Barrett
One of its Attorneys

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