

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re:)	
)	Chapter 11
ORECK CORPORATION, et al)	Case No. 13-04006
)	
565 Marriott Dr., Suite 300)	Judge Lundin
Nashville, TN 37214)	(Jointly Administered)
)	
Debtors.)	

**NOTICE OF CONSENSUAL ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACTS TO ORECK ACQUISITION HOLDINGS LLC**

Pursuant to (i) the Order (I) Authorizing Sale Of Assets Free And Clear Of Claims, Liens, Encumbrances, And Other Interests Pursuant To Asset Purchase Agreement With OAC Acquisition Company, LLC; (II) Authorizing The Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases In Connection With The Sale; And (III) Granting Related Relief (Docket No. 617) (the “Sale Order”), and (ii) the asset purchase agreement (the “Royal APA”)¹ dated July 24, 2013 between Royal Appliance Mfg. Co. and its affiliates (collectively, “Royal”) and the above-captioned debtors, debtors-in-possession and certain affiliates (collectively, the “Debtors”), the Debtors hereby provide notice (the “Assignment Notice”) of the consensual assumption of two executory contracts (the “Agreements”)² and simultaneous assignment (the “Consensual Assignment”) of the Agreements to Oreck Acquisition Holdings LLC (“OAH”) and request entry of the Assignment Order attached hereto. In support of the Consensual Assignment, the Debtors respectfully state as follows:

¹ The Royal APA was filed as Exhibit A to the Report Of Sale Of Substantially All Of The Assets Of Debtors (Docket No. 646) (the “Report of Sale”).

² The Agreement are listed on Exhibit 1 to the Consensual Assignment order attached hereto as Exhibit A (the “Assignment Order”).

BACKGROUND

Asset Sale and Election Period

1. As set forth in the Sale Order, Royal was the winning bidder at the Court-approved auction for the Debtors' assets. Royal's bid formed the basis for the Royal APA which was executed and closed on July 24, 2013 (the "Closing").

2. Under the Royal APA, as amended, Royal had until January 24, 2014 to make decisions regarding the disposition of the Debtors' executory contracts and unexpired leases, and to direct the Debtors to seek the assumption and assignment or rejection of those agreements.

Agreement Between Royal and OAH To Keep Retail Stores Open

3. As set forth on the record at the Sale Hearing, as part of its winning bid and at the request of the Debtors and creditors' committee (the "Committee"), Royal agreed that it would take steps to try to find one or more parties interested in purchasing some or all of the retail stores owned and operated by the Debtors, including taking assignment of the applicable leases and employing the employees for those purchased stores.

4. Immediately after being selected as the winning bidder at the auction, Royal (with the knowledge and approval of the Debtors, Committee, lenders and U.S. Trustee) approached the prior stalking horse bidder, OAH and its principal Tom Oreck, the son of the Debtors' founder David Oreck, about the possibility of OAH purchasing some or all of the Debtors' retail stores.

5. After extensive, arms-length negotiations, Royal and OAH entered into an agreement whereby OAH agreed to take a majority of the Debtors' retail stores (the "TO Stores") by purchasing the assets and taking assignment of the TO Leases and certain executory contracts related to the TO Stores.

The Agreements

6. Prior to the Petition Date, each of Raymark Xpert Business Systems Inc. ("Raymark") and EarthLink, Inc. ("EarthLink") entered into agreements with debtor Oreck Corporation pursuant to which Raymark and EarthLink license certain software or provide certain services to Oreck Corporation, which software and services are used in connection with operating the TO Stores. As a result of OAH acquiring the TO Stores, it is necessary that the Debtors assume the Agreements and assign the Agreements to OAH.

Cure Amounts and Amendments.

7. The cure amounts, which have been agreed to by each of Raymark and EarthLink (the "Cure Amount"), are listed on Exhibit 1 to the Assignment Order. In addition, each of Raymark and EarthLink have entered into Contract Assumption and Modification Agreements with OAH (the "Amendments"), which Amendments are also noted on Exhibit 1 to the Assignment Order.

8. The Debtors believe that they are current with respect to post-petition obligations due under the Agreements and that no post-petition cure amounts are owed. Within five (5) business days of the assignment of the Agreements to OAH, OAH will pay the Cure Amount to the counterparty to each of the Agreements.

RELIEF REQUESTED

9. Per paragraph 12 of the Sale Order, Royal has directed the Debtors to file this Assignment Notice and seek entry of the Assignment Order granting Court authorization and approval of the Debtors' assumption of the Agreements and simultaneous assignment of the Agreements to OAH.

WHEREFORE, the Debtors respectfully request that the Court immediately enter the Assignment Order substantially in the form attached hereto as Exhibit A (i) authorizing and approving the Debtors' assumption of the Agreements and simultaneous assignment of the Agreements to OAH (as modified by the Amendments), and (ii) granting such other and further relief as the Court deems just and proper.

Dated: February 24, 2014
Nashville, Tennessee

Respectfully Submitted:

/s/ William L. Norton, III

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In re:)	
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ORECK CORPORATION, et al.)	Case No. 13-04006
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565 Marriott Dr., Suite 300)	Judge Lundin
Nashville, TN 37214)	(Jointly Administered)
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Debtors.)	

**AGREED ORDER APPROVING ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACTS TO ORECK ACQUISITION HOLDINGS LLC**

This is before the Court upon the Notice Of Consensual Assumption And Assignment Of Executory Contracts To Oreck Acquisition Holdings LLC (the “Consensual Assignment”)¹ of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) pursuant to section 365 of the Bankruptcy Code, authorizing the Debtors to assume and assign the Agreements² to OAH and granting such other and further relief as is just and proper; and the Court having reviewed the Consensual Assignment; and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue of this proceeding and the Consensual Assignment in this district are proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) each of the Agreements is an “Additional Contract” as defined in the Royal

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Consensual Assignment.

² Each of the Agreements and its cure amount are listed on Exhibit 1 hereto. The existence of Amendments to the Agreements is also listed on Exhibit 1 hereto.

APA; (e) the Debtors have demonstrated and provided evidence of adequate assurance of future performance by OAH under the Agreements; (f) the relief requested in the Consensual Assignment is a valid exercise of the Debtors' business judgment and is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; (g) the Debtors provided appropriate notice of the Consensual Assignment; and the Court having determined that the legal and factual bases set forth in the Consensual Assignment and the record of these cases establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Consensual Assignment is GRANTED.
2. The Debtors are authorized, but not directed or required, to assume the Agreements and simultaneously assign the Agreements and all of their rights and obligations thereunder to OAH, free and clear of any and all interests, liens, claims and encumbrances.
3. Upon assignment of the Agreements to OAH, the Agreements shall be (i) (a) deemed to be listed on Schedule 5.6 of the Royal APA, and (b) Assigned Agreements for all purposes under the Royal APA, and (ii) OAH is deemed to have assumed those obligations of the Debtors that arise and become due and payable under the Agreements after the assignment of the Agreements to OAH.
4. The assignment of the Agreements by the Debtors to OAH shall constitute a legal, valid, and effective transfer of the Agreements and all rights of the Debtors' rights and obligations thereunder to OAH notwithstanding any requirement for approval or consent by any person, and, except as otherwise provided herein, vest OAH with all rights of the Debtors to exercise and enforce all of the rights and remedies under the Agreements free and clear of all interests, liens, claims, and encumbrances.

5. The Cure Amounts for each of the Agreements are as set forth on Exhibit 1 hereto. Within five (5) business days of the assignment of the Agreements to OAH, OAH will pay the Cure Amount to the counterparty to each of the Agreements. Upon payment of the applicable Cure Amount for an Agreement, except as otherwise provided herein, counterparties to the Agreements are hereby barred and permanently enjoined from asserting against the Debtors, Royal or OAH, any default, claim, or liability existing, accrued, arising, or relating to the Agreements for the period prior to the entry of this Order.

6. To the extent an Agreement is listed on Exhibit 1 hereto as being modified by an Amendment, the Agreement shall be in full force and effect and the Debtors' rights under that lease shall be transferred to OAH as modified by the terms of the Amendment.

7. The Debtors have demonstrated adequate assurance of future performance and have satisfied the requirements set forth in section 365 of the Bankruptcy Code with respect to the Agreements. There shall be no accelerations, assignment fees, increases or any other fees charged to OAH, Royal or the Debtors as a result of the assumption and assignment of the Agreements.

8. Any provisions in the Agreements that prohibit or condition the assignment of the Agreements or allow any party to terminate, declare a breach or default, impose any penalty, condition any renewal or extension, or modify any term or condition of the Agreements as a result of the Debtors' bankruptcy cases and/or the assignment of the Agreements constitute unenforceable anti-assignment provisions that are void and of no force and effect as against the Debtors and OAH in connection with the assumption and assignment of the Agreements to OAH in these bankruptcy cases.

9. The Debtors, Royal and OAH are authorized and empowered to take all actions necessary or desirable, including execution of any documents or agreements, to implement or evidence the relief granted in this Order.

10. This Order shall be effective immediately upon entry on the Court's docket and shall not be stayed by any provisions of the Bankruptcy Code, Bankruptcy Rules and/or local rules of this Court, including without limitation Bankruptcy Rule 6006.

11. The provisions of this Order authorizing the Debtors' simultaneous assumption and assignment of the Agreements to OAH shall be self-executing, and neither the Debtors nor OAH shall be required to execute or file assignments, consents or other instruments or agreements in order to evidence, effectuate, consummate and/or implement provisions of this Order. Each and every federal, state, local and/or foreign governmental agency or department is hereby authorized to accept any and all documents, instruments and/or agreements necessary, appropriate and/or desirable to evidence, effect, consummate, and/or implement the transactions contemplated by this Order. A certified copy of this Order may be filed with the appropriate clerk and/or recorded with the recorder to act to evidence, effectuate, consummate, and/or implement to the extent necessary or desirable the provisions of this Order.

12. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

**This Order Was Signed And Entered
Electronically As Indicated At The Top Of The
First Page**

APPROVED FOR ENTRY:

/s/ William L. Norton III
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EXHIBIT 1 TO ASSIGNMENT ORDER

Agreements

Counterparty	Agreement	Cure Amount	Consensual?	Amendment Executed?
Raymark Xpert Business Systems Inc. 5460 Cote de Liesse road Mount Royal (Quebec) H4P 1A5, Canada	General Agreement dated December 23, 2009	\$0	Yes	Yes
EarthLink, Inc. 1375 Peachtree Street, NE Atlanta, GA 30309	Agreement for Service dated July 31, 2012	\$1,093.67	Yes	Yes