

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SUGARFINA, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 19-11973 (MFW)

Jointly Administered

**JOSHUA RESNICK’S RESERVATION OF RIGHTS WITH RESPECT TO
A SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS**

Joshua Resnick, a creditor and party in interest in the above-captioned jointly administered chapter 11 cases of Sugarfina, Inc. (“Sugarfina”) and its debtor affiliates (collectively, the “Debtors” or the “Company”), by and through its undersigned counsel, hereby files this reservation of rights (this “Reservation of Rights”) with respect to a sale of all or substantially all of the Debtors’ assets. In support of this Reservation of Rights, Mr. Resnick respectfully represents as follows:

BACKGROUND

1. On September 6, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

2. On October 15, 2019, the Bankruptcy Court entered the *Order (A) Approving Bidding Procedures and Protections in Connection with a Sale of Substantially All of Debtors’*

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian Revenue Agency, as applicable are (1) Sugarfina, Inc., a Delaware corporation (4356), (2) Sugarfina International, LLC, a Delaware limited liability company (1254) and (3) Sugarfina (Canada), Ltd. (4480). The location of the Debtors’ corporate headquarters is 1700 E. Walnut Ave., 5th Floor, El Segundo, California 90245.

Assets Free and Clear of Liens, Claims, Encumbrances, and Interests; (B) Scheduling an Auction and Sale Hearing; (C) Approving the Form and Manner of Notice Thereof; (D) Approving Procedures for the Assumption and Assignment of Contracts and Leases; and (E) Granting Related Relief (Docket No. 268) (the “Bidding Procedures Order”).

3. On October 18, 2019, Mr. Resnick filed Proof of Claim No. 56 (the “Resnick Claim”). The Resnick Claim consists of a secured claim in an amount not less than \$8,723,431.51 secured by a lien on the assets of the Debtors granted pursuant to that certain Secured Subordinated Promissory Note and Security Agreement, dated July 23, 2018 (the “Resnick Secured Claim”), and other claims he has or may have against the Debtors based on agreements, understandings, or other corporate governance documents, including, but not limited to, bylaws and articles of incorporation.

4. Pursuant to the Bid Procedures Order, Sugarfina Acquisition Corp. was designated as the Stalking Horse Bidder in the amount of \$14,000,000, and upon information and belief, the Debtors have received at least one qualified overbid.

5. Accordingly, pursuant to the Bidding Procedures Order, an auction is scheduled to take place on October 22, 2019 (the “Auction”), at which Auction the Debtors will determine the highest or otherwise best bid for substantially all of the Debtors’ assets, including assets on which Mr. Resnick has a valid, properly perfected lien.

RESERVATION OF RIGHTS

6. Pursuant to Bankruptcy Code section 363(f), the Debtors may only sell assets free and clear of Mr. Resnick’s lien on those assets, if one of the conditions of Bankruptcy Code section 363(f)(1)–(f)(5) is satisfied. Mr. Resnick has not consented to the sale of the Debtors’ assets on which he holds a lien, *see* 11 U.S.C. § 363(f)(2), and at present the purchase price for the Debtors’

assets do not exceed the value of the liens on those assets, *see* 11 U.S.C. § 363(f)(3). Accordingly, Mr. Resnick reserves his right to withhold consent to any sale and challenge any proposed sale on the grounds that the proposed sale does not satisfy Bankruptcy Code section 363(f) absent his receiving payment in full on the Resnick Secured Claim.

CONCLUSION

Accordingly, for the reasons set forth above, Mr. Resnick respectfully submits this Reservation of Rights with respect to a sale of all or substantially all of the Debtors' assets.

Dated: October 21, 2019
Wilmington, Delaware

/s/ Gregg M. Galardi
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