

**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)

Ref. Nos. 62, 268, 318 & 319

**SUPPLEMENTAL ORDER (A) AUTHORIZING AND APPROVING THE SALE OF
SUBSTANTIALLY ALL THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS,
CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) AUTHORIZING AND
APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS AND UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF**

Upon consideration of the *Debtors' Motion for Entry of an Order: (I) (A) Approving Bidding Procedures and Protections in Connection with a Sale of Substantially All of Debtors' 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 and (II) (A) Authorizing and Approving the Sale of Substantially All the Debtors' Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances; (B) Authorizing and Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Granting Related Relief* (the "Sale Motion") filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); the Court having held a hearing (the "Sale Hearing") on October 24, 2019, to consider the Sale Motion; the Court having reviewed the Motion and the record in the Debtors' chapter 11 cases (the "Chapter 11 Cases");

¹ The Debtors in these chapter 11 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.

the Court having entered the *Order (A) Authoring and Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of all Liens, Claims, Interests, and Encumbrances, (B) Authorizing and Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 318] (the "Sale Order");² the Court having considered the statements of counsel to the Debtors and the Buyer; and after due deliberation thereon and for good cause having been shown, the Court finds that the entry of this order (this "Supplemental Sale Order") and granting the relief set forth herein are in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

IT IS HEREBY ORDERED THAT:

1. Except as expressly set forth herein, the Sale Order is hereby incorporated herein and shall remain in full force and effect.
2. As set forth at the Sale Hearing, the Contract Objections were continued to the Supplemental Assumption Hearing and are hereby resolved pursuant to this Supplemental Sale Order as more fully set forth herein.
3. Pursuant to paragraph 38 of the Sale Order, the Buyer has designated the Assumed Contracts, Rejected Contracts and Retained Contracts as set forth on the *Notice of Assumption, Rejection or Retention of Executory Contracts and Unexpired Leases* [D.I. 319].
4. The unexpired contracts referenced in (a) the *Limited Objection of Fortna, Inc. to the Debtors' Assumption and Cure Costs with Respect to Executory Contracts Potentially to be Assumed and Assigned* [D.I. 295] and (b) the informal objection of Ultimate Software Group have been designated as "Rejected" and are therefore the objections thereto are moot.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Sale Order or the Agreement, as applicable.

5. The *Reservation of Rights of Disney Consumer Products, Inc. and Twentieth Century Fox Licensing and Merchandising to Sale of Substantially all of the Debtors' Assets and the Assumption and Assignment of License Agreements* [D.I. 296] is hereby continued until a date to be determined, provided, however, that upon written agreement of Disney Consumer Products, Inc., Twentieth Century Fox Licensing and Merchandising (the "Disney Entities") and the Buyer, which written agreement shall control with respect to all matters set forth therein, the Debtors may file an Assumption and Assignment Notice without further order of the Court; provided further, however, that unless and until the agreements with the Disney Entities are assigned to the Buyer, the Buyer shall not obtain or be entitled to exercise any rights under such agreements unless both parties to any agreement agree in writing.

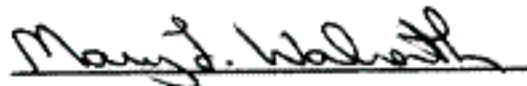
6. The remaining Contract Objections relate to unexpired real property leases (the "Lease Objections"). Each of the unexpired real property leases have been designated by the Buyer as "Retained" (the "Retained Leases"). The designation rights of the Buyer set forth in the Sale Order and the Agreement are hereby modified to reflect that the Retained Leases shall only be assumed and assigned pursuant to (a) a further order of the Court, or (b) by filing an Assumption and Assignment Notice following the entry of a written agreement by the nondebtor counter-party to the Retained Leases and the Buyer, which written agreement shall control with respect to all matters set forth therein.

7. Oracle America, Inc., successor in interest to NetSuite, Inc. ("Netsuite") and Bronto Software, LLC ("Bronto") (Oracle America, Inc., Netsuite and Bronto are collectively referred to as "Oracle"), consents to the assumption by the Debtors and assignment to the Buyer of the legacy Bronto and Netsuite contractual relationship, including all Subscription Services Agreements and related Estimates, conditioned upon payment to Oracle of the cure amount of

\$112,778.95³ and execution by the Debtors and Buyer of an Oracle Assignment Agreement and Oracle Master Agreement, or such other assignment related documentation as may be presented to the Debtors and Buyer by Oracle to effectuate the assignment contemplated by this Supplemental Sale Order. In addition, no provision of this Supplemental Sale Order or the Transition Services Agreement contemplated by the APA shall authorize (1) the transfer of any Oracle license agreement to any third party; or (2) use of any Oracle license agreement that is inconsistent with the relevant license grant including, but not limited to, exceeding the number of authorized users, shared use or license splitting, absent Oracle's express prior written consent.

8. The Court shall retain exclusive jurisdiction to enforce the terms and provisions of the Sale Order and this Supplemental Sale Order in all respects and to decide any disputes concerning this Supplemental Sale Order and the Sale Order, or the rights and duties all Persons hereunder or thereunder, as applicable, or any issues relating to this Supplemental Sale Order or the Sale Order, including, without limitation, the interpretation of the terms, conditions, and provisions hereof and thereof, the status, nature, and extent of the Acquired Assets and any Assumed Contracts, and all issues and disputes existing in connection with the relief authorized herein or therein, as applicable.

Dated: October 29th, 2019
Wilmington, Delaware



MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

³ The Debtors and Oracle continue to reconcile the post-petition outstanding obligations that may be due to Oracle. Since a resolution has not yet been reached, all rights of the Debtors and Oracle as to amounts that may be due from the Debtors to Oracle are fully reserved.