

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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: Chapter 11
In re :
: Case No. 10-13005 (KJC)
Urban Brands, Inc., *et al.*, :
: Jointly Administered
Debtors. :
: :
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**OBJECTION OF THE WHOLLY-OWNED SUBSIDIARIES OF
VERIZON COMMUNICATIONS INC. TO DEBTORS' PROPOSED CURE AMOUNT**

The wholly-owned subsidiaries of Verizon Communications Inc.¹ (collectively, “Verizon”) hereby submit this Objection to the cure amounts that the Debtors propose to pay in connection with the assumption and assignment of their executory contract with Verizon pursuant to *Debtors’ Motion Pursuant to 11 U.S.C. §§ 105(a), 363 and 365, and Bankruptcy Rules 2002, 6004, and 6006 for (i) Entry of an order (a) Establishing Bidding and Auction Procedures Related to the Sale of Substantially all of the Debtors’ Assets; (b) Approving Related Bid Protections; (c) Scheduling an Auction and Sale Hearing; (d) Establishing Certain Notice Procedures for Determining Cure Amounts for Executory Contracts and Leases to be Assigned; (e) Granting Certain Related Relief; and (ii) Entry of an Order (a) Approving the Sale of Substantially all of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; (b) Authorizing the Assumption and Assignment of Certain Executory Contracts and*

¹ The definition of Verizon includes, without limitation, all wholly-owned subsidiaries of Verizon Communications Inc. (including, without limitation, Verizon Services Corp., Verizon Network Integration Corp., Verizon Information Technologies LLC, Verizon Business Network Services Inc., Verizon Corporate Services Group Inc., Verizon Select Services Inc., MCI Communications, Inc. d/b/a Verizon Business Services, MCI Network Services, Inc. and MCI Financial Management Corp., and the operating telephone company subsidiaries of Verizon Communications Inc.).

Unexpired Leases; (c) Establishing Assumption and Rejection Procedures for Certain Additional Executory Contracts and Unexpired Leases [Docket No. 34] (the “Sale Motion”). In support of this Objection, Verizon respectfully shows the Court as follows:

Background

1. Verizon currently provides various telecommunications and related services and facilities to the Debtors under that certain Verizon Business Service Agreement dated as of July 5, 2010 (the “Verizon Contract”).

2. On September 22, 2010, the Debtors filed the Sale Motion, seeking, among other things, the establishment of notice and objection procedures for determining cure amounts for various executory contracts to be assumed and assigned.

3. On September 29, 2010, the Debtors filed their *Notice of Executory Contracts and Unexpired Leases Which May be Assumed and Assigned, Pursuant to Section 365 of the Bankruptcy Code, In Connection With the Sale of Substantially all of the Debtors’ Assets and Proposed Cure Amounts with Respect Thereto* [Docket No. 100].

4. On September 30, 2010, the Debtors filed their *Corrected Notice of Executory Contracts and Unexpired Leases Which May be Assumed and Assigned, Pursuant to Section 365 of the Bankruptcy Code, In Connection With the Sale of Substantially all of the Debtors’ Assets and Proposed Cure Amounts with Respect Thereto* [Docket No. 104] (the “Cure Notice”).

5. On October 4, 2010, the Court entered the *Order (A) Establishing Bidding and Auction Procedures Related to the Sale of Substantially All of the Debtors’ Assets; (B) Approving Related Bid Protections; (C) Scheduling an Auction and Sale Hearing; (D) Establishing Certain Notice Procedures for Determining Cure Amounts For Executory Contracts*

and Leases to Be Assigned; and (E) Granting Certain Related Relief [Docket No. 143] (the “Bid Procedures Order”).

6. According to the Bid Procedures Order, on September 29, 2010 (and as amendeded on September 30, 2010), the Debtors filed and served the Cure Notice. *See Bid Procedures Order*, ¶ 16.

7. Exhibit A to the Cure Notice identifies the Verizon Contract, and proposes a cure amount of \$109,623.08 (the “Proposed Cure Amount”).

8. Pursuant to the Bid Procedures Order and Cure Notice, all objections to cure amounts were to have been filed on or before October 19, 2010 at 4:00 p.m. (the “Objection Deadline”).

9. The Verizon Contact was identified in the Cure Notice. Verizon, however, only became aware of the Cure Notice on October 21, 2010, after an employee of the Debtors contacted an employee of Verizon to request that Verizon consent to a cure letter prepared by New Ashley Stewart LLC. A copy of the October 20, 2010 e-mail from the Debtors to Verizon is attached hereto as Exhibit A.

10. Notably, the Debtors’ employee did not attach the Cure Notice to his e-mail. Nor, despite previous conversations referenced in the e-mail, is Verizon aware that the Debtor’s employee mentioned the Cure Notice to the Verizon employee. Verizon only became aware of the Cure Notice on October 21, 2010 because its counsel searched the docket in the bankruptcy case after receipt of the Debtors’ e-mail.

11. Nor does it does not appear that the Cure Notice was properly served on Verizon. There is no certificate of service on file with the Court. Exhibit A to the Cure Notice simply identifies a P.O. Box address for Verizon: P.O. Box 382040, Pittsburgh, PA 15251-8040.

Consequently, it does not appear that the Cure Notice was mailed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment by law to receive service of process.

Objection

12. As an initial matter, Verizon objects to the application of the Objection Deadline as a bar to its assertion of this objection to the Proposed Cure Amount. Verizon did not become aware of the Cure Notice until after the Objection Deadline, and it does not appear that the Cure Notice was properly served on Verizon. Consequently, Verizon did not receive the required due process. *See* Fed. R. Bankr. P. 9014 and 7004; *see also In re Association of Volleyball Professionals*, 256 B.R. 313, 317 (Bankr. C.D.Cal. 2000) (service in a contested matter not directed to the attention of any person in particular is not sufficient service).

13. Verizon objects to the amount that the Cure Notice indicates as necessary to cure pre-petition defaults and any post-petition defaults on the Verizon Contract as required under 11 U.S.C. § 365.

14. Verizon bills the Debtors for services provided pursuant to the Verizon Contract *in arrears*. In light of the manner in which services are billed, and the lack of notice, Verizon cannot determine the exact amount presently due and payable for both prepetition and postpetition services. As set forth on Exhibit B, Verizon estimates that the total unpaid balance for invoices issued prior to the date hereof is \$365,991.07, of which approximately \$215,000.00 is for prepetition services.

15. Accordingly, and as a precondition to the Debtors' assumption of the Verizon Contract, Verizon requests that the Court require the Debtors to pay all obligations existing at the

time of assumption in order to satisfy the Debtors' cure obligations under section 365 (the "Cure Obligations").

WHEREFORE, Verizon respectfully requests that (i) the Court enter an order directing payment in full of the Cure Obligations as a condition of the Debtors' assumption of the Verizon Contract; and (ii) grant Verizon such other and further relief as this Court may deem just and proper.

October 22, 2010.

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