EXHIBIT “A”

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:	)	**Chapter 11**
	)	
ETOYS, INC., et al.,	)	**Case No. 01-0706 (MFW)**
	)	
Debtors.	)	**Related To Docket Nos. 2145 and 2146**

DECLARATION OF BARRY GOLD IN OPPOSITION TO EMERGENCY MOTIONS FILED BY ROBERT K. ALBER (DOCKET NO. 2145) AND COLLATERAL LOGISTICS, INC. (DOCKET NO. 2146)

I, BARRY GOLD, do hereby declare as follows:

1. I am the former President and Chief Executive Officer of EBCI, Inc. (f/k/a eToys, Inc.) (the "Debtor" or "EBC"), and current Plan Administrator of EBC pursuant to the confirmed First Amended Consolidated Liquidating Plan of Reorganization dated August 5, 2002 (the "Liquidating Plan"). I am familiar with the matters set forth herein and submit this Declaration in opposition to the emergency motions filed by Robert K. Alber (purportedly on behalf of an "eToys Shareholder Group") (Docket No. 2145) (the "Alber Motion") and Collateral Logistics, Inc. (Docket No. 2146) (the "CLI Motion," collectively with the Alber Motion as the "Emergency Motions").

2. I have over thirty-eight (38) years experience in the retail industry, working as an employee and consultant for healthy and financially distressed companies both inside and outside of bankruptcy. During my career, I have distinguished myself as a competent retail specialist, with an ability to understand a company's business, accurately assess and value a company's retail inventory, reduce inventory "shrink" and maximize value for creditors and stake holders.

3. On March 7, 2001 (the "Petition Date"), the Debtor, along with its affiliated debtors EBC Distribution, LLC, f/k/a eToys Distribution LLC; PMJ Corporation and eKids, Inc.

(collectively with the Debtor as the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code").

4. It is my understanding that, following a disappointing 2000 holiday shopping season, the Debtors' existing management concluded that the Debtors could not continue and began the process of liquidating the Debtors' businesses and assets. I further understand that this liquidation continued into the Debtors' bankruptcy cases and that, from the outset of these cases, there was no prospect that the Debtors, or their businesses, would continue.

5. It is my understanding that on March 16, 2001, the UST appointed an Official Committee of Unsecured Creditors (the "Committee") in these cases and that the law firm of Traub, Bonacquist & Fox LLP ("TBF") was retained as counsel to the Committee, and later, as counsel to the Post Effective Date Committee ("PEDC") formed pursuant to the Liquidating Plan.

6. Before I was hired by the Debtor, the Debtors' existing management, with the assistance of the Committee, was successful in selling the bulk of the Debtors' assets, including the sale of a significant portion of the Debtors' inventory to KB Toys of Massachusetts, Inc. and Yellow Knife Trading Co., Inc.; the sale of a portion of the Debtors' owned furniture fixtures and equipment to Unique Industries, Inc., Skechers USA and Pennyworth Sales, Inc.; and the sale of certain of the Debtors' intellectual property to KB Consolidated, Inc. (the "IP Sale") Each of the foregoing sales were approved by the Court prior to my employment with the Debtor and, with the exception of the IP Sale, closed prior to my arrival.

7. It is my understanding that by May of 2001 the bulk of the Debtors' assets were sold (or under contract to be sold) and it was clear that existing management was not committed to stay with the Debtors beyond May of 2001 and that the Debtors were looking to hire someone

with my background to replace existing management and complete the Debtors' liquidation, wind down the Debtors' affairs and confirm a Plan. I also understand that Paul Traub, Esquire recommended me to the Debtors.

8. In May of 2001, I was interviewed by the Debtor's then president David Gatto, the Debtors' counsel and financial advisors, Susan Balaschak, Esquire of TBF and the Committee's financial advisors. Following the interview I was offered the job, and I started working for the Debtor on May 21, 2001. I was one of several candidates that were interviewed. Originally, I was hired as the Debtor's wind down coordinator and on July 23, 2001, I became the Debtor's President and Chief Executive Officer. A copy of my original employment agreement with the Debtor is attached hereto as Exhibit "1" and incorporated by reference herein.

9. Prior to 2000, I had limited dealings with Mr. Traub or TBF. Specifically, in 1995, I was a consultant to Witmark, Inc. ("Witmark"), a catalog showroom retailer, at the same time that TBF served as counsel to an *ad hoc* committee of trade creditors in connection with Witmark's out of court restructuring. I do not recall Mr. Traub having any involvement in the Witmark matter.

10. In 1998 and 1999, I served as Executive Vice President of Jumbo Sports, Inc. ("JSI"), a chapter 11 debtor in Florida. Mr. Traub and TBF served as special counsel to JSI during its bankruptcy case.

11. Finally, in 2000 I served as the Executive Vice President of Administration of Stage Stores, Inc. ("SSI"), a chapter 11 debtor in Texas at the same time that Mr. Traub and TBF served as special counsel to the company. While Mr. Traub and I had limited contact in the

foregoing cases, we developed a mutual respect and appreciation of the others' skills and contributions.

12. In late December of 2000, I had just completed my employment at SSI when Mr. Traub contacted me and suggested that we meet to discuss an idea he had for a business venture.

13. In approximately the second week of January 2001, Mr. Traub and I met and he explained his concept for a specialized retail consulting firm, with Mr. Traub providing industry contacts and restructuring expertise and me contributing my retail expertise. These discussions led to the formation of our company, Asset Disposition Advisors, LLC ("ADA"), which we registered as a Delaware limited liability company on April 26, 2001. Mr. Traub and I are equal, and the only, members of ADA.

14. Unrelated to the formation of ADA, in early 2001, TBF hired my individual consulting company, as a consultant in connection with TBF's work for OfficeMax and its engagement by a group of lenders to Drug Emporium, Inc.

15. Neither I nor Mr. Traub have employment contracts with ADA, neither of us are required to devote our full time and attention to ADA, and we are free to engage in other business ventures and transactions similar or different from that which would be performed by ADA. Mr. Traub does not control my employment or activities and I am free to accept assignments on matters that may be adverse to Mr. Traub, TBF and the clients they represent.

16. At the outset, I was hopeful, but unsure that ADA would work and I needed to earn an income. In return for my commitment to give ADA a try to see if it would be viable, Mr. Traub and I agreed that ADA would pay me $30,000 per month for four months, as Mr.

Traub attempted to mine his contacts and obtain assignments for ADA. Because ADA was without income, my payments were made by TBF, but treated as loans from TBF to ADA.

17. After a slow start, ADA has proven to be a successful venture and has provided value to many clients both in and out of bankruptcy. By October 22, 2001, ADA had repaid TBF in full for my start up payments.

18. ADA was not retained by the Debtor or any party in the Debtors' case and I have not shared my compensation in this case with ADA, Mr. Traub or TBF.

19. I did not discuss my involvement in the start-up ADA at the time I was interviewed by the Debtor, nor did I disclose my involvement in ADA in any documents filed with the Court in the Debtors' case. The fact that I did not disclose my involvement in ADA, however, was not an intentional omission. I simply did not give it any thought. From my perspective, I was being hired to finish a liquidating case and my relationship with TBF and ADA would have no influence or impact on my ability to perform and maximize value in this case for the benefit of the Debtors, its creditors and stakeholders. This is the same type of work that I had done eight or nine times before for other companies.

20. Prior to my participation in ADA, I was not familiar with the process for Court approval of professionals under Bankruptcy Code Section 327(a) and Bankruptcy Rule 2014 and I had never participated in that process.

21. In hindsight, I regret that I did not disclose my involvement with ADA and relationship with TBF, not because I believe that I did anything wrong, but because there was, and is, no reason not to make such disclosure.

22. I did not intentionally fail to disclose or attempt to hide my involvement in ADA or my relationship with TBF. My participation in ADA is not a secret, and both Mr. Traub and I

have actively marketing our involvement in ADA, worked in the retail industry as ADA and have disclosed our roles in ADA in affidavits and documents filed in numerous bankruptcy cases including **In re Homelife Corporation, et al.**, Case No. 01-2412 (JJF); **In re ZB Company, Inc., et al.**, Case No. 03-13672 (JBR); **In re KB Toys, Inc.**, Case No. 04-10120 (JBR) and **In re Bonus Stores, Inc.**, 03-12284 (MFW), a case pending before this same Court.

23. I my opinion, I have done an excellent job in this case. I have efficiently and effectively liquidated the Debtors' remaining assets, wound down the Debtors' operations, reconciled claims, pursued the Debtors' claims and causes of action and confirmed the Liquidating Plan. I have continued my efforts post-confirmation as the Plan Administrator. My qualifications to serve as Plan Administrator were disclosed in the declaration filed in support of confirmation of the Liquidating Plan, a copy of which is attached hereto as Exhibit "2" and incorporated by reference herein (the "Plan Declaration"). Again, I regret that the Plan Declaration does not include a disclosure of my involvement in ADA, as there was no reason not to include this information. I simply did not think to include it.

24. Although I interacted with TBF lawyers on this case, I can recall only a few occasions in the case when Mr. Traub was involved.

25. In the two years since the Liquidating Plan was confirmed, I believe my efforts to efficiency wind down this case have been successful. Specifically, all allowed secured creditors, administrative creditors and priority creditors will be paid in full and all allowed unsecured claims will receive a distribution exceeding 16%, not including proceeds from the litigation pending against Goldman, Sachs & Co. ('Golden Sachs") related to the Debtors' pre-petition initial public offering of common stock of eToys, Inc. (the "IPO Litigation").

26. At all times in this case, I have acted independently and in the best interest of the Debtors, their estate, their creditors and all stake holders.

27. Unfortunately, the Debtor's stockholders, who are approximately $200 million "out of the money," will receive no distribution in this case, unless the Debtor obtains a significant recovery in the IPO Litigation.

27. At the time I was hired, the Debtor's corporate counsel had informal discussions with the Securities and Exchange Commission ("SEC") and was told that the Debtor's request for a "no action letter" to excuse its filing of a 10k report would be denied. Accordingly, the Debtors' financial advisors began to assemble the information necessary to prepare the 10k report. However, before the 10k report was completed, corporate counsel advised me that, given the then existing circumstances of the bankruptcy case, the Debtor may be able to satisfy the SEC by filing 8k reports which included the monthly operating reports ("MORs") in lieu of filing a 10k report. I accepted counsel's advice, from that point forward filed form 8ks with attached MORs, and discontinued work on the 10k report. Although the Debtor's financial advisors immediately stopped work on the 10k report, they did bill the estate for the work they had performed. In these circumstances, I believed it was appropriate for the Debtor's financial advisors to be paid for the work they had done, even though the 10k report was not finalized and filed. In my recollection, much of the work done on the 10k report was otherwise necessary for the 8k reports and/or the Debtors' MORs. In any event, my recollection is that the total costs for such services was below $100,000.

29. Upon my arrival at the Debtor I tried to work with Collateral Logistics, Inc. ("CLI") and Steven Haas, but they were extremely difficult to work with. CLI did not do a good job, and much of my original efforts were spent on things that CLI failed to do, or failed to do

correctly. Most of the Debtors' employees and professionals who worked with Mr. Haas had difficultly communicating with him. Further, I, and other employees and professionals of the Debtor, discovered facts to suggest that Mr. Haas was over billing the Debtor's estate for expenses and promoting and supporting sale transactions in which he had a personal interest. The Emergency Motions does not change my position that the CLI Claim must be denied.

30. I am not aware that any representative of Goldman Sachs sits on the Board of Directors of R.R. Donnelly & Son Co. ("RRDS"). In any event, RRDS was no longer a member of the PEDC at the time of the preference settlement with Goldman Sachs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my best of my knowledge, information and belief.

Dated: January 25, 2005

Barry Gold

EXHIBIT “1”

www.eToys.com
12200 W. Olympic Boulevard
Los Angeles, CA 90064
T 310.998.6000 F 310.998.6100

June 11, 2001

Mr. Barry Gold
c/o EBC I, Inc. f/k/a eToys, Inc.
12200 West Olympic Boulevard
Los Angeles, CA 90064

Dear Barry:

This letter will serve to confirm the terms of your employment with EBC I, Inc., f/k/a eToys Inc. (the "Company").

Subject to the further terms of this letter, your employment with the Company shall be deemed to have commenced as of May 21, 2001 (the "Commencement Date") and shall terminate in accordance with the provisions of this paragraph. As of the Commencement Date, your position with the Company shall be as Wind Down Coordinator and you shall retain such position until (i) the approval of your employment as an officer of the Company by order of the U.S. Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), (ii) the retention by the Company of a directors' and officers' liability insurance policy with coverage satisfactory to you and the Company (the "D&O Insurance"), and (iii) approval of the Company's retention of such D&O Insurance by the Bankruptcy Court; provided, however, that if the conditions in the preceding clauses (i), (ii) and (iii) have not been satisfied on or before July 10, 2001, then you may terminate your employment with the Company upon three (3) days prior written notice to the Company. If, on or before July 10, 2001, the conditions in clauses (i), (ii) and (iii) of the preceding sentence have been satisfied or the conditions in clauses (ii) and (iii) have been satisfied and you have waived the condition in clause (i), then you shall be appointed as President and Chief Executive Officer of the Company and your employment with the Company will be for an initial term ending May 20, 2002. Such initial term shall automatically continue until and unless terminated by either you or the Company, with or without cause, upon giving the other party at least 30 days prior written notice.

During the term of your employment, your base salary will be as follows:

- $40,000 per month for your first two months of employment;
- $20,000 per month for your next three months of employment; and
- $12,500 per month for each of your remaining months of employment.

Your base salary shall be payable in regular weekly installments in accordance with the Company's general payroll practices and shall be subject to customary withholding. The Company shall also reimburse you for all reasonable expenses incurred by you in the course of performing your duties as Wind Down Coordinator and/or President of the Company, subject to the Company's requirements with respect to the reporting and documenting of such expenses.

In addition to the base compensation referred to in the preceding paragraph, during your term of employment with the Company, you shall be entitled to participate in the Company's medical plans generally made available to senior executive officers of the Company, at the expense of the Company. The Board of Directors of the Company may, in its sole discretion and subject to approval by order of the Bankruptcy Court, award you a bonus upon termination of your employment with the Company, in such amount as is determined by the Board of Directors, consented to by the Official Committee of Unsecured Creditors and/or approved by order of the Bankruptcy Court.

We very much look forward to your employment with the Company. Assuming that the foregoing accurately reflects our mutual understanding concerning the terms of your continued employment, I would appreciate your signing and returning the enclosed counterpart of this letter.

Very truly yours,

David Gatto, Director and President of
EBC I, Inc., f/k/a eToys Inc.

CONSENTED TO/AGREED:

Barry Gold

Barry Gold

Date: June 12, 2001

230488

EXHIBIT “2”

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
ETOYS, INC., et al.,	)	Case Nos. 01-0706 (MFW)
	)	through 01-0709 (MFW)
Debtors.	)	
	)	

DECLARATION OF BARRY GOLD IN SUPPORT OF CONFIRMATION OF FIRST AMENDED CONSOLIDATED LIQUIDATING PLAN OF REORGANIZATION OF EBC I, INC., F/K/A ETOYS, INC., AND ITS AFFILIATED DEBTORS AND DEBTORS-IN-POSSESSION (REGARDING D.I. 1142)

I, BARRY GOLD, hereby declare as follows:

1. I am the President and Chief Executive Officer of EBC I, Inc. (f/k/a eToys, Inc.), debtor and debtor-in-possession in the above-captioned cases ("eToys" and, collectively with its affiliated debtors and debtors in possession, the "Debtors"). I have held this position since May 21, 2001. Prior to serving as EBC's President and Chief Executive Officer, I served as Executive Vice President of Stage Stores, Inc., and Executive Vice President of JumboSports, Inc. and I have performed several turnaround, restructuring and asset liquidation engagements on a consultancy basis.

2. On March 7, 2001 (the "Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Since the Petition Date, the Debtors have continued in possession of their properties and the management of their business as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Debtors seek to confirm the First Amended Consolidated Liquidating Plan Of Reorganization Of EBC I, Inc., F/K/A eToys, Inc., And Its Affiliated Debtors And

Debtors-In-Possession (as it may be further amended, modified or supplemented, the "Plan"), at the hearing scheduled for October 16, 2002 at 10:30 a.m. (the "Confirmation Hearing").

4. I submit this Declaration in support of confirmation of the Plan. Any capitalized term not expressly defined herein shall have the meaning set forth in the Plan or in the Disclosure Statement with Respect to the First Amended Consolidated Liquidating Plan Of Reorganization Of EBC I, Inc., F/K/A eToys, Inc., And Its Affiliated Debtors And Debtors-In-Possession (the "Disclosure Statement"). Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, or my opinion, based upon my experience and knowledge of the Debtors' operations and financial condition. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this Declaration.

CONFIRMATION REQUIREMENTS

A. Debtors Have Complied With Bankruptcy Code Section 1129(a)(1)

I have been advised that section 1129(a)(1) of the Bankruptcy Code requires that a plan comply with the "applicable provisions" of the Bankruptcy Code. In determining whether the Plan complies with section 1129(a)(1), the Court must consider section 1123(a) of the Bankruptcy Code, which sets forth certain items that a plan must contain and section 1122 of the Bankruptcy Code, which governs classification of claims.

1. Classification Of Claims Sections 1123(a)(1) and 1122

Except for Administrative Claims, Fee Claims and Priority Tax Claims, which I have been advised are not required to be classified, all Claims against or Interests in the Debtors

are classified in Article IV of the Plan. Article IV of the Plan designates classes of Claims and Interests as follows:

(a) Unimpaired Classes Of Claims (not entitled to vote on the Plan; deemed to have accepted the Plan):

Class 1: Priority Non-Tax Claims
Class 2: Secured Claims
Class 3: Convenience Claims

(b) Impaired Classes Of Claims (entitled to vote on the Plan):

Class 4A: Senior Unsecured Claims
Class 4B: Note Claims
Class 4C: Other Unsecured Claims

(c) Impaired Classes Of Claims Or Interests (not entitled to vote on the Plan; deemed to have rejected the Plan):

Class 5: Intercompany Claims
Class 6: Interests

5. The Debtors consulted with their professions and with the Committee and its professionals and considered a number of factors in classifying Claims and Interests. For example, the Debtors considered: (i) whether Claims were secured or unsecured; (ii) whether unsecured Claims were priority or non-priority; (iii) whether the claims were subject to any contractual, statutory or other subordination; and (iv) other factors characterizing the relationship of the Claim to the property of the Debtors' estates.

6. All Claims or Interests within each Class are substantially similar to the other Claims or Interests in each such Class.

7. The Plan's classification structure recognizes the differing legal and equitable rights of creditors versus Interest holders, secured versus unsecured Claims, and priority versus non-priority Claims. Additionally, the Plan's classification structure accounts for

the large number of small, retail claims for amounts totaling $50 or less represented in the unimpaired Convenience Claims class.

2. Specification Of Unimpaired Classes Section 1123(a)(2)

8. Sections 4.2 through 4.5 of the Plan specify those Classes of Claims that are Unimpaired under the Plan. These Sections state that Class 1 (Priority Non-Tax Claims), Class 2 (Secured Claims) and Class 3 (Convenience Claims) are Unimpaired.

3. Treatment Of Impaired Classes Section 1123(a)(3)

9. Sections 4.6 through 4.10 of the Plan specify the treatment of any class of claims or interests that is Impaired under the Plan. Under the Plan, Class 4A (Senior Unsecured Claims), Class 4B (Note Claims), Class 4C (Other Unsecured Claims), Class 5 (Intercompany Claims) and Class 6 (Interests) are designated as Impaired.

4. Equal Treatment Within Classes Section 1123(a)(4)

10. I am informed that in the context of Chapter 11, "unfair discrimination" means that a plan proponent may not segregate similar Claims or Interests into separate Classes and provide disparate treatment for those Classes. The Plan provides that holders of Claims or Interests in all Classes will receive the same treatment within each such Class or such treatment as to which the Debtors and such holder have agreed upon in writing.

5. Means For Implementation Section 1123(a)(5)

11. Article V of the Plan, "Implementation," sets forth numerous provisions to facilitate implementation of the Plan. Such means for implementation include, among other things, (a) the substantive consolidation of the Debtors' Estates, (b) the merger of the Affiliate Debtors into eToys and the continued corporate existence of eToys, (c) the appointment of a Plan

Administrator, (d) the creation of the post-Effective Date Committee of Unsecured Creditors (the "PEDC") and (e) the cancellation of the Debtors' existing debt and equity securities.

12. Article V and the other provisions of the Plan provide clear means for implementation of the Plan, thereby satisfying the requirements of the Bankruptcy Code. The following are among the most significant means for implementation of the Plan:

(a) Substantive Consolidation

13. The Plan provides that it shall serve as, and be deemed to be, a motion for entry of an order substantively consolidating the Debtors' Chapter 11 Cases for the purposes of all actions associated with the confirmation and consummation of the Plan. Under the terms of the Plan's substantive consolidation provisions, (i) all Intercompany Claims by and among the Debtors shall be eliminated; (ii) all assets and liabilities of the Debtors shall be merged or treated as though they were merged (except for the purpose of determining which liabilities are "Senior Debt" under Section 1.1 of the Indenture); (iii) all prepetition cross-corporate guarantees of the Debtors shall be eliminated; (iv) all Claims based upon guarantees of collection, payment or performance made by one or more Debtors as to the obligations of another Debtor or of any other Person shall be discharged, released and of no further force and effect; (v) any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors shall be deemed to be one obligation of the consolidated Debtors; (vi) any Claims filed or to be filed in connection with any such obligation and such guarantees shall be deemed one Claim against the consolidated Debtors; and (vii) each and every Claim filed in the individual Chapter 11 Case of any of the Debtors shall be deemed filed against the consolidated Debtors in the consolidated Chapter 11 Cases and shall be deemed a single obligation of all of the Debtors under the Plan on and after the Confirmation Date; provided, however, that nothing in Section 6.1 of the Plan (i)

shall cause any Claim that, but for the substantive consolidation of the Estates, would not be "Senior Debt" as defined in Section 1.1 of the Indenture to be treated as a Senior Unsecured Claim under this Plan and (ii) shall cause any Claim that, but for the substantive consolidation of the Estates, would be "Senior Debt" as defined in Section 1.1 of the indenture to be excluded from treatment as a Senior Unsecured Claim under this Plan.

14. It is my understanding that courts typically consider the following factors, among others, in determining whether substantive consolidation is warranted: (i) whether the debtors are closely entangled; (ii) whether the entanglement of business affairs of related debtor entities is so extensive that the cost of disentangling them would outweigh the benefit to creditors; (iii) difficulty in segregating individual debtors' assets and liabilities; (iv) existence of inter-corporate guarantees; (v) presence or absence of consolidated financial statements; (vi) unity of interests and ownership; and (vii) failure to observe corporate formalities.

15. Based on my involvement with the management and the day-to-day affairs of the Debtors, I have knowledge of significant interrelationships among the Debtors in these Chapter 11 Cases. I believe that the facts and circumstances surrounding the historical business operations of the Debtors support substantive consolidation in these Chapter 11 Cases. The Debtors historically have issued consolidated financial statements and filed consolidated tax returns. EBC Distribution, LLC, f/k/a eToys Distribution, LLC, PMJ Corporation and eKids, Inc. are wholly-owned subsidiaries of eToys. The Debtors currently have and in the past have had common officers and directors; they have shared key employees and outside professionals, including, but not limited to, employees of eToys who performed human resources, legal, and risk management services for the benefit of all the Debtors and accounting firms, law firms and consultants who rendered services to all of the Debtors.

16. In addition, the Debtors have shared a centralized cash management system. Under this system, virtually all cash was centralized within eToys and funds were moved into and through eToys on an "as needed" basis to meet the short and long term cash requirements of all of the Debtors. As an outgrowth of this consolidated cash management system, intercompany loans routinely were made by and between eToys and eToys Distribution in the ordinary course of the Debtors' business. eToys and eToys Distribution were co-borrowers under the prepetition Credit Facility and obligations thereunder were guaranteed by each of the other Affiliate Debtors and used to fund the operations of all of the Debtors. Likewise, many of the Debtors' vendors and lessors under operating and capital leases entered into by the Debtors required intercorporate guarantees between Debtors eToys and eToys Distribution.

17. In my judgment, the recovery by creditors of eToys will not be materially diminished by inclusion of claims asserted only against other Debtors, and the recovery of creditors of the other Debtors will not be materially diminished by inclusion of claims asserted against eToys. The administrative costs associated with the allocation of liabilities between and among the Debtors would likely exceed the benefits of non-consolidation. The prejudice that would result from a failure to consolidate would be significant — and little, if any, benefit to any creditor would result from not substantively consolidating these estates for purposes of the confirmation and consummation of the Plan. Thus, in my view, substantive consolidation is appropriate and necessary in the instant case.

(b) Merger of Affiliate Debtors Into eToys; Continued Corporate Existence of eToys

18. On the Effective Date or as soon thereafter as practicable, (a) the members of the board of directors of each of the Affiliate Debtors shall be deemed to have resigned, (b) each of the Affiliate Debtors shall be deemed merged with and into eToys and (c) the Chapter 11

Cases of the Affiliate Debtors shall be closed. eToys shall continue to exist as the Reorganized Debtor after the Effective Date for the limited purposes of distributing all of the assets of the Debtors' Estates and complying with and fulfilling certain other obligations more fully detailed in Section 5.1(a) of the Plan.

(c) Appointment of Plan Administrator

19. Pursuant to the Plan, the Creditors' Committee, with the consent of the Debtors shall designate the Plan Administrator. Subject to the ultimate supervisory authority of the PEDC, the rights, powers and duties of eToys necessary to carry out its responsibilities under the Plan shall be exercisable by the Plan Administrator on behalf of the Reorganized Debtor and the Estates.

20. The Creditors' Committee has designated me to Serve as the Plan Administrator. The Debtors have consented to that designation. Subject to the confirmation of the Plan, the execution of the Plan Administrator Agreement substantially in the form filed in the Plan Supplement and the occurrence of the Effective Date under the Plan, I am prepared to accept the appointment as Plan Administrator. I believe that I am well qualified to continue serving the Reorganized Debtor in the position of Plan Administrator based on, among other things, the familiarity with the Debtors' businesses and operations, assets and liabilities, pending litigation and other matters pertinent to the implementation of the Plan that I have acquired while serving as an officer and director of the Debtors since my appointment to those positions. Additionally, I have substantial prior experience both in turnaround matters and in the liquidation and winding up retail businesses, including most recently in the Chapter 11 cases of Homelife Corporation and its affiliated debtors and debtors-in-possession pending before this Court.

(d) Creation Of The Post-Effective Date Committee (PEDC)

21. On the Effective Date, the Creditors' Committee shall be dissolved and its members shall be deemed released of all their duties, responsibilities and obligations in connection with the Chapter 11 Cases or the Plan and its implementation.

22. Also on the Effective Date, the PEDC, consisting of three members of the Creditors' Committee who shall be appointed by the Creditors' Committee, shall be formed and constituted. The PEDC shall have the duties, powers authority specified in the Plan, including the following: (i) to make decisions, without further Court approval but with the consent of the Plan Administrator (such consent not be unreasonably withheld), regarding the retention or engagement of professionals, employees and consultants by the PEDC; (ii) to object to any Claims (Disputed or otherwise), other than a Committee Member Matter, including as described in Section 9.1 of the Plan, and to compromise or settle any Claims, other than a Claim that if objected to would be a Committee Member Matter, in accordance with the terms and conditions specified in the Plan; (iii) to prosecute and/or settle any Litigation Claims, other than any Committee Member Matter, and exercise, participate in or initiate any proceeding before the Bankruptcy Court or any other court of appropriate jurisdiction and participate as a party or otherwise in any administrative, arbitrative or other nonjudicial proceeding and litigate or settle such Litigation Claims on behalf of the Debtors or the Reorganized Debtor, as appropriate, and pursue to settlement or judgment such actions; (iv) in accordance with 5.3(e) of the Plan, to appoint a successor Plan Administrator; (v) if the Plan Administrator determines, in the exercise of the Plan Administrator's discretion, that he has a disabling conflict of interest with respect to the settlement of Claims, the resolution or prosecution of Litigation Claims or any other matter, the PEDC shall exercise the Plan Administrator's rights and authorities with respect to such matter; and (vi) to review and comment upon any final accounting prepared by the Plan

Administrator in respect of the Estates at least twenty (20) days prior to the Filing of such final accounting with the Bankruptcy Court. The PEDC shall remain in existence until such time as the final distributions under the Plan have been made by the Reorganization Debtor.

(e) Cancellation Of Debt And Equity Securities

23. Except as otherwise provided in the Plan and in any contract, instrument or other agreement or document created in connection with the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to Article V of the Plan, all Interests in any of the Debtors, the Notes and any other note, bond, indenture or other instrument or document evidencing or creating any indebtedness or obligation of any of the Debtors shall be deemed canceled and of no further force and effect.

(f) Other Plan Terms

24. The provisions in Articles VII and VIII of the Plan regarding Releases, Injunctions, Indemnification, Exculpation and Treatment of Executory Contracts and Unexpired Leases are operative terms of the Debtors' Plan.

25. Rule 9019 Settlements and Releases. The Plan provides, pursuant to Bankruptcy Rule 9019, and in consideration for the classification, Distribution and other benefits provided under the Plan, that the provisions of the Plan are a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan, including, without limitation, any Claims and controversies by and among all Holders of Senior Unsecured Claims, all Holders of Note Claims, the Indenture Trustee and the Debtors related to the construction and enforcement of Article Twelve of the Indenture and any Claim or controversy by or among such parties related to any alleged priority or subordination in respect to any Distributions received on account of such Senior Unsecured Claims and such Note Claims.

26. I am informed that certain Holders of Note Claims have asserted defenses to the validity and enforcement of the subordination provisions contained in Article Twelve of the Indenture and have raised other challenges to the rights of Holders of Senior Unsecured Claims to receive Distributions from the Estates' assets in priority over the Holders of Note Claims. In my judgment, formed after consultation with the Debtors' professionals and with the professionals for the Creditors' Committee, were these positions to be actively contested, the resultant litigation could, at minimum, substantially and prejudicially delay Distributions to both the Holders of Senior Unsecured Claims and the Holders of Note Claims. Given that, under the terms of the proposed settlement incorporated in the Plan, anticipated Distributions appear more than adequate to make Distributions to the Holders of Senior Unsecured Claims that will substantially, and perhaps even completely, satisfy their Claims, the Debtors, in the exercise of their judgment under Bankruptcy Rule 9019, have concluded that the settlement is fair and reasonable and in the best interests of their Estates and creditors.

27. Debtor Releases. The Plan contemplates that each Debtor waives, releases and discharges all Released Parties (as defined in Section 1.85 of the Plan) from any claim (as such term "claim" is defined in section 101(5) of the Bankruptcy Code) arising from the Petition Date through the Effective Date related to such party's acts or omissions to act (including, but not limited to, any claims arising out of any alleged fiduciary or other duty) as an officer, director, employee, agent, representative, attorney, accountant, financial advisor or other professional of each relevant Debtor or affiliate thereof, in that capacity. Any such release shall additionally act as an injunction against any Holder of a Claim against or Interest in any Debtor from commencing or continuing any action, employment of process or act to collect, offset or recover any claim that is so released.

28. The Debtor Releases are appropriate because the beneficiaries of such releases have contributed substantially to the Debtors' reorganization and efforts to maximize value for their creditors. Much of the value to be distributed under the Plan depends on their efforts to date. It has taken thousands of hours and the hard work of all such beneficiaries to reach confirmation of the Debtors' Plan. Also, the PEDC, the Plan Administrator, certain of the Debtors' officers and employees and various professionals will continue to dedicate their efforts to ensuring the success of the Debtors' Plan. Indeed, the Debtors' success in reducing unwarranted claims and maximizing Distributions to creditors is dependent, in part, on the cooperation and access to historical knowledge of the Debtors' businesses and operations and assets and liabilities possessed by certain of the Released Parties. In light of the foregoing, I believe that the beneficiaries of the Debtor Releases have offered substantial consideration for such releases.

29. Injunction. It is an integral element of the Plan that the Confirmation Order provide, among other things, that all Persons who have held, hold or may hold Claims against or Interests in any of the Debtors are, with respect to any such Claims or Interests, permanently enjoined from and after the Confirmation Date from taking any of the following actions (other than actions to enforce any rights or obligations under the Plan): (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Estates, the Reorganized Debtor, the Plan Administrator or any of their property; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order

against the Debtors, the Plan Administrator or any of their property; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Estates, the Reorganized Debtor, the Plan Administrator or any of their property; (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Debtors, the Estates, the Reorganized Debtor, the Plan Administrator or any of their property, except as contemplated or allowed by the Plan; (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; and (vi) prosecuting or otherwise asserting any right, claim or cause of action released pursuant to the Plan.

30. Additionally, the Confirmation Order shall provide, among other things, that all Holders of Senior Unsecured Claim, all Holders of Note Claims and the Indenture Trustee are, with respect to such Senior Unsecured Claims and such Note Claims, permanently enjoined from and after the Confirmation Date from commencing or prosecuting any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities related to the construction and enforcement of Article Twelve of the Indenture or any alleged priority or subordination in respect of Distributions made on account of such Senior Unsecured Claims and Note Claims.

31. Indemnification. Notwithstanding anything to the contrary in this Plan, the obligation to indemnify the Qualified Debtor Representatives with respect to all present and future actions, suits and proceedings against such indemnified Persons, based upon any act or omission related to service with, for or on behalf of the Debtors at any time during the period from the Petition Date through the Effective Date, in all cases net of applicable insurance proceeds, other than acts constituting willful misconduct or gross negligence shall continue after

the Effective Date; provided, however, that unless otherwise ordered by the Bankruptcy Court (which order may be entered at any time) no entity shall be required to reserve for any such obligations and such obligations shall be terminated and discharged upon the closing of these Cases.

32. Exculpation. Under the Plan, the Released Parties (in their capacity as such, and specifically excluding any member of the Creditors' Committee as a vendor of, or in similar relationship or capacity to, the Debtors) and any property of or professionals retained by such parties, or direct or indirect predecessor in interest to any of the foregoing Persons, shall not have or incur any liability to any Person for any act taken or omission occurring on or after the Petition Date in connection with or related to the Debtors, the Plan Administrator or the Chapter 11 Cases, including but not limited to (i) formulating, preparing, disseminating, implementing, confirming, consummating or administrating the Plan (including soliciting acceptances or rejections thereof); (ii) the Disclosure Statement or any contract, instrument, release or other agreement or document entered into or any action taken or omitted to be taken in connection with the Plan; or (iii) any Distributions made pursuant to the Plan, except for acts constituting willful misconduct or gross negligence, and in all respects such parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

33. Exculpation provisions of the type contained in the Plan are consistent with public policy and section 1125(e) of the Bankruptcy Code. By encouraging parties to participate actively and fully in chapter 11 cases such provisions promote consensual resolutions. In carving out liability for willful misconduct and gross negligence, they make it clear that what is sought is responsible participation, not mere participation, in the cases. Accordingly, the Plan's exculpation provisions are necessary and appropriate to the Debtors' reorganization.

34. Treatment of Executory Contracts and Leases. On the Effective Date, all executory contracts and unexpired leases of the Estates shall be rejected by the Debtors pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code, except for those executory contracts and unexpired leases identified or to be identified on the Executory Contracts Schedule filed with the Plan Supplement as being assumed or assumed and assigned by the Debtors in accordance with the provisions of Article VIII of the Plan.

6. Nonvoting Equity Securities Section 1123(a)(6)

35. I understand that section 1123(a)(6) of the Bankruptcy Code requires inclusion of provisions in charters of the entities described therein that (i) prohibit the issuance of nonvoting equity securities and (ii) provide for an "appropriate distribution" of voting power. Neither the Plan nor the Reorganized Debtors' Amended and Restated Certificate of Incorporation and By-Laws, the forms of which have been filed with the Court in the Plan Supplement, provide for the issuance of any new securities. The Plan therefore satisfies section 1123(a)(6) of the Bankruptcy Code to the extent, if any, that it is applicable here.

7. Selection Of Officers And Directors Section 1123(a)(7)

36. I understand that section 1123(a)(7) of the Bankruptcy Code requires that the Plan's provisions with respect to the manner of selection of any director, officer or trustee, or any successor thereto, be "consistent with the interests of creditors and equity security holders and with public policy . . . ." The Plan satisfies this requirement.

37. The Plan and Plan Administrator Agreement provide that as of the Effective Date the Plan Administrator shall serve as the sole officer and director of the Reorganized Debtor. As indicated above, the Creditors' Committee with the consent of the Debtors has designated me as the Plan Administrator. Subject to the ultimate supervisory

authority of the Plan Administrator shall have the management, control and operational authority on and after the Effective Date.

38. This manner of selection satisfies section 1123(a)(7) of the Bankruptcy Code because it effectively place the selection of the directors and management of the Reorganized Debtor in the hands of the Creditors' Committee, whose constituencies are the largest economic stakeholders in and against the Debtors' assets. This manner of selection is consistent with long-standing corporate law precepts and is not inimical to public policy or the interests of creditors and equity security holders.

B. Debtors Have Complied With Bankruptcy Code Section 1129(a)(2)

39. The Debtors have operated as debtors-in-possession under sections 1107 and 1108 of the Bankruptcy Code since the Petition Date and, to the best of my knowledge, have complied in all material respects with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, unless otherwise permitted by orders of this Court.

40. To the best of my knowledge, the Debtors also have complied with applicable provisions of the Bankruptcy Code and Bankruptcy Rules and applicable non-bankruptcy law with respect to their postpetition disclosure and solicitation of acceptances to the Plan.

41. The Plan was solicited pursuant to this Court's Solicitation Procedures Order, which, among other thing., established certain procedures for soliciting votes on the Plan and providing notice of the Confirmation Hearing to the Debtors' creditors, equity security holders and other interested parties in these cases.

42. I understand that affidavits of mailing demonstrating compliance with sections 105 and 1125 of the Bankruptcy Code, the Bankruptcy Rules, the local rules of the

Bankruptcy Court and the Solicitation Procedures Order with respect to the transmittal of the Disclosure Statement (including the Plan) and related solicitation materials, have been filed with the Court.

C. Plan Proposed In Good Faith Section 1129(a)(3)

43. I understand that only a Plan that has been proposed in good faith and not by any means forbidden by law may be confirmed. I understand that a Plan is filed in "good faith" if it has a legitimate and honest purpose and presents a reasonable hope of success.

44. The Plan represents extensive arms' length negotiations among the Debtors, the Creditors' Committee, and other significant parties in interest, as well as their advisors. The Debtors proposed the Plan in good faith in order to achieve the greatest distribution for their unsecured creditors, and to avoid delay and unnecessary costs in making such distributions. The Plan was proposed in good faith in so far as it is the logical and best method for administering the consideration received by the Debtors from their sale of substantially all their assets. Moreover, the Reorganized Debtor will have no significant financial payment obligations (other than obligations to administer and effectuate the distributions required under the Plan) following the Effective Date. In these circumstances, I believe that the Debtors have demonstrated their good faith in proposing and pursuing confirmation of the Plan.

D. Payments For Services And Expenses Section 1129(a)(4)

45. It is my understanding and belief that any payment made, or to be made, by the Debtors for services or costs and expenses in, or in connection with the Plan and incident to these Chapter 11 Cases, has been approved by, or is subject to the approval of the Court as reasonable. For example, I understand that fees incurred by Professionals in these cases are

subject to Court approval under sections 330 and 331 of the Bankruptcy Code, and that the Plan provides a mechanism for Court approval of all Professional Fee Claims.

E. Post-Confirmation Directors, Officers, And Insiders Section 1129(a)(5)

46. I understand that a Plan must identify the individuals who will hold positions with the reorganized companies after confirmation of the Plan. In the Plan Administrator Agreement filed as an exhibit to the Plan Supplement, the Debtors disclosed that the Plan Administrator will serve as the sole officer and director of the Reorganized Debtor. As noted above, subject to confirmation of the Plan, execution of the Plan Administrator Agreement and the occurrence of the Effective Date, I will serve as the Plan Administrator and, therefore, also be the sole officer and director of the Reorganized Debtor. Accordingly, it is my belief that the requirements of section 1129(a)(5) have been satisfied.

F. Rate Changes Section 1129(a)(6)

47. It is my understanding and belief that section 1129(a)(6) of the Bankruptcy Code is inapplicable in the instant case.

G. Best Interests Of Creditors Section 1129(a)(7)

48. Based upon my familiarity with the Plan's treatment of Impaired Classes of Claims and Interests, I believe that each holder of an Impaired Claim or Interest that has not voted to accept the Plan will receive or retain property under the Plan of a value, as of the Effective Date, that is not less than the amount of property such holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on that date.

49. In these cases, substantially all of the Debtors assets were liquidated. Therefore, the Debtors' estates currently consist of the remaining proceeds from the sale and

minimal other assets. Accordingly, a chapter 7 liquidation would have the same goal as the current Plan — the liquidation of the Debtors' remaining assets and the distribution of sale proceeds to creditors.

50. Even though the Plan and a chapter 7 liquidation would have the same goal, I believe a liquidation under chapter 7 would be significantly more expensive than under the current Plan — thereby providing a smaller return to unsecured creditors. Among other reasons a chapter 7 liquidation would tend to be more expensive than the current chapter 11 process because:

(a) In the event of a conversion to chapter 7, creditors of the Estates would have to bear the additional layer of administrative expenses in the form of chapter 7 trustee statutory fees which likely would significantly exceed the fees and expenses that the Debtors expect will be incurred by the Plan Administrator.

(b) The chapter 7 trustee likely would retain new professionals to assist with the liquidation of the Estates (including with respect to objecting to disputed claims and interests). Such new professionals would be unfamiliar with the Debtors and their Chapter 11 Cases. The trustees and the new professionals would have to expend considerable time and effort to familiarize themselves with the Debtors' affairs and the issues implicated by such liquidation, thereby duplicating the substantial efforts made to date by the Debtors and their professionals. Therefore, I believe that the fees and expenses of a chapter 7 trustee and its professionals would materially exceed the fees and expenses expected to be incurred by the Plan Administrator and professionals to be retained by the Plan Administrator and the Estates.

(c) On average, I believe that the Litigation Claims and other items would be settled for higher amounts under the Plan and that recoveries would be collected

at lower rates in a chapter 7 liquidation, primarily because the chapter 7 trustee would lack any institutional knowledge of the facts and circumstances underlying such claims. Additionally, because the chapter 7 trustee would be statutorily obligated to act more expeditiously than the Plan Administrator would be in closing the Estates, there could be additional pressure on the chapter 7 Trustee to settle, rather than litigate, various Litigation Claims on terms less favorable than the Plan Administrator could achieve.

51. Thus, it is my belief that each non-consenting member of an Impaired Class will receive under the Plan not less than it would receive in a chapter 7 liquidation.

H. Acceptance By Impaired Classes Section 1129(a)(8)

52. Based upon my review of the voting report filed with the Court and submitted to me by Bankruptcy Management Corporation ("BMC"), the Debtors' claims, noticing and balloting agent, it is my understanding that the Impaired Classes entitled to vote on the Plan (Classes 4A, 4B and 4C) have voted to accept the Plan. The Holders of Claims in Class 5 (Intercompany Claims) and Class 6 (Interests) will neither receive nor retain any property under the Plan and, therefore, are deemed to have rejected the Plan.

I. Treatment Of Certain Priority Claims Section 1129(a)(9)

53. I understand that section 1129(a)(9) of the Bankruptcy Code contains a number of requirements concerning the payment of priority claims. Sections 3.1, 3.2, 4.2 and 4.3 of the Plan satisfy the requirements of section 1129(a)(9) by providing for payment in full of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims in accordance with the express terms of 1129(a)(9) or by providing such other treatment as to which the Debtors and such holders have agreed upon in writing.

J. Acceptance By At Least One Impaired Class Section 1129(a)(10)

54. Based upon my review of the voting report and other information supplied to me by BMC, I understand that Classes 4A, 4B and 4C have voted to accept the Plan in the requisite majorities, thereby satisfying section 1129(a)(10) of the Bankruptcy Code.

K. Feasibility Section 1129(a)(11)

55. I understand that section 1129(a)(11) allows confirmation of a plan if "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." In this case, the Plan proposed by the Debtors does provide for the liquidation of the Debtors.

56. As such I understand that the Plan is feasible if it offers the Debtors a reasonable probability of success. I believe that the Plan satisfies this standard because the proceeds realized by the Debtors in the sale of their assets will be sufficient to satisfy the Reorganized Debtor's post-Effective Date obligations. Apart from its distribution obligations to holders of Allowed Claims and the payment of Administrative Claims, the Reorganized Debtor will have few financial obligations. Thus, there is a reasonable probability that the provisions of the Plan will be performed and the Plan therefore; satisfies section 1129(a)(11).

L. Payment Of Certain Fees Section 1129(a)(12)

57. To the best of my knowledge and belief, all fees payable under 28 U.S.C. § 1930 have been paid or will be paid on the Effective Date of the Plan and all such fees arising after the Effective Date but before closing, dismissal or conversion will be paid from funds otherwise available for distribution under the Plan.

M. Continuation Of Retiree Benefits Section 1129(a)(13)

58. It is my understanding that section 1129(a)(13) of the Bankruptcy Code requires that a plan provide for the continuation of retiree benefits, at levels established pursuant to section 1114 of the Bankruptcy Code, for the duration of the period that the debtor has obligated itself to provide such benefits. To the best of my knowledge and belief, the Debtors have no such obligations. Accordingly, the requirements of section 1129(a)(13) of the Bankruptcy Code do not apply to the plan.

N. Cramdown Is Appropriate For Non-Accepting Classes Section 1129(b)

59. As stated earlier, although Classes 5 and 6 are deemed to have rejected the Plan, the Debtors, as Plan proponents, have consented to their treatment under the Plan. Additionally, all Class 5 Intercompany Claims will be eliminated on the Effective Date by the limited substantive consolidation of the Estates.

60. I understand that because the holders of Interests in Class 6 will neither receive nor retain any property under the Plan, such Class is deemed to have rejected the Plan. Accordingly, it is my understanding that the requirements of subsection 1129(a)(8) are not satisfied with respect to Class 6, and therefore that the Debtors must request confirmation of the Plan under section 1129(b). It is my further understanding that section 1129(b) of the Bankruptcy Code will allow the Court to confirm the Plan over the deemed rejection by Class 6 Interest holders if the Plan does not "discriminate unfairly" and is "fair and equitable" with respect to such Interest holders.

61. The Plan Does Not Discriminate Unfairly. Class 6 consists of equity securities in the Debtors as defined in Section 1.64 of the Plan. All Interests are classified together in Class 6 and no holder in that Class will receive a distribution under the Plan. Thus,

there is no discrimination between equity holders. Moreover, classifying equity separately from debt merely recognizes the fundamental differences in legal rights between equity holders and creditors. Therefore, I believe that there is a reasonable basis for separately classifying Class 6 Interests so that the Plan does not discriminate unfairly with respect to Class 6.

62. The Plan Provides Fair and Equitable Treatment. I understand that what constitutes "fair and equitable treatment" is set forth in detail in section 1129(b)(2) of the Bankruptcy Code. It is my understanding and belief that because no class of interests junior to Class 6 is receiving or retaining property under the Plan on account of its Interests, the Plan is both fair and equitable within the meaning of section 1129(b)(2) of the Bankruptcy Code.

CONCLUSION

63. Based upon the foregoing, I believe that the Plan satisfies the requirements for confirmation and is in the best interests of the Debtors, their creditors and all parties in interest, and should be approved in all respects.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 11, 2002

Barry Gold

Barry Gold
President and Chief Executive Officer

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