

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
M. FABRIKANT & SONS, INC. and	:	Case No. 06-12737 (SMB)
FABRIKANT – LEER INTERNATIONAL, LTD.	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
	:	

**ORDER (I) APPROVING THE DISCLOSURE STATEMENT;
(II) APPROVING THE RETENTION OF THE GARDEN CITY GROUP, INC. AS
SOLICITATION AND TABULATION AGENT; (III) ESTABLISHING A
RECORD HOLDER DATE; (IV) APPROVING SOLICITATION PROCEDURES,
FORMS OF BALLOTS, AND MANNER OF NOTICE; (V) FIXING THE
DATE, TIME, AND PLACE FOR CONFIRMATION HEARING AND DEADLINE
FOR FILING OBJECTIONS THERETO; AND (VI) FIXING THE FINAL DATE
FOR FILING REQUESTS FOR PAYMENT OF ADMINISTRATIVE EXPENSES**

A hearing having been held on November 6, 2007 (the “Hearing”) to consider the motion of Wilmington Trust Company (“Wilmington”), in its capacity as collateral and administrative agent for the successors and assigns of the prepetition senior secured lenders of the above-captioned debtors (collectively, the “Current Lenders”), the Current Lenders, the Official Committee of Unsecured Creditors (the “Committee” and together with Wilmington and the Current Lenders, the “Creditor Proponents”)¹, dated September 27, 2007 (the “Motion”), seeking, *inter alia*, approval under section 1125 of title 11 of the United States Code (the “Bankruptcy Code”) of the Disclosure Statement for the Joint Plan of Liquidation under Chapter 11 of the Bankruptcy Code of the Committee, the Current Lenders, Wilmington Trust Company, as Agent to the Current Lenders, and the Debtors (as same may be amended, the “Disclosure

¹ On October 30, 2007, the Debtors joined the Creditor Proponents as co-proponents of the Joint Plan of Liquidation under Chapter 11 of the Bankruptcy Code. The Debtors and the Creditor Proponents shall be known as the “Plan Proponents.”

Statement”), dated November 7, 2007, heretofore filed with this Court; approval of proposed solicitation procedures; approval of the forms of ballots; fixing of the date, time, and place for the confirmation hearing (the “Confirmation Hearing”) on the Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code of the Official Committee of Unsecured Creditors, the Debtors’ Current Lenders, Wilmington Trust Company, as Agent to the Current Lenders, and the Debtors (as same may be amended, the “Plan”), dated November 7, 2007, and the deadline for filing objections thereto; and it appearing from the affidavits of service on file with this Court that proper and timely notice of the Hearing has been given; and it appearing that such notice was adequate and sufficient with respect to all affected parties; and the appearances of all interested parties having been duly noted on the record of the Hearing; and each of the objections, if any, filed to the Disclosure Statement or the Motion having been either (a) withdrawn or rendered moot by modifications to the Disclosure Statement or (b) overruled by this Court; and the Plan Proponents having made the conforming additions, changes, corrections, and deletions to the Disclosure Statement necessary to comport with the record of the Hearing and the agreements reached with the parties, if any, that had filed objections, a copy of which revised Disclosure Statement is annexed hereto as Exhibit “A”, and upon the Motion, the Disclosure Statement (as the same may have been revised), and the record of the Hearing and upon all of the proceedings heretofore held before this Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, FOUND, AND DETERMINED THAT:²

I. The Disclosure Statement contains adequate information within the meaning of section 1125 of the Bankruptcy Code.

² This Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable upon all parties in interest for all purposes immediately upon execution thereof.

II. The Disclosure Statement is hereby approved and the Motion is hereby approved as set forth herein.

III. The Disclosure Statement may be amended or modified to fill in blanks and reflect any modifications that ~~SMB 11/7/07 the Plan Proponents determine to be appropriate~~ that do not materially change the Disclosure Statement or materially affect any rights of a party in interest.

IV. Pursuant to section 327(a) of the Bankruptcy Code, Wilmington and the Current Lenders are authorized to retain and employ The Garden City Group (“GCG”), *nunc pro tunc* to September 24, 2007, to perform the noticing and other services described in the Motion, including the rendering of solicitation, balloting, tabulation, and related services, all as contemplated by the Motion and the Retention Letter. The Debtors shall compensate GCG upon receipt of a reasonably detailed invoice and without the necessity of GCG filing a formal fee application.

V. For voting purposes and mailing of notices pursuant to this Order, November 7, 2007 shall be the Record Holder Date³ for the holders of claims in the Voting Classes.

VI. The Plan Proponents shall mail appropriate Ballots (with instructions), substantially in the forms of the ballots (with instructions) annexed to the Motion as Exhibit C (as amended), which form is hereby deemed sufficient for all purposes, to each holder of a claim in the Voting Classes under the Plan.

VII. The Plan Proponents shall mail a copy of the Committee’s Plan Support Letter (the “Plan Support Letter”) substantially in the form annexed as Exhibit F to the Notice of

³ Each capitalized term used, but not defined, herein shall bear the meaning ascribed to such term in the Motion.

Filing Amended Form of Order Approving the Disclosure Statement and Related Exhibits, to the holders of Class 3, Class 4, and Class 5 Claims.

VIII. On or before November 9, 2007, the Plan Proponents shall deposit or cause to be deposited in the United States mail, postage prepaid, a sealed solicitation package (the “Solicitation Package”), which is hereby approved in all respects, which shall include:

- A. notice of the confirmation hearing and related matters, substantially in the form of Exhibit D annexed to the Motion (the “Confirmation Hearing Notice”), setting forth the dates established for filing acceptances and rejections to the Plan, and filing objections to confirmation of the Plan, and the date and time of the hearing on confirmation;
- B. a copy of the Disclosure Statement, as approved by the Court (with exhibits, including a copy of the Plan);
- C. a copy of the Disclosure Statement Order;
- D. a Ballot (with instructions), in substantially the form approved by the Court;
- E. a return envelope for mailing of the Ballot; and
- F. the Plan Support Letter.

IX. The Plan Proponents, with the assistance of the Voting Agent (as defined below), shall mail the Solicitation Packages to holders of claims, as of the Record Holder Date, in the classes of claims that, under the Plan, are entitled to vote (each a “Voting Class”).

Delivery of the Solicitation Package does not constitute and shall not be deemed an admission or acknowledgement by the Plan Proponents of the validity of a particular individual’s or entity’s claim(s).

X. Notwithstanding the foregoing, the Plan Proponents shall not be required to mail a Solicitation Package to any individual or entity to whom notice of the Hearing to consider approval of the Disclosure Statement was returned to the Plan Proponents (or to their

agents) by the United States Postal Service as undeliverable, unless the Plan Proponents were provided with an accurate address for such individual or entity.

XI. On or before November 9, 2007, in lieu of mailing the Solicitation Package to (i) holders of claims in unimpaired classes and (ii) holders of interests in any class deemed to be rejecting the Plan, the Plan Proponents shall deposit, or cause to be deposited, in the United States mail, postage prepaid, a Notice of Non-Voting Status, substantially in the form annexed to the Motion as Exhibit E (as amended), which is hereby approved **SMB 11/7/07** ~~in all respects~~, to each holder of such a claim or interest.

XII. The Plan Proponents shall cause the Confirmation Hearing Notice to be published once in *The Wall Street Journal* (Global Edition) and *Women's Wear Daily* on or before November 23, 2007.

XIII. All persons and entities entitled to vote on the Plan shall deliver their Ballots by mail, hand delivery, or overnight courier no later than 4:00 p.m. prevailing Eastern Time on December 7, 2007 (the "Voting Deadline"), to the Voting Agent:

if by mail:

The Garden City Group, Inc.
Re: M. Fabrikant & Sons, Inc.
PO Box 9000 #6492
Merrick, NY 11566-9000

if by hand delivery or overnight courier:

The Garden City Group, Inc.
Re: M. Fabrikant & Sons, Inc.
105 Maxess Road
Melville, NY 11747

XIV. Other than as provided for herein, any Ballot received after such time shall not be counted unless **SMB 11/7/07 approved by the Court.** ~~the Plan Proponents shall have~~

~~granted in writing an extension of the Voting Deadline with respect to such Ballot. Ballots submitted by facsimile or electronic transmission (e.g. electronic mail) shall not be counted.~~

XV. The Plan Proponents shall have the ability to extend the Voting Deadline **SMB 11/7/07 by Order of the Court.**~~at their discretion.~~

XVI. The procedures for vote tabulation as set forth herein and in the Motion are hereby approved. The Plan Proponents will use the following tabulation procedures to tabulate the votes on the Plan. For the purpose of voting, the amount of a claim used to tabulate acceptance or rejection of the Plan shall be (a) the claim amount listed in the Debtors' schedules of liabilities, provided that (i) such claim is not scheduled as contingent, unliquidated or disputed; (ii) no proof of claim has been timely filed; and (iii) the Court has not ordered a temporarily allowed amount for such claim pursuant to Bankruptcy Rule 3018(a); (b) the non-contingent, liquidated amount specified in a proof of claim timely filed with the Court to the extent that the proof of claim is not the subject of a pending objection filed by the Debtors or the Committee before the Voting Deadline (or in the case of claims resolved pursuant to a stipulation or order entered by the Bankruptcy Court before the Voting Deadline, the amount set forth in such stipulation or order); or (c) the amount temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), after notice and a hearing prior to the Confirmation Hearing. Any creditor whose claim is subject to an objection and who wishes to have its vote counted must file an appropriate motion with the Bankruptcy Court under Bankruptcy Rule 3018 and obtain an order allowing its claim for voting purposes no later than two (2) business days before the Voting Deadline.

XVII. With respect to Ballots submitted by a holder of a claim in a Voting Class:

- (a) any Ballot which is otherwise properly completed, executed, and timely returned to the Voting Agent that does not indicate an acceptance or rejection of the Plan shall not be counted;
- (b) any Ballot which is returned to the Voting Agent indicating an acceptance or rejection of the Plan but is unsigned, or otherwise does not bear an original signature, shall not be counted;
- (c) whenever a creditor casts more than one Ballot voting the same claim prior to the Voting Deadline, only the last properly executed timely Ballot received by the Voting Agent shall be counted;
- (d) if a creditor casts simultaneous and otherwise duplicative Ballots voted inconsistently, such Ballots shall **SMB 11/7/07 not be counted; count as one vote accepting the Plan;**
- (e) ~~SMB 11/7/07 each creditor shall be deemed to have voted the full temporarily allowed amount of its claim, except a creditor holding a wholly unliquidated, wholly disputed or wholly contingent claim shall be deemed to have voted such claim in the amount of \$1;~~
- (f) creditors shall not split their vote within a class, thus each creditor shall vote all of its claim within a particular class either to accept or reject the Plan;
- (g) any Ballot that partially rejects and partially accepts the Plan shall not be counted;
- (h) any Ballot that rejects and accepts the Plan shall not be counted;
- (i) any Ballot that is illegible or contains insufficient information to permit the identification of the claimant or interest holder shall not be counted; and
- (j) any Ballot cast by a person or entity that does not hold a claim in a Voting Class shall not be counted.

XVIII. A Ballot will not constitute and will not be deemed a proof of claim or an assertion or admission of a claim. Receipt of a Ballot will not constitute and will not be deemed an admission or acknowledgement of the validity of any claim.

XIX. The Voting Agent shall inspect, monitor and supervise the solicitation process and shall be responsible for tabulating ballots and certifying with the Court the outcome of the balloting.

XX. The Confirmation Hearing is scheduled for December 19, 2007 at 10:00 a.m., prevailing Eastern Time, at the Bankruptcy Court, Southern District of New York, One

Bowling Green, Room 723, New York, New York. The Confirmation Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date(s) at said hearing and at any adjourned hearing(s). Additionally, the Plan may be modified without further notice at, prior to, or as a result of the Confirmation Hearing. In the event that the Court determines that any modifications to the Plan are material the Court may require the Plan Proponents to serve and resolicit the Plan to the parties affected by such modifications.

XXI. Any objection to confirmation of the Plan must be filed with the Clerk of the Bankruptcy Court for the Southern District of New York, together with proof of service, no later than 4:00 p.m., prevailing Eastern Time, on December 7, 2007, and must be served on (a) counsel to Wilmington; (b) counsel to the Committee; (c) the United States Trustee for the Southern District of New York (the “U.S. Trustee”); (d) counsel to the Debtors; and (e) any party that has filed a notice of appearance in these cases so as to be received by them no later than 4:00 p.m., prevailing Eastern Time, on December 7, 2007. Any objection to confirmation of the Plan must be in writing and (a) must state the name and address of the objecting party and the amount of its claims or the nature of its interest and (b) must state, with particularity, the nature of its objection. Any confirmation objection not filed and served as set forth herein shall be overruled and be deemed waived and may not be considered by the Bankruptcy Court. The Plan Proponents shall be afforded an opportunity to file a response to any objection to confirmation of the Plan.

XXII. Any response to objection to confirmation of the Plan must be filed with the Clerk of the Bankruptcy Court for the Southern District of New York, together with proof of service, no later than 4:00 p.m., prevailing Eastern Time, on December 13, 2007 and must be

served on (a) any party that has filed a notice of appearance in these cases; and (b) the parties to whom the response is directed.

XXIII. Pursuant to section 503(a) of the Bankruptcy Code and Bankruptcy Rule 3003(c)(3), each person or entity including, without limitation, each individual, partnership, joint venture, corporation, estates, trust, and governmental unit, that asserts an administrative expense claim against the Debtors, which claim arose (i) between the applicable Commencement Date and the Administrative Expense Bar Date, or (ii) as the result of goods delivered to the Debtors in the ordinary course of business within twenty days before the applicable Commencement Date pursuant to section 503(b)(9), shall file a request for payment of such administrative expense that substantially conforms to the claim form attached to the Motion as Exhibit G (the “Administrative Proof of Claim”), which form is hereby approved, so as to be received **on or before December 7, 2007 at 4:00 p.m., prevailing Eastern Time** (the “Administrative Expense Bar Date”) by mailing or delivering to the Clerk of the Court by either of the two methods set forth below:

if by mail:

United States Bankruptcy Court
Southern District of New York
Re: M. Fabrikant & Sons, Inc., et al., Claims Processing
P.O. Box 5197, Bowling Green Station
New York, NY 10274

if by hand delivery or overnight courier:

United States Bankruptcy Court
Southern District of New York
Re: M. Fabrikant & Sons, Inc., et al., Claims Processing
One Bowling Green, Room 534
New York, NY 10004

XXIV. The Administrative Proofs of Claim will be deemed timely filed only if **actually received** on or before the Administrative Expense Bar Date. Administrative Proofs of Claim sent by facsimile or telecopy will not be accepted.

XXV. The following persons or entities are not required to file an Administrative Proof of Claim on or before the Administrative Expense Bar Date:

- (a) The U.S. Trustee, in connection with fees due under 28 U.S.C. section 1930;
- (b) Any person or entity who has already properly filed an Administrative Proof of Claim;
- (c) Any person or entity whose administrative expense claim has been previously allowed by an order or orders of this Bankruptcy Court; and
- (d) Any person or entity who is a professional retained by the Debtors and the Committee pursuant to section 105, 327, 328, 363, or 1103 of the Bankruptcy Code.

XXVI. Among certain other administrative expense claims, persons or entities asserting the following types of administrative expense claims arising during the Administrative Expense Period must file requests for payment of such claims on or before the Administrative Expense Bar Date: (a) any administrative expense claim representing a personal injury or other tort claim against the Debtors; (b) any administrative expense claim for breach of an obligation -- contractual, statutory, or otherwise -- by the Debtors; and (c) any administrative expense claim pursuant to section 503(b)(3)(A)-(D) or section 503(b)(4) of the Bankruptcy Code.

XXVII. In order to be properly filed pursuant to this Order, each Administrative Proof of Claim shall (i) be written in the English language, (ii) be denominated in lawful currency of the United States, and (iii) conform substantially with the Administrative Proof of Claim form, annexed to the Motion as Exhibit G.

XXVIII. Any person or entity that is required, but fails to file a timely Administrative Proof of Claim in accordance with this Order on or before the Administrative Expense Bar Date shall be forever barred, estopped, and enjoined from asserting such claim against the Debtors, the Trusts (as defined in the Plan) and each of their respective property (or filing an Administrative Proof of Claim with respect thereto), and the Debtors, the Trusts and each of their respective property shall be forever discharged from any and all indebtedness or liability with respect to such claim.

XXIX. In addition to the foregoing obligation to file their administrative expense claim by the Administrative Expense Claim Bar Date, each administrative expense claim holder must estimate the amount of its administrative expense claim through the expected Effective Date of the Plan, which the Plan Proponents currently expect will occur on or before December 31, 2007.

XXX. Notice of the entry of this Order and of the Administrative Expense Bar Date shall be given in a form substantially similar to the notice attached to the Motion as Exhibit F (the "Administrative Expense Notice") (as amended), which is hereby approved, and shall be deemed good, adequate, and sufficient notice if it is served, together with the Administrative Proof of Claim, by being deposited in the United States mail, first class postage prepaid, within five (5) business days of the date of this Order upon:

- (a) the U.S. Trustee;
- (b) all potential creditors listed on the Debtors' Schedules at the addresses stated therein;
- (c) the Internal Revenue Service for the Southern District of New York;
- (d) the Securities and Exchange Commission;
- (e) all parties to litigation with the Debtors;

- (f) all persons and entities requesting notice pursuant to Bankruptcy Rule 2002 as of the date of entry of the order approving this Motion;
- (g) all parties who have filed notices of appearance in the Debtors' chapter 11 cases;
- (h) all holders of Administrative Expense claims, if any, known to the Debtors as of the date of the entry of the Proposed Order; and
- (i) such additional persons and entities deemed appropriate by the Plan Proponents.

XXXI. The Plan Proponents shall provide the Administrative Expense Notice in the manner and to the persons set forth above and the Plan Proponents shall cause the Administrative Expense Notice to be published in substantially similar form in *The Wall Street Journal* (Global Edition) and *Women's Wear Daily*, on a business day at least twenty-five (25) days prior to the Administrative Expense Bar Date. The Plan Proponents may combine this publication with the publication of the Confirmation Hearing Notice.

XXXII. The Plan Proponents are hereby authorized and empowered to take such steps and perform such acts as may be necessary or appropriate to implement and effectuate the terms of this Order, including making non-substantive revisions to the documents constituting the Solicitation Package and the Notices referred to herein in order to correct typographical errors, insert dates and otherwise conform to the provisions of this Order.

XXXIII. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of the Order.

Dated: New York, New York
November 7, 2007

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE