

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

<p><b>In re:</b></p> <p><b>BI-LO, LLC <i>et al.</i>,</b></p> <p><b>Debtors.<sup>1</sup></b></p>	§ § § § § § §	<p><b>Case No. 09- <u>2140</u></b></p> <p><b>Chapter 11</b></p> <p><b>(Joint Administration Requested)</b></p>
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**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER DIRECTING JOINT  
ADMINISTRATION OF THE RELATED CHAPTER 11 CASES**

BI-LO, LLC and its affiliates (“BI-LO” or the “Debtors”), the above-captioned debtors in possession, hereby file this motion (the “Motion”) seeking entry of an order, in substantially the form attached hereto as Exhibit A, directing the joint administration of the above-captioned chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). In support of this Motion, the Debtors respectfully submit the following:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and Local Civil Rule 83.IX.01, D.S.C. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory basis for the relief requested herein is Bankruptcy Rule 1015(b).

<sup>1</sup> The Debtors and the last four digits of their respective tax identification numbers are: BI-LO, LLC (0130); BI-LO Holding, LLC (5011); BG Cards, LLC (4159); ARP Ballentine LLC (6936); ARP James Island LLC (9163); ARP Moonville LLC (0930); ARP Chickamauga LLC (9515); ARP Morganton LLC (4010); ARP Hartsville LLC (7906); and ARP Winston Salem LLC (2540).

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**



### **PROCEDURAL HISTORY**

4. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the above-captioned bankruptcy cases (the "Chapter 11 Cases").

5. Since the Petition Date, the Debtors have continued to operate and manage their business as debtors in possession pursuant to §§ 1107(a) and 1108 of title 11 of the United States Code, §§ 101-1532 (the "Bankruptcy Code"). No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases, and no official committees have been appointed or designated. In addition, concurrently with this Motion, the Debtors have filed a motion seeking designation as Complex Chapter 11 Cases in accordance with Rule 2081-2 of the Local Rules for the United States Bankruptcy Court for the District of South Carolina (the "Local Rules").

6. Contemporaneously with the filing of this Motion, the Debtors have filed the Affidavit of Brian P. Carney in Support of the Debtors' First Day Pleadings (the "Carney Affidavit").

### **BACKGROUND OF BI-LO AND EVENTS LEADING TO THE CHAPTER 11 CASES**

#### **A. Overview of Business Operations.**

7. BI-LO,<sup>2</sup> a Delaware limited liability company, opened its first BI-LO supermarket in 1964 and now operates as a regional retail supermarket chain under the "BI-LO" and "Super BI-LO" banners. As of the Petition Date, BI-LO was one of the largest food retailers in the Southeast United States, operating more than 200 stores in South Carolina, North Carolina, Georgia and Tennessee, with the majority of stores located in South Carolina. BI-LO's corporate

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<sup>2</sup> BI-LO, LLC was formerly known as BI-LO, Inc.

headquarters are located in Greenville, South Carolina and it employs more than 15,000 employees.

8. BI-LO offers both national brand products as well as many private label products for sale in its grocery stores. Substantially all of BI-LO's stores offer grocery, meat, seafood, produce, deli, bakery, floral, health and beauty and other general merchandise items routinely sold in the supermarket business. Many of BI-LO's stores also include pharmacies, special merchandise and other customer services, including check-cashing services, Western Union services, DVD rentals, Coinstar<sup>®</sup> machines, banking/automatic teller machines and third party merchandise kiosks. Additionally, certain of BI-LO's South Carolina locations contain J.J. Poloi coffeehouses.

9. C&S Wholesale Grocers, Inc. ("C&S") is BI-LO's largest supplier, providing BI-LO in excess of 70% of its retail merchandise. C&S delivers goods to BI-LO pursuant to the *Amended and Restated BI-LO LLC Supply Agreement* by and between C&S and BI-LO dated as of March 23, 2007 (as amended, the "C&S Supply Agreement"). Cardinal Health, Inc. provides substantially all of BI-LO's prescription and over-the-counter drugs, comprising approximately 10% of BI-LO's retail merchandise. Approximately 500 different vendors and third party food manufacturers deliver the remaining 20% of BI-LO's merchandise directly to its stores.

10. In addition to supplying the majority of BI-LO's goods, C&S provides distribution and delivery services to BI-LO under the BI-LO Supply Agreement. BI-LO's retail products are delivered to its stores primarily from warehouses that are either subleased to C&S from BI-LO or owned by C&S. To facilitate C&S's distribution of goods to BI-LO, BI-LO and C&S, among others, entered into the *Asset Purchase Agreement* dated as of December 22, 2004 (the "C&S Purchase Agreement"), which was subsequently incorporated into the C&S Supply

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Agreement. Under the C&S Purchase Agreement, BI-LO, among other things, (a) subleased to C&S BI-LO's rights to distribution facilities in Mauldin, South Carolina and Chattanooga, Tennessee (the "Leased Facilities"), and (b) sold C&S its distribution facility in Mauldin, South Carolina (the "Owned Facility"). BI-LO also subleases, through take-back subleases, office and maintenance space in portions of the property on which the Leased Facilities are located. The Leased Facilities and the Owned Facility comprise the C&S distribution centers for BI-LO's stores.

11. BI-LO's revenues are predominantly generated through the sale of its products at profitable price levels to its customers.

**B. Organizational Structure.**

12. BI-LO is the parent company of seven wholly-owned subsidiaries. The subsidiaries, each a Delaware limited liability company, are ARP Ballentine LLC, ARP James Island LLC, ARP Moonville LLC, ARP Chickamauga LLC, ARP Morganton LLC, ARP Hartsville LLC, and ARP Winston Salem LLC (collectively, the "Subsidiaries"). Six of the seven Subsidiaries hold one or more pieces of real property; the seventh Subsidiary holds no assets. BI-LO is wholly owned by its parent, BI-LO Holding, LLC, a Delaware limited liability company ("BI-LO Holding"). BI-LO Holding also wholly owns BG Cards, LLC, a South Carolina limited liability company ("BG Cards"). BI-LO is the only operating Debtor. BG Cards provides store gift cards to BI-LO in exchange for certain *de minimis* payments. BI-LO Holding is a holding company whose assets are its equity in BI-LO and BG Cards.

13. Substantially all of the equity interests in BI-LO Holding and BI-LO are indirectly owned by Lone Star Fund V (U.S.), L.P., LSF V International Finance, L.P. (Bermuda) or their affiliates, which, together with other affiliates, comprise a private equity fund headquartered in

Dallas, Texas. The remaining equity interests, aggregating approximately 2.6%, are held by certain current and former employees of the Debtors.

**C. BI-LO's Prepetition Capital Structure.**

14. BI-LO and certain of its affiliates are parties to the *Credit Agreement* dated as of March 26, 2007 (as may have been amended or supplemented, the "ABL Credit Agreement") with GE Business Financial Services, Inc. (formerly known as Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services Inc.), as Administrative Agent, and certain lenders party thereto from time to time (the "ABL Lenders"), which provides for a \$100 million revolving credit facility (the "Revolving Loan") used for general corporate purposes. The Revolving Loan is scheduled to mature on March 26, 2009.

15. BI-LO and certain of its affiliates are also parties to the *Credit Agreement* dated as of March 26, 2007 (as may have been amended or supplemented, the "Term Credit Agreement") with The Bank of New York Mellon, as Administrative Agent, and certain lenders party thereto from time to time (the "Term Lenders"),<sup>3</sup> which provides for a \$260 million term loan (the "Term Loan"). The Term Loan is scheduled to mature on March 26, 2009.

16. Pursuant to § 5.1(a) of each of the ABL Credit Agreement and the Term Credit Agreement, BI-LO, BI-LO Holding and their respective subsidiaries (the "Loan Parties") entered into the *Guarantee and Collateral Agreements* each dated as of March 26, 2007 (the "Guarantee and Collateral Agreements"), pursuant to which the Loan Parties granted liens and security interests on substantially all of their personal property assets in favor of the respective groups of Lenders. Additionally, pursuant to § 6.9 of each of the ABL Credit Agreement and the Term Credit Agreement, BI-LO granted mortgage liens on certain leasehold interests in their real estate

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<sup>3</sup> The identity of the Term Lenders has changed, including recently, as original holders of the debt have sold their portions of the loans to debt purchasers.

holdings in favor of the respective groups of Lenders. Specifically, pursuant to the respective Guarantee and Collateral Agreements and such mortgages, BI-LO's obligations under the Term Credit Agreement and the ABL Credit Agreement are secured by the following collateral as more fully set forth in the ABL Credit Agreement and the Term Credit Agreement (the "Collateral"): (a) accounts; (b) chattel paper; (c) contracts; (d) deposit accounts; (e) equipment; (f) general intangibles; (g) instruments; (h) intellectual property; (i) inventory; (j) pharmacy scripts; (k) investment property; (l) letter of credit rights; (m) commercial tort claims; (n) other goods; (o) books and records pertaining to the Collateral; (p) all proceeds, supporting obligations and products of the foregoing; and (q) fourteen (14) leasehold interests in real estate. The priorities of the respective Lenders with respect to the Collateral are set forth in the *Intercreditor Agreement* by and between the respective agents under the ABL Credit Agreement and the Term Credit Agreement dated as of March 26, 2007 (the "Intercreditor Agreement").

17. The Intercreditor Agreement provides that the ABL Lenders will have a first priority security interest in certain types of the Collateral (the "ABL Priority Collateral," as defined in the Intercreditor Agreement) and the Term Lenders will have a first priority security interest in other types of the Collateral (the "Term Priority Collateral," as defined in the Intercreditor Agreement). The primary components of the ABL Priority Collateral include accounts receivable, chattel paper, deposit accounts, money, inventory and pharmacy scripts.<sup>4</sup> The Term Priority Collateral consists of all Collateral that is not ABL Priority Collateral, which primarily includes equipment, investment property (including the equity interests in the direct

<sup>4</sup> The ABL Priority Collateral also includes (i) all securities, security entitlements and securities accounts, in each case, to the extent consisting of cash or cash equivalents, (ii) all general intangibles (other than intellectual property), instruments and letter of credit rights to the extent involving or governing the primary components of the ABL Collateral described above, (iii) all supporting obligations relating to such primary components of ABL Priority Collateral, (iv) all books and records relating to the other ABL Priority Collateral, (v) all collateral security and guarantees with respect to the other ABL Priority Collateral and (vi) all cash, money, instruments, securities, financial assets and deposit accounts directly received as proceeds of any ABL Priority Collateral.

and indirect subsidiaries of BI-LO Holding), intellectual property, instruments, letter of credit rights, commercial tort claims and any real estate Collateral. The net effect of the foregoing is that the ABL Lenders have a first priority security interest in assets constituting a significant majority of the value of the Collateral other than real estate. Additionally, the Term Lenders' first priority security interest in real estate constituting the Collateral consists of leasehold mortgages with respect to only fourteen (14) of more than 200 leased sites.

18. On March 6, 2009, the Debtors entered into a commitment with General Electric Capital Corporation for \$100 million of debtor in possession postpetition credit.

**D. Business and Operations.**

19. BI-LO operates in a highly competitive supermarket industry that is generally characterized by intense competition and narrow profit margins. BI-LO competes directly with national, regional, and local supermarket chains and independent supermarkets, as well as with Wal-Mart, similar supercenters and other non-traditional grocery retailers such as dollar discount stores, drug stores, convenience stores, warehouse club stores and conventional department stores.

20. As of the Petition Date, BI-LO operated approximately 215 stores. After completing a full analysis of its store base and analyzing store-level performance as well as competitive positioning, BI-LO has determined that the vast majority of its stores are desirable operations, however, several stores have been identified as burdensome. For example, BI-LO has been paying rent on a closed warehouse in Chattanooga, Tennessee and on about thirty-five (35) dark (closed) stores.

21. As a result of, among other factors, mounting competition in its retail sector and general economic instability, BI-LO's revenues have declined over the past several years, and

BI-LO estimates a further decline in revenues for fiscal year 2009. This decline in revenues has led to a decline in earnings. BI-LO reported EBITDA (fully loaded for rent expense under both operating and capital leases) of \$114 million in 2006; \$96 million in 2007; \$78 million in 2008 (unaudited); and has projected EBITDA of \$52 million in its business plan for 2009. In addition to the reasons cited above, BI-LO's financial performance has also been adversely affected by ongoing and burdensome lease obligations and other costs relating to its dark and underperforming store locations.

22. Beginning in November 2008, BI-LO initiated a series of actions designed to enhance its competitive position by appointing new merchandising leadership, including the engagement of Mike Byars, a new Chief Executive Officer, in February 2009, and focusing sales efforts to offset negative trends, identifying underperforming stores and negotiating with relevant parties to contracts and leases for those stores to address improving the profitability of BI-LO. In addition, BI-LO has implemented a series of general and administrative cost reductions over the last two years, which, in the aggregate, are anticipated to yield savings of \$22.0 million on an annual basis.

23. In addition, on March 22, 2009, BI-LO entered into an amendment to the C&S Supply Agreement that, among other things, eliminates or defers certain surcharges and obligates C&S to continue performance under the C&S Supply Agreement pending assumption or rejection of the C&S Agreement under § 365 of the Bankruptcy Code. BI-LO believes that having obtained this amendment prior to the Petition Date will significantly improve BI-LO's operating cash flow and materially simplify the administration of the Chapter 11 Cases.

24. Notwithstanding BI-LO's prior history of declining revenues, revenues are substantial and the Debtors have liquidity to fund their business and the Chapter 11 Cases.

**MOTION FOR ORDER DIRECTING  
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BI-LO believes it has excellent prospects for a successful reorganization. By shedding burdensome obligations related to underperforming and dark stores and refinancing or renegotiating its other prepetition debt obligations, BI-LO can concentrate on its more desirable store locations. Recent trends indicate that BI-LO's same-store performance is improving as a result of, among other factors, its increased promotional and merchandising efforts. BI-LO believes that these positive trends, in combination with its strong market share in the areas in which it operates, provide a strong platform for BI-LO's reorganization.

**E. Events Precipitating the Chapter 11 Cases.**

25. The chief precipitating cause of BI-LO's chapter 11 filing is the unwillingness of the Term Lenders to negotiate reasonable terms for an extension of the Term Loan. As stated, both the Term Loan and the Revolving Loan are scheduled to mature pursuant to their terms on March 26, 2009. Although BI-LO has negotiated and received from the ABL Lenders a commitment for up to \$100 million of financing for BI-LO's operations either outside of chapter 11 protection for a period of up to two years or in bankruptcy as a one year debtor in possession facility, the Term Lenders continue to balk at BI-LO's request for reasonable terms upon which to extend the maturity of the Term Loan. Instead, the Term Lenders have presented BI-LO with onerous and oppressive terms that would severely cripple its business, seriously impair its operations and enterprise value, jeopardize the jobs of its employees and substantially impair or prevent any other creditors and parties in interest from recovering on their claims against BI-LO. BI-LO therefore believes that it will be unable to repay or refinance the Term Loans at maturity. BI-LO also anticipates that the Term Lenders will, upon the payment default under the Term Loans on March 26, 2009, commence state collection and foreclosure actions against BI-LO and substantially all of the Term Priority Collateral to enforce their rights and remedies under the

Term Loan. Failure to obtain an extension of maturity by the Term Lenders also prevents BI-LO from receiving the benefit of the ABL Lenders' out-of-court extension and financing commitment, which BI-LO believes is critical to its ability to reorganize successfully.

26. Secondly, chapter 11 offers relief that will assist the Debtors in maximizing the value of their assets. As stated, BI-LO has burdensome lease obligations related to its dark and underperforming locations and other prepetition liabilities that must be restructured or refinanced to maximize BI-LO's profitability and long-term viability. Chapter 11 provides BI-LO with a collective forum within which it can expeditiously restructure these liabilities and implement a long-term business plan.

27. For the foregoing reasons, and after consultation with its advisors, BI-LO determined that the interests of BI-LO, its creditors, employees and customers would be best served by a reorganization under chapter 11 of the Bankruptcy Code.

**RELIEF REQUESTED**

28. In order to optimally administer the Debtors' pending Chapter 11 Cases, by this Motion the Debtors seek entry of an order pursuant to Bankruptcy Rule 1015(b) authorizing the joint administration of the Chapter 11 Cases for procedural purposes only. Specifically, the Debtors request that the Clerk of the Court maintain one file and one docket for all of the jointly-administered cases under the case number assigned to BI-LO and that the Chapter 11 Cases be administered under a consolidated caption, as follows:

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

<b>In re:</b>	§	<b>Case No. 09-_____</b>
	§	
<b>BI-LO, LLC et al.,</b>	§	<b>Chapter 11</b>
	§	
<b>Debtors.<sup>1</sup></b>	§	<b>(Joint Administration)</b>
	§	

29. The Debtors also request that an entry be made in the docket of each of the Chapter 11 Cases, other than this case, that is substantially similar to the following:

An order has been entered in accordance with Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and Rule 1015-1 of the Local Rules for the United States Bankruptcy Court for the District of South Carolina directing joint administration of the Chapter 11 Cases of BI-LO, LLC. All further pleadings and other papers shall be filed in, and all further docket entries shall be made in, Case No. 09-\_\_\_\_\_(\_\_\_\_).

**BASIS FOR RELIEF REQUESTED**

30. Bankruptcy Rule 1015(b) provides, in pertinent part, that “(i) f . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates.” FED. R. BANKR. P. 1015(b). The Debtors are “affiliates” as that term is defined under § 101(2) of the Bankruptcy Code. Accordingly, the Bankruptcy Code and Bankruptcy Rules authorize the Court to grant the relief requested herein.

31. Section 105(a) of the Bankruptcy Code also provides the Court with the power to grant the relief requested herein by the Debtors. Section 105(a) states that a bankruptcy court

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<sup>1</sup> The Debtors and the last four digits of their respective tax identification numbers are: BI-LO, LLC (0130); BI-LO Holding, LLC (5011); BG Cards, LLC (4159); ARP Ballentine LLC (6936); ARP James Island LLC (9163); ARP Moonville LLC (0930); ARP Chickamauga LLC (9515); ARP Morganton LLC (4010); ARP Hartsville LLC (7906); and ARP Winston Salem LLC (2540).

“may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the [Bankruptcy Code].” See 11 U.S.C. § 105(a).

32. Joint administration is non-controversial, and “generally involves the combination of estates for administrative matters by using a single docket.” *In re Pack*, C/A No. 03-05021-jw, slip op. at 1 (Bankr. D.S.C. 8/29/2003) (attached hereto as **Exhibit B**); see also *In re Polymer Group, Inc.*, C/A 02-05773-jw (Bankr. D.S.C. 5/13/2002) (attached hereto as **Exhibit C**); *In re Flagstar Holdings, Inc.*, C/A/ 97-05431-wb (Bankr. D.S.C. 7/11/1997) (attached hereto as **Exhibit D**).

33. Given the integrated nature of the Debtors’ operations, joint administration of the Chapter 11 Cases will provide significant administrative convenience without harming the substantive rights of any party in interest. Many of the motions, hearings and orders that will arise in the Chapter 11 Cases will affect each and every Debtor. The entry of an order directing joint administration of the Chapter 11 Cases will reduce fees and costs resulting from the administration of the cases and ease the onerous administrative burden of having to file multiple and duplicative documents.

34. The Debtors will continue to operate as separate and distinct legal entities, and propose to continue to maintain their books and records consistent with their prepetition practices. Inasmuch as this is the manner in which the Debtors have heretofore conducted their business and operations, and to the extent information is needed as to a particular legal entity and such information can be assembled, the Debtors submit that their continuation of these practices will not prejudice any party in interest.

35. Moreover, joint administration will not adversely affect the Debtors’ respective constituencies because this Motion requests only administrative, not substantive, consolidation of

the estates. Parties in interest will not be harmed by the relief requested, but, instead, will benefit from the cost reductions associated with the joint administration of the Chapter 11 Cases. The Court also will be relieved of the burden of entering duplicative orders and maintaining duplicative files. Finally, joint administration will allow the Office of the United States Trustee for the District of South Carolina and all parties in interest to monitor the cases with greater ease and efficiency. Accordingly, the Debtors submit that the joint administration of the Chapter 11 Cases is in the best interests of the Debtors' estates, their creditors and all other parties in interest.

#### **NOTICE**

36. Notice of this Motion has been provided by electronic mail, facsimile or overnight delivery to: (a) the Office of the United States Trustee for the District of South Carolina; (b) General Electric Capital Corporation, as Agent for the Debtors' DIP Lenders; (c) The Bank of New York Mellon, as Agent for the Debtors' Term Lenders; (d) GE Business Financial Services, Inc., as Agent for the Debtors' ABL Lenders; (e) the Debtors' twenty (20) largest unsecured creditors (on a consolidated basis); (f) those persons who have formally appeared in the Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002; and (g) all applicable government agencies to the extent required by the Bankruptcy Rules and the Local Rules. A copy of the Motion has been made available on the website of the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC, at [www.kccllc.net/BI-LO](http://www.kccllc.net/BI-LO). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is required.

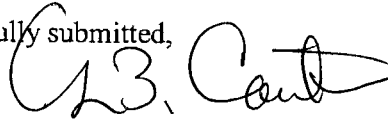
WHEREFORE, the Debtors respectfully request that the Court enter an order, in substantially the form attached hereto as **Exhibit A**, (a) directing the joint administration of the

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Chapter 11 Cases and (b) granting such other and further relief to which the Debtors may be justly entitled.

Dated 3/23, 2009  
Columbia, South Carolina

Respectfully submitted,



By: /s/ George B. Cauthen

George B. Cauthen, Federal Bar No. 81  
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**MOTION FOR ORDER DIRECTING  
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**PROPOSED ATTORNEYS FOR THE  
DEBTORS**

**MOTION FOR ORDER DIRECTING  
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**CERTIFICATE OF SERVICE**

This is to certify that on March 23, 2009, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the District of South Carolina and by U.S. Mail to those parties on the attached service list who do not receive notice by CM/ECF.

/s/

One of Counsel

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Dallas 1523005v.6

**EXHIBIT A**

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Dallas 1523005v.6

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

Case No. 09-\_\_\_\_\_

**ORDER DIRECTING JOINT ADMINISTRATION OF  
THE DEBTORS' RELATED CHAPTER 11 CASES**

The relief set forth on the following pages, for a total of \_\_\_\_ pages including this page, is hereby **ORDERED**.

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Dallas 1523005v.6

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

<p><b>In re:</b></p> <p><b>BI-LO, LLC <i>et al.</i>,</b></p> <p><b>Debtors.<sup>1</sup></b></p>	§ § § § § § §	<p><b>Case No. 09-_____</b></p> <p><b>Chapter 11</b></p> <p><b>(Joint Administration Requested)</b></p>
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**ORDER DIRECTING JOINT ADMINISTRATION OF  
THE DEBTORS' RELATED CHAPTER 11 CASES**

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Upon the motion (the "Motion")<sup>2</sup> of BI-LO, LLC and its affiliates ("BI-LO" or the "Debtors"), the above-captioned debtors in possession, for entry of an order directing the joint administration of the above-captioned chapter 11 cases (the "Order"); it appearing that the relief requested herein is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that notice of the Motion and opportunity for a hearing on the Motion was appropriate under the circumstances and that no other or further notice with respect to the Motion need be given; and after due deliberation and sufficient cause appearing therefore, it is **HEREBY ORDERED**:

1. The Motion is granted.

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<sup>1</sup> The Debtors and the last four digits of their respective tax identification numbers are: BI-LO, LLC (0130); BI-LO Holding, LLC (5011); BG Cards, LLC (4159); ARP Ballentine LLC (6936); ARP James Island LLC (9163); ARP Moonville LLC (0930); ARP Chickamauga LLC (9515); ARP Morganton LLC (4010); ARP Hartsville LLC (7906); and ARP Winston Salem LLC (2540).

<sup>2</sup> Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Motion.

2. The Chapter 11 Cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 09-\_\_\_\_ (\_\_\_\_).

3. The consolidated caption of the jointly administered Chapter 11 Cases should read as follows:

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

<b>In re:</b>	§	
	§	<b>Case No. 09-_____</b>
<b>BI-LO, LLC <i>et al.</i>,</b>	§	
	§	<b>Chapter 11</b>
<b>Debtors.<sup>1</sup></b>	§	
	§	<b>(Joint Administration)</b>
	§	

4. The Debtors also request that an entry be made in the docket of each of the Chapter 11 Cases, other than this case, that is substantially similar to the following:

An order has been entered in accordance with Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and Rule 1015-1 of the Local Rules for the United States Bankruptcy Court for the District of South Carolina directing joint administration of the Chapter 11 Cases of BI-LO, LLC. All further pleadings and other papers shall be filed in, and all further docket entries shall be made in, Case No. 09-\_\_\_\_ (\_\_\_\_).

5. One consolidated docket, one file and one consolidated service list shall be maintained by the Debtors and kept by the Clerk of the United States Bankruptcy Court for the District of South Carolina.

6. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise affecting substantive consolidation of the Debtors' Chapter 11 Cases.

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<sup>1</sup> The Debtors and the last four digits of their respective tax identification numbers are: BI-LO, LLC (0130); BI-LO Holding, LLC (5011); BG Cards, LLC (4159); ARP Ballentine LLC (6936); ARP James Island LLC (9163); ARP Moonville LLC (0930); ARP Chickamauga LLC (9515); ARP Morganton LLC (4010); ARP Hartsville LLC (7906); and ARP Winston Salem LLC (2540).

7. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

8. Notwithstanding the possible applicability of Bankruptcy Rules 6004, 7062 and 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

10. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

AND IT IS SO ORDERED.

**EXHIBIT B**

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Dallas 1523005v.6

**FILED**

at \_\_\_ O'clock & \_\_\_ min. \_\_\_ M

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

AUG 29 2003

BRENDA K. ARGOE, CLERK  
United States Bankruptcy Court  
Columbia, South Carolina (30)

IN RE:

Joseph Britton Pack, III and  
Grace Monteith Pack,

Debtors.

C/A No. 03-05021-W

Chapter 12

**ENTERED**

AUG 29 2003

**D.L.L.**

IN RE:

Pack Enterprises, Inc.,

Debtor.

C/A No. 03-05020-W

Chapter 12

**ORDER AUTHORIZING SUBSTANTIVE CONSOLIDATION  
OF CHAPTER 12 CASES**

THIS MATTER came before the Court on the above captioned Debtors' motions for the joint administration of their Chapter 12 bankruptcy cases. It appears that notice of the motions were properly served on all creditors and parties in interest. No party has objected to the motions. The motions prominently request joint administration but also include a request for substantive consolidation.

Consolidation is the combining of all assets and liabilities of two estates into a single pool to pay creditors. See Bunder v. Peyton (in re Bunker), 312 F.3d 145, 153-54 (4<sup>th</sup> Cir. 2002). While joint administration combines the estates only for administrative matters by using a single docket, it does not merge assets and liabilities. In joint administration, creditors of each debtor continue to look to that debtor for payment of their claims. See In re Bridges, C/A No. 91-05122-B, slip op. at

11 (Bankr. D.S.C. Jul. 7, 1993) (citing In re Parkway Calabasas, Ltd.) 89 B.R. 832, 836-837 (Bankr. C.D. Cal. 1988)).

At the hearing on Debtors' motions, the Chapter 12 Trustee for both cases and the United States Trustee agreed that the cases should be substantively consolidated. See In re Palumbo Family Ltd. P'ship, 182 B.R. 447 (Bankr. E.D. Va. 1995) (noting that Court ordered substantive consolidation pursuant to 11 U.S.C. § 105 absent an objection following notice and opportunity to be heard). It is hereby

**ORDERED**, that the motions filed by each Debtor are granted. The above captioned cases shall be substantively consolidated. All pleadings filed in reference to the Debtors shall contain the above caption and prominently indicate that the cases are substantively consolidated. Case No. 03-05020-W shall be designated the lead case for purposes of case administration. In order to ensure proper actual notice of the relief, Debtors shall serve this Order on all creditors in both cases. Such creditors are provided an additional fifteen (15) days from the entry of this Order to file a written objection to substantive consolidation. Upon timely objection, the Court may set a hearing to consider vacating this Order.

**AND IT IS SO ORDERED.**

Columbia, South Carolina,  
August 29, 2003.

  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT C**

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Dallas 1523005v.6

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

In re:	)	Chapter 11
POLYMER GROUP, INC.,	)	Case No. 02- <u>5773</u> ( ) ✓
Debtor,	)	
PGI POLYMER, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5792</u> ( )
PGI EUROPE, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5791</u> ( )
CHICOPEE, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5774</u> ( )
FIBERTECH GROUP, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5782</u> ( )
TECHNETICS GROUP, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5789</u> ( )
FIBERGOL CORPORATION,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5780</u> ( )
FABRENE CORP.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5783</u> ( )
FABRENE GROUP LLC,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5775</u> ( )

**FILED**  
at \_\_\_\_\_ O'clock & \_\_\_\_\_ min  
**MAY 13 2002**  
BRENDA K. ARGOE, CLERK  
United States Bankruptcy Court  
Columbia, South Carolina (6)

**ENTERED**  
**MAY 13 2002**  
**J.G.S.**


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
PNA CORP.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5778</u> ( )
FNA POLYMER CORP.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5786</u> ( )
FNA ACQUISITION, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5784</u> ( )
LORETEX CORPORATION,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5788</u> ( )
DOMINION TEXTILE (USA) INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5777</u> ( )
POLY-BOND INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5781</u> ( )
FABPRO ORIENTED POLYMERS, INC.,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5779</u> ( )
PGI ASSET MANAGEMENT COMPANY,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5790</u> ( )
PGI SERVICING COMPANY,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5776</u> ( )
PRISTINE BRANDS CORPORATION,	)	Chapter 11
Debtor,	)	Case No. 02- <u>5781</u> ( )
POLYIONIX SEPARATION TECHNOLOGIES, INC.,	)	Chapter 11
	)	Case No. 02- <u>5785</u> ( )

Debtor,	)	
_____	)	
BONLAM (S.C.), INC.	)	Chapter 11
	)	
	)	Case No. 02-04899 (JW)
Debtor,	)	
_____	)	

**ORDER, UNDER FED.R.BANKR.P. 1015(b), GRANTING JOINT ADMINISTRATION**

Upon the motion (the "Motion")<sup>1</sup> of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") seeking entry of an order granting the joint administration of such cases; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties-in-interest; and sufficient notice of the Motion having been given under the circumstances; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157; and after due deliberation and cause appearing therefor; it is hereby

ORDERED that the Motion is granted ~~and these cases are hereby designated as~~   
~~Complex Chapter 11 Cases pursuant to Operating Order 01-02;~~ and it is further

ORDERED that the Debtors' respective captioned and numbered cases ~~are~~   
~~consolidated for procedural purposes only, and~~ shall be jointly administered in accordance with  
Fed.R.Bankr.P. 1015(b); and it is further

ORDERED that the caption of the jointly administered cases is to read as follows:  
**IN THE  
UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

<sup>1</sup> Capitalized terms not defined herein shall have the same meaning as in the Motion.

In re:	)	Chapter 11
	)	
POLYMER GROUP, INC., <u>et al.</u> , <sup>1</sup>	)	Case No. 02-0__ ( )
	)	(Jointly Administered)
	)	
Debtors.	)	

and it is further

ORDERED that a docket entry shall be made in each of the Chapter 11 Cases substantially as follows:

An order has been entered in this case directing ~~the procedural consolidation and~~ joint administration of Polymer Group, Inc.'s Chapter 11 Case and the Chapter 11 Cases of Polymer Group, Inc., PGI Polymer, Inc., PGI Europe, Inc., Chicopee, Inc., FiberTech Group, Inc., Technetics Group, Inc., Fibergol Corporation, Fabrene Corp., Fabrene Group LLC, PNA Corp., FNA Polymer Corp., FNA Acquisition, Inc., Loretex Corporation, Dominion Textile (USA) Inc., Poly-Bond Inc., FabPro Oriented Polymers, Inc., PGI Asset Management Company, PGI Servicing Company, Pristine Brands Corporation, PolyIonix Separation Technologies, Inc., Bonlam (S.C.), Inc., and that all further pleadings and other papers are filed in, and all further docket entries are made in Case No. 02-5773(w) and it is further

ORDERED that absent further order of the Court, any creditor filing a proof of claim against any of the Debtors shall file said proof of claim in the particular Debtor's bankruptcy case and not in the jointly administered case; and it is further

<sup>1</sup> Debtors are the following entities: Polymer Group, Inc., PGI Polymer, Inc., PGI Europe, Inc., Chicopee, Inc., FiberTech Group, Inc., Technetics Group, Inc., Fibergol Corporation, Fabrene Corp., Fabrene Group LLC, PNA Corp., FNA Polymer Corp., FNA Acquisition, Inc., Loretex Corporation, Dominion Textile (USA) Inc., Poly-Bond Inc., FabPro Oriented Polymers, Inc., PGI Asset Management Company, PGI Servicing Company, Pristine Brands Corporation, PolyIonix Separation Technologies, Inc., Bonlam (S.C.), Inc.



**CERTIFICATE OF MAILING**  
The undersigned deputy clerk of the United States Bankruptcy Court for the District of South Carolina hereby certifies that a copy of the document on which this stamp appears was mailed on the date listed below to:

**MAY 18 2002**

**DEBTOR, DEBTOR'S ATTORNEY, TRUSTEE**  
**JUDY G. SMITH**  
Deputy Clerk

*[Handwritten signature]*

*All creditors*

*Canther to serve*

MAY 13 AM 9:21  
FEDERAL BUREAU OF INVESTIGATION  
U.S. DEPARTMENT OF JUSTICE

**EXHIBIT D**

**MOTION FOR ORDER DIRECTING  
JOINT ADMINISTRATION**

Dallas 1523005v.6

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

**FILED**  
at \_\_\_\_\_ O'clock & \_\_\_\_\_ min. \_\_\_\_\_ M  
JUL 11 1997  
BRENDA K. ARGOE, CLERK  
United States Bankruptcy Court  
Columbia, South Carolina (3)

In re: )  
FLAGSTAR COMPANIES, INC., )  
Debtor. )

Chapter 11  
Case No. ~~97-~~ 05795B

In re: )  
FLAGSTAR CORPORATION, )  
Debtor. )

Chapter 11  
Case No. ~~97-~~ 05796B  
**ENTERED**  
JUL 11 1997  
V. L. D.

In re: )  
FLAGSTAR HOLDINGS, INC., )  
Debtor. )

Chapter 11  
Case No. 97-05431-B

**ORDER DIRECTING JOINT ADMINISTRATION OF  
THE CHAPTER 11 CASES PURSUANT TO FEDERAL  
RULE OF BANKRUPTCY PROCEDURE 1015(b)**

Upon consideration of the motion of Flagstar Companies, Inc. ("FCI"), Flagstar Corporation ("Flagstar"), and Flagstar Holdings, Inc. ("Holdings") each a debtor and debtor-in-possession herein (FCI, Flagstar and Holdings are collectively referred to as the "Debtors"), for an order authorizing the joint administration of their Chapter 11 cases pursuant to Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 1015(b) (the

20

"Motion"); and upon the Affidavit of Ronald B. Hutchison in Support of First-Day Motions; and this Court having determined that granting the relief requested in the Motion is in the best interest of the Debtors, their estates, creditors and equity security holders; and notice of the Motion has been given to (i) the Office of the United States Trustee, (ii) Zalkin, Rodin & Goodman LLP and Cravath, Swaine & Moore, counsel to The Chase Manhattan Bank, (iii) Shearman & Sterling and Nelson, Mullins, Riley & Scarborough, L.L.P., counsel to the existing bank group, (iv) Stroock & Stroock & Lavan LLP, counsel to the Informal Committee of Senior Noteholders, (v) Hebb & Gitlin and Nexsen, Pruet, Jacobs & Pollard, counsel to the Ad Hoc Debentureholders' Committee, and (vi) Andrews & Kurth, L.L.P and Rogers, Townsend & Thomas, P.C., counsel to the Ad Hoc Convertible Debentureholders' Committee; and it appearing that no further notice of the Motion need be given; and after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED, that the Motion is granted; and it is further

ORDERED, that objections, if any, to the entry of this Order shall be filed with the Court and served so as to cause such objections to be received on or before July 31, 1997 by 4:30 p.m. Eastern Time, by:

(a) Counsel to the Debtors, McNair Law Firm P.A., NationsBank Tower, 17th Floor, 1301 Gervais Street, Columbia, South Carolina; 29211 (Attn: Michael M. Beal, Esq.), Latham & Watkins, 885 Third Avenue, New York, New York 10022 (Attn: Martin N. Flics, Esq.), Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Martin J. Bienenstock, Esq.); (b) the United States Trustee for the District of South Carolina, Room 2440, 1201 Main Street, Columbia, South Carolina 29201 (Attn:

~~John Timothy Stack, Esq.); (e) Counsel to The Chase Manhattan Bank, Zalkin, Rodin & Goodman LLP, 750 Third Avenue, 27th Floor, New York, New York 10019 and Cravath, Swaine & Moore, 825 Eighth Avenue, New York, New York 10019; (d) counsel to the existing bank group, Shearman & Sterling, 599 Lexington Avenue, 5th Floor, New York, New York 10022 and Nelson, Mullins, Riley & Scarborough, L.L.P., 3rd Floor, 1330 Lady Street, Columbia, South Carolina 29211; (e) counsel to the Informal Committee of Senior Noteholders, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038-4982; (f) counsel to the Ad Hoc Debentureholders' Committee, Hebb & Gitlin, One State Street, Hartford, Connecticut 06103-3178 and Nexsen, Pruet, Jacobs & Pollard, 1441 Main Street, Suite 1500, Columbia, South Carolina 29202; (g) counsel to the Ad Hoc Convertible Debentureholders' Committee Andrews & Kurth, L.L.P., 4200 Texas Commerce Tower, 60 Travis, Houston, Texas 77002, and Rogers, Townsend & Thomas, P.C., 1441 Main Street, Suite 1000, Columbia, South Carolina 29202; and it is further~~

ORDERED, that if an objection is timely filed and served, a hearing will be held on ~~AUGUST 12~~ 1997, at 2:00 p.m. in the United States Bankruptcy Court for the District of South Carolina, 201 Magnolia St., Spartanburg, S.C. (the "Hearing"); and it is further

ORDERED, that if no objection is timely filed and served, this Order will become a final Order with no further hearing or notice; and it is further

ORDERED, that if an objection is timely filed and served, but not prosecuted at the Hearing, this Order shall become a final Order; and it is further

ORDERED, that the above-captioned Chapter 11 cases are hereby to be jointly administered in accordance with Bankruptcy Rule 1015(b); and it is further

ORDERED, that a docket entry shall be made in each of the above-captioned cases substantially as follows:

An order has been entered in this case directing under Federal Rule of Bankruptcy Procedure 1015(b) the joint administration of the Chapter 11 cases of Flagstar Companies, Inc. (Case No. 97- 5795), Flagstar Corporation (Case No. 97- 5796) and Flagstar Holdings, Inc. (Case No. 97-05431B). Hereafter the docket of Flagstar Companies, Inc. (Case No. 97-      ) should be consulted on all-matters affecting these debtors

; and it is further

ORDERED, that the caption for any matter coming before this Court which relates to each or any of the Debtors' respective Chapter 11 cases shall read as follows:


UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

In re:	)	
	)	
FLAGSTAR COMPANIES, INC.,	)	Chapter 11
FLAGSTAR CORPORATION, and	)	Case No. 97- <u>5431</u>
FLAGSTAR HOLDINGS, INC.,	)	
	)	Jointly Administered
Debtors.	)	
_____	)	

; and it is further

ORDERED, that these Chapter 11 cases are to be jointly administered and not substantively consolidated.

Dated: Columbia, South Carolina  
July 17, 1997

  
Wm. THURMOND BISHOP  
UNITED STATES BANKRUPTCY JUDGE

Case 97-05431-wb Doc 20 Filed 07/11/97 Entered 07/11/97 14:56:00 Desc  
Converted from BANCAP Page 6 of 6

DEPARTMENT OF JUSTICE

The undersigned clerk (or deputy clerk) of the United States Bankruptcy Court for this district hereby certifies that a copy of the document on which this stamp appears was

mailed on 7-11-97, to:

DEBTOR, *Bialto*  
DEBTOR'S ATTY. *Gene*  
TRUSTEE

*VIV*

Deputy Clerk

U.S. BANKRUPTCY COURT  
DISTRICT OF COLUMBIA

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