

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is the Trustee of the Chapter 7 Debtors Galey & Lord, Inc., Swift Textiles, Inc., Galey & Lord Industries, Inc., Swift Denim Properties, Inc., Galey & Lord Properties, Inc., Greensboro Textile Administration LLC, Brighton Weaving LLC, Flint Spinning LLC, Society Hill Finishing LLC, and McDowell Weaving LLC (collectively, the “Debtors”). Plaintiff was appointed to serve as Chapter 7 Trustee by the United States Trustee for Region 21 on November 30, 2004.

2. Defendant Term Agent is the successor agent for a consortium of lenders (the “Term Lenders”) that provided financing to the Debtors on a pre-petition basis by way of a term loan facility. The Term Lenders or their assignees also own approximately 99% of the issued and outstanding common stock of Debtor Galey & Lord, Inc., which in turn owns all of the issued and outstanding common stock or membership interests, as the case may be, in the other Debtors. The Term Agent is a corporation organized and existing under the laws of the State of New York. The Term Agent is headquartered in Irving, Texas, is subject to the jurisdiction of this Court, and, pursuant to Rule 7004(b)(3) of the Bankruptcy Rules, may be served with process by way of United States first class mail to the attention of Stephen K. O’Neal, Vice President, The Bank of New York, 600 East Las Colinas Boulevard, Suite 1300, Irving, Texas 75039. Defendant Term Agent may also be served care of its counsel, Eric Anderson, Esq., Parker, Hudson, Rainer & Dobbs LLP, 1500 Marquis Two Tower, 285 Peachtree Center Avenue, N.E., Atlanta, GA 30303, who has agreed to accept service as agent.

3. The United States District Court for the Northern District of Georgia has jurisdiction over this adversary proceeding and the Defendant herein pursuant to 28 U.S.C. §§ 1334(b) and (e), as this adversary proceeding arises under, arises in and is related to In re

Galey & Lord, Inc., et al., Chapter 7, Case Nos. 04-43097 through 04-43106 (jointly administered under Case No. 04-43098), cases under Chapter 7 of the Bankruptcy Code now pending in the United States Bankruptcy Court for the Northern District of Georgia. Said Court has exclusive jurisdiction of all of the Debtors' property and that of their estates pursuant to 28 U.S.C. § 1334(e). The United States District Court for the Northern District of Georgia has referred the bankruptcy cases and this adversary proceeding to this Court pursuant to 28 U.S.C. § 157(a).

4. This is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2)(A), (B), (F), (K), and (O). Therefore, this Court has jurisdiction pursuant to 28 U.S.C. § 157(b)(1).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

6. This adversary proceeding is brought pursuant to sections 502, 544, 547, 550, 551 and 552 of the Bankruptcy Code, Rules 6009 and 7001 of the Bankruptcy Rules and applicable state law.

PROCEDURAL BACKGROUND

A. The Debtors' Prior Bankruptcy Cases

7. The current bankruptcy cases represent the Debtors' second bankruptcy filings in two and a half years. The Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code on or about February 19, 2002, in the United States Bankruptcy Court for the Southern District of New York (the "New York Bankruptcy Court").

8. On February 9, 2004, the New York Bankruptcy Court entered an order confirming the Debtors' Third Amended Joint Plan of Reorganization (the "Plan"). The Plan became effective in March 2004.

B. The Debtors' Current Bankruptcy Cases

9. On August 19, 2004 (the "Petition Date"), the Debtors filed their respective voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Georgia, Rome Division.

10. Subsequent to the Petition Date, and until November 2004, the Debtors remained in possession of their property and continued to operate their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

11. The Debtors' cases are being jointly administered pursuant to an Order of the Bankruptcy Court entered on August 19, 2004.

12. On the Petition Date, the Debtors filed a motion for approval of the sale of substantially all of the Debtors' assets (Docket No. 23; the "Sale Motion") to Patriarch GL Acquisition LLC ("Patriarch").

13. On August 23, 2004, the Term Agent filed its Motion of BNY Asset Solutions, LLC for Adequate Protection on Behalf of the Term Lenders, *Nunc Pro Tunc*, as of the Petition Date (Docket No. 37; the "Adequate Protection Motion"). Among other things, the Term Agent sought replacement liens in all of the Debtors' assets as adequate protection for the Term Agent Lien and the diminution in the value of the Term Agent Collateral. The Adequate Protection Motion was never granted, and the Term Agent was never provided adequate protection in any form, including without limitation in the form of replacement liens in any of the Debtors' assets.

14. On October 27, 2004, the Court entered an Order approving the Sale Motion (Docket No. 256; the "Sale Order").

15. On or about November 9, 2004, the sale of substantially all of the Debtors' assets to Patriarch as approved pursuant to the Sale Order (the "Sale") was consummated (the "Closing").

16. On November 10, 2004, the Debtors filed a motion to convert their Chapter 11 cases to cases under Chapter 7 of the Bankruptcy Code (Docket No. 283). This Court granted the Debtors' motion to convert their cases by Order entered on November 29, 2004 (Docket No. 299).

17. Thereafter, on November 30, 2004, the United States Trustee appointed S. Gregory Hays as the Trustee in the Debtors' Chapter 7 cases.

18. On December 9, 2004, the Term Agent filed the Motion of the Bank of New York for Relief From the Automatic Stay to Exercise Rights Against Sale Proceeds (the "Stay Relief Motion"), pursuant to which it sought stay relief for "cause" pursuant to section 362(d)(1) of the Bankruptcy Code to allow it to obtain possession of the remaining cash proceeds (subject to prior tax liens and an agreed-upon wind-down cost carveout) from the Sale being held by the Trustee in the approximate amount of \$40 million (the "Net Proceeds").

19. On January 25, 2005, February 22, 2005, and March 4, 2005, the Court held preliminary hearings on the Stay Relief Motion.

20. On March 7, 2005, this Court entered the Consent Order Regarding Motion of the Bank of New York for Relief From the Automatic Stay to Exercise Rights Against Sale Proceeds (Docket No. 413). That Order established March 31, 2005, as the deadline for the Trustee to file a Complaint against the Term Agent, and for the Term Agent to withdraw the Stay Relief Motion, without prejudice.

FACTUAL BACKGROUND

21. On or about March 5, 2004, Galey & Lord, Inc., as borrower, and each of the other Debtors, as credit parties, entered into a term loan agreement (the “Term Loan Agreement”) with the Term Lenders, and with General Electric Capital Corporation (“GECC”) as initial agent for the Term Lenders (in such capacity, the “Initial Term Agent”), pursuant to which the Debtors became indebted to the Term Lenders in the approximate amount of \$130 million (the “Term Loan”). The Debtors’ obligations under the Term Loan were allegedly secured by liens on certain of the Debtors’ assets, as detailed below, pursuant to a Security Agreement dated as of March 5, 2004 (the “Term Loan Security Agreement”), among the Debtors and the Initial Term Agent.

22. More specifically, the Term Agent asserts that to secure the Debtors’ obligations under the Term Loan Agreement, the Debtors granted to the Initial Term Agent a security interest and lien (the “Term Agent Lien”) in and upon substantially all (with certain exceptions, however) existing and after acquired personal and real property of the Debtors and proceeds thereof (the “Term Lender Collateral”), including, but not limited to: Accounts; Chattel Paper; Documents (other than vehicle title documents); General Intangibles including payment intangibles; Goods (including Inventory, Equipment and Fixtures); Instruments; Intellectual Property; Investment Property; Deposit Accounts including Controlled Deposit Accounts, Concentration Accounts, Disbursement Accounts and all other bank accounts and all deposits therein; money, cash or cash equivalents; Supporting Obligations and Letter-of-Credit Rights; Vehicles and title documents with respect to Vehicles; commercial tort claims; all other property; books and records relating thereto and Proceeds, tort claims, insurance claims and other right to payments not otherwise included in the foregoing and products of the foregoing and all

accessions to, substitutions and replacements for, and rents and profits of each of the foregoing. Capitalized terms used in this paragraph to describe the Term Lender Collateral, but not otherwise defined herein, shall have the meanings ascribed to them in the Term Loan Agreement, the Term Loan Security Agreement and related documents (collectively, the “Term Loan Documents”).

23. Pursuant to the Term Loan Documents, Galey & Lord, Inc. appears to have pledged to the Initial Term Agent, among other things, 617,662 shares (the “Pledged Shares”) of stock in Greensboro Textile Administration, SCS (Luxembourg) (“Greensboro SCS”), a wholly-owned subsidiary of Galey & Lord, Inc. The Pledged Shares equal sixty-five percent (65%) of the issued and outstanding shares of Greensboro SCS’s stock. Greensboro SCS owns, through certain direct and indirect subsidiaries: (a) a fifty percent (50%) interest in two Mexican subsidiaries or joint ventures, Swift Denim Hidalgo, S. de R.L. de C.V. (Mexico), and Tulancingo S. de R.L. de C.V. (Mexico) (collectively, the “Mexican JVs”); (b) a thirty-three percent (33%) interest in Swift Textiles Europe Ltd., Douglas (Isle of Man) (the “European JV”); and (c) a one hundred percent (100%) interest in Drummondville Services, Inc. (Canada), a Canadian company (collectively with the Mexican JVs and the European JV, the “Foreign JVs”).

24. Also on or about March 5, 2004, Galey & Lord, Inc., as borrower, and each of the other Debtors, as credit parties, entered into a revolving loan agreement (the “Revolver Loan Agreement”) with the lenders thereunder (the “Revolver Lenders”), and with GECC as agent for the Revolver Lenders (in such capacity, the “Revolver Agent”), pursuant to which the Debtors obtained a revolving line of credit of up to \$70 million, subject to various borrowing base restrictions and reserves (the “Revolver Loan”). The Debtors’ obligations under the Revolver Loan were secured by liens on certain of the Debtors’ assets, as detailed below, pursuant to a

Security Agreement dated as of March 5, 2004 (the “Revolver Security Agreement”), among the Debtors and the Revolver Agent.

25. More specifically, the Debtors’ obligations under the Revolver Loan were secured by the Term Lender Collateral, except certain items thereof, including intellectual property and the Pledged Shares, that were expressly excluded (the “Revolver Loan Excluded Collateral”). The collateral for the Revolver Loan, after giving effect to the exclusion of the Revolver Loan Excluded Collateral, is referred to hereinafter as the “Revolver Loan Collateral”.

26. The Term Agent asserts that up until the Closing, and other than with respect to certain tax liens and other permitted encumbrances, the Term Agent held a first priority lien, and GECC, as agent for the lenders under a post-petition DIP financing agreement (the “DIP Agent”) that replaced the Revolver Loan but did not otherwise alter the lien priorities as between the Term Loan and the Revolver Loan (the “DIP Loan”), held a second-priority lien, on the Term Loan Collateral, except with respect to the so-called “working capital assets” that also secured the Revolver Loan (and thereafter the DIP Loan), consisting primarily of accounts receivable, inventory, deposit accounts, cash and cash equivalents and general intangibles other than intellectual property (the “Working Capital Assets”), in which the Term Agent asserts that the DIP Agent held a first-priority lien and the Term Agent held a second-priority lien. Such priorities (other than with respect to the tax liens and other permitted encumbrances) were established pursuant to the Intercreditor Agreement (the “Intercreditor Agreement”) dated as of March 5, 2004, among the parties to each of the Term Loan Agreement and Revolver Loan Agreement (and reaffirmed in connection with the DIP Loan).

27. As noted, GECC was the initial agent for both the Term Lenders under the Term Loan and the Revolver Lenders under the Revolver Loan. On or about April 30, 2004, the Term Agent replaced GECC as the agent for the Term Lenders under the Term Loan.

28. Prior to such replacement, on or about March 9, 2004, GECC, in its capacity as Revolver Agent, filed multiple UCC-1 Financing Statements (one for each of the Debtors) with the Delaware Secretary of State (the "Revolver Loan UCC-1's"). Except for the identification of each specific Debtor, each Revolver Loan UCC-1 is identical.

29. Item number 3 of each of the Revolver Loan UCC-1's identifies the secured party as "General Electric Capital Corporation, as Agent."

30. Item number 4 of the Revolver Loan UCC-1's describes the collateral covered by the Revolver Loan UCC-1's as "All accounts, chattel paper, documents, inventory, general intangibles, goods, instruments, investment property, deposit accounts, cash and cash equivalents, supporting obligations, letter of credit rights and the proceeds and products thereof as further described in Annex A attached hereto and made a part hereof."

31. Annex A attached to each of the Revolver Loan UCC-1's lists and defines various assets as the covered "Collateral." Annex A then states that "Notwithstanding the foregoing, 'Collateral' shall not include any Intellectual Property or any stock held by the Debtor (x) of any subsidiary of the Debtor or (y) any joint venture (provided that 'Collateral' shall include any dividend, distribution or similar payment in respect of such stock of any subsidiary or joint venture)." Annex A further states that "'Controlled Deposit Accounts,' 'Concentration Accounts,' and 'Disbursement Accounts' shall mean (sic) the meanings given to them in the Revolving Credit Agreement, dated as of March 3, 2004 among Galey & Lord, Inc., the Debtor,

the credit parties signatory thereto, the lenders signatory thereto, and the Secured Party, as Agent.” (emphasis added).

32. A true and correct copy of one of the Revolver Agent UCC-1’s is attached hereto as Exhibit “A” and incorporated herein by reference.

33. In connection with the Term Loan, multiple UCC-1 financing statements (one for each of the Debtors) were prepared for filing to perfect the Term Agent Lien in certain collateral (the “Term Loan UCC-1’s”). On information and belief, except for the identification of each specific Debtor, each Term Loan UCC-1 is identical.

34. Item number 3 of each of the Term Loan UCC-1’s identifies the secured party as “General Electric Capital Corporation, as Agent.”

35. Item number 4 of each of the Term Loan UCC-1’s describes the collateral as “All personal property.”

36. A true and correct copy of one of the Term Loan UCC-1’s is attached hereto as Exhibit “B” and incorporated herein by reference.

37. The Term Loan UCC-1’s were never filed with the Secretary of State of Delaware, or the secretary of state of any other state, or any other office designated as the appropriate office for the filing of financing statements.

38. On information and belief, the Initial Term Agent did file (separately from the Revolver Agent, which also filed) mortgages and similar instruments in various jurisdictions to perfect the Term Agent Lien with respect to the Debtors’ real estate (the “Term Loan Mortgages”). On information and belief, none of the Term Loan Mortgages were recorded with the appropriate office within 10 days of March 5, 2004. On information and belief, the Term

Loan mortgages were recorded with the appropriate office between 14 days and 31 days after March 5, 2004.

39. On or about June 30, 2004, Debtor Galey & Lord Industries, Inc. transferred, via wire transfer, funds in the amount of \$4,074,429.22 to the Term Agent.

40. On or about June 30, 2004, and effective as of June 30, 2004, the Debtors and the Term Agent entered into a Second Amendment, Consent and Waiver in connection with the Term Loan.

41. As of the Petition Date, approximately \$130 million was owed to the Term Lenders under the Term Loan Agreement.

42. As of the Petition Date, approximately \$63 million was owed to the Revolver Lenders under the Revolver Loan Agreement.

43. The Pension Benefit Guaranty Corporation (the "PBGC") is an alleged unsecured creditor of each of the Debtors.

44. Additionally, the estates of the (formerly) operating Debtor companies, Galey & Lord Industries, Inc. and Swift Textiles, Inc., have hundreds, if not thousands, of unsecured creditors.

45. The consideration provided by Patriarch in connection with the Sale consisted of approximately \$40 million in cash paid to the Debtors' estates, and the assumption of in excess of \$80 million in liabilities (including the payoff of the DIP Loan).

46. Substantially all of the assets of the Debtors were included in the Sale, including, inter alia, the Debtors' trademarks and other intellectual property, machinery and equipment, inventory, accounts receivable, cash and cash equivalents, real estate and all of the Debtors' indirect interests in the Foreign JVs.

47. The Asset Purchase Agreement, dated September 24, 2004, among Patriarch and the Debtors (the “APA”), pursuant to which the Closing occurred, did not allocate value among the assets purchased, other than for tax or financial reporting purposes. No party assigned a value to any specific asset or group of assets, other than the overall purchase price for the entirety of the assets.

48. The DIP Lenders were paid in full from the proceeds of the Sale on their claims under the DIP Loan.

49. The Term Agent asserts that it is entitled to receive a distribution from the Net Proceeds of approximately \$37,450,000, which represents all of the Net Proceeds after accounting for estimated prior secured tax liens equal to approximately \$2.3 million (the validity of which is being examined by the Trustee) and certain agreed-upon wind-down costs of \$250,000.

50. The Trustee disputes the Term Agent’s assertion of entitlement to the Net Proceeds, and files this Complaint seeking a determination by this Court of the respective rights of the parties, and related relief.

COUNT I

AVOIDANCE OF PREFERENTIAL TRANSFERS PURSUANT TO SECTION 547(b) OF THE BANKRUPTCY CODE, AND RECOVERY OF AVOIDED TRANSFERS PURSUANT TO SECTION 550 OF THE BANKRUPTCY CODE

51. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 50 as if fully set forth herein.

52. Within the ninety-day period preceding the Petition Date, specifically on or about June 30, 2004, Defendant Galey & Lord Industries, Inc. made transfers to the Term Agent in the aggregate amount of \$4,074,429.22 (the “Payments”).

53. The Trustee currently is examining, among other things, whether other payments were made to the Term Agent within one year prior to the Petition Date. To the extent the Trustee discovers additional information regarding any such payments, the Trustee reserves its right to supplement or amend this Complaint to the extent he deems necessary and proper.

54. The Payments were each transfers of an interest of Debtor Galey & Lord Industries, Inc. in property.

55. At the time each of the Payments was made, the Term Lenders, or their assignees, were creditors of the Debtors.

56. The Payments were each made to or for the benefit of the Term Agent.

57. The Payments were each made to or for the benefit of the Term Lenders or their assignees.

58. The Payments were each made for or on account of antecedent debt of the Debtors to the Term Lenders or their assignees.

59. The Payments were each made while Debtor Galey & Lord Industries, Inc. was insolvent.

60. The Payments each enabled the Term Agent to receive more than it would have received if Debtor Galey & Lord Industries, Inc.'s case was a case under Chapter 7 of the Bankruptcy Code, such Payments had not been made, and the Term Agent received payment of the Term Lenders' debt to the extent provided by the provisions of the Bankruptcy Code.

61. The Payments each enabled the Term Lenders or their assignees to receive more than they would have received if Debtor Galey & Lord Industries, Inc.'s case was a case under Chapter 7 of the Bankruptcy Code, such Payments had not been made, and the Term Lenders or

their assignees received payment of their debt to the extent provided by the provisions of the Bankruptcy Code.

62. The Payments each constitute an avoidable preferential transfer pursuant to section 547(b) of the Bankruptcy Code.

63. The Term Agent was the initial transferee of each of the Payments, or was the entity for whose benefit each of the Payments was made.

64. The Trustee is entitled to recover each of the Payments for the benefit of the estates, pursuant to section 550 of the Bankruptcy Code.

WHEREFORE, the Trustee respectfully requests that (1) judgment be afforded to it under Count I of this Complaint against the Term Agent for the avoidance and recovery of each of the Payments as preferential transfers, plus interest from the date of filing of this Complaint, pursuant to sections 547 and 550 of the Bankruptcy Code; and (2) the Court grant such other and further relief as is necessary or appropriate.

COUNT II

AVOIDANCE OF LIENS PURSUANT TO SECTIONS 544(a) AND 547 OF THE BANKRUPTCY CODE AND PRESERVATION OF SUCH LIENS FOR THE BENEFIT OF THE ESTATES PURSUANT TO SECTION 551 OF THE BANKRUPTCY CODE (UCC COLLATERAL)

65. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 64 as if fully set forth herein.

66. The Term Agent asserts that, as of the Closing, the Term Agent Lien was a valid, perfected lien in and upon the Term Lender Collateral.

67. Other than with respect to certain tax liens and other permitted encumbrances, the Term Agent asserts that, as of the Closing, the Term Agent Lien was a first-priority lien in and upon the Term Lender Collateral, except for the Working Capital Assets.

68. Other than with respect to certain tax liens and other permitted encumbrances, the Term Agent asserts that, as of the Closing, the Term Agent Lien was a second-priority lien in and upon the Working Capital Assets junior in priority to the DIP Agent's liens.

69. With respect to the Term Lender Collateral, other than the Debtor's real estate and the Pledged Shares, (the "UCC Collateral"), the Term Agent was required to file a financing statement under applicable law to perfect the Term Agent Lien.

70. The Term Agent, however, failed to file a financing statement as required under applicable law to perfect the Term Agent Lien.

71. As evidenced by the express exclusion in Annex A of the Revolver Loan UCC-1's of certain collateral in which the Initial Term Agent, but not the Revolver Agent, was granted a security interest (intellectual property and stock held by the Debtors), as well as by the unfiled Term Loan UCC-1's, the Revolver Loan UCC-1's were filed solely by GECC as agent for the Revolver Lenders to perfect the Revolver Agent Lien, and not by GECC as agent for the Term Lenders to perfect the Term Agent Lien.

72. In addition, the Revolver Agent UCC-1's were never intended to perfect the Term Agent Lien.

73. Because no financing statements were filed by the Term Agent to perfect the Term Agent Lien in the UCC Collateral, the Term Agent Lien in the UCC Collateral was unperfected on the Petition Date. Accordingly, the Term Agent Lien in the UCC Collateral is avoidable as hereafter set forth.

74. Because no financing statements were filed for the purpose of perfecting the Term Agent Lien in the UCC Collateral, the Term Agent Lien in the UCC Collateral was unperfected

on the Petition Date. Accordingly, the Term Agent Lien in the UCC Collateral is avoidable as hereafter set forth.

75. Furthermore, even if the Trustee's position articulated above that the Revolver Loan UCC-1's cannot qualify to perfect the Term Agent Lien in the UCC Collateral because they were not filed by the Term Agent, and also because they were not intended to perform that function, were to be rejected, the Revolver Loan UCC-1's still do not qualify to perfect the Term Agent Lien in the UCC Collateral because, as applied to the Term Agent Lien in the UCC Collateral, they are seriously misleading and, therefore, ineffective under applicable law. Because the Revolver Loan UCC-1's would misrepresent the facts regarding the Term Agent Lien if viewed as documents capable of perfecting such security interests, they cannot be deemed to provide adequate notice to third parties of such security interests.

76. In this regard, on information and belief, the Term Agent claims a perfected security interest in the Pledged Shares by virtue of having taken possession of the Pledged Shares. Yet, the Revolver Loan UCC-1's expressly disclaim any security interest in any stock held by the Debtor of any subsidiary or joint venture. Under these circumstances, the Revolver Loan UCC-1's would be deemed seriously misleading if deemed applicable to the Term Agent's security interests and therefore ineffective to perfect such security interests.

77. The Trustee is continuing its examination of, among other things, the extent, validity, perfection and priority of the Term Agent Lien. To the extent the Trustee discovers additional information regarding the validity, perfection or priority of the Term Agent Lien, the Trustee reserves its right to supplement or amend this Complaint to the extent it deems necessary and proper.

78. Because the Term Agent Lien in the UCC Collateral is unperfected, it would be voidable by a hypothetical creditor of the Debtors that extended credit to the Debtors on the Petition Date and that obtained, at such time, and with respect to such credit, either (i) a judicial lien on all property on which a creditor on a simple contract could have obtained such a judicial lien; or (ii) an execution against the Debtors that was returned unsatisfied on the Petition Date.

79. Accordingly, the Trustee on behalf of the estates can avoid the Term Agent Lien, pursuant to section 544(a) of the Bankruptcy Code, with respect to the UCC Collateral, and the Term Agent Lien so avoided is automatically preserved for the benefit of the estates, pursuant to section 551 of the Bankruptcy Code.

80. In addition, because the Term Agent Lien in the UCC Collateral is unperfected, the transfers of the security interests in the UCC Collateral would be deemed to have occurred, for purposes of section 547 of the Bankruptcy Code, immediately before the Petition Date. See 11 U.S.C. § 547(e)(2)(C). As such, the transfers of such security interests would be deemed to be transfers of interests of the Debtors in property, to or for the benefit of a creditor or creditors, for or on account of antecedent debt, made while the Debtors were insolvent, within the ninety-day period preceding the Petition Date, that enabled the Term Agent, the Term Lenders or their assignees, as applicable, to receive more than they would have received if the Debtors' cases were cases under Chapter 7 of the Bankruptcy Code, such transfers had not been made, and the Term Agent, the Term Lenders or their assignees, as applicable, had received payment of their debt to the extent provided by the provisions of the Bankruptcy Code.

81. Accordingly, the Trustee on behalf of the estates can avoid the Term Agent Lien, pursuant to section 547(b) of the Bankruptcy Code, with respect to the UCC Collateral, and the

Term Agent Lien so avoided is automatically preserved for the benefit of the estates, pursuant to section 551 of the Bankruptcy Code.

WHEREFORE, the Trustee respectfully requests that (1) judgment be afforded to it under Count II of this Complaint against the Term Agent for the avoidance of the Term Agent Lien with respect to the UCC Collateral, and preservation of such Term Agent Lien with respect to the UCC Collateral for the benefit of the estates, pursuant to sections 544(a), 547(b) and 551 of the Bankruptcy Code; and (2) the Court grant such other and further relief as is necessary and appropriate.

COUNT III

AVOIDANCE OF LIENS PURSUANT TO SECTION 547 OF THE BANKRUPTCY CODE AND PRESERVATION OF SUCH LIENS FOR THE BENEFIT OF THE ESTATES PURSUANT TO SECTION 551 OF THE BANKRUPTCY CODE (REAL ESTATE)

82. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 81 as if fully set forth herein.

83. The Term Lenders or their assignees are each “insiders” of the Debtors within the meaning of sections 547(b)(4)(B) and 101(31) of the Bankruptcy Code because, among other things, they collectively owned more than 20% of the outstanding voting securities of Debtor Galey & Lord, Inc., and because they acted in concert with each other at the time the Term Agent Lien with respect to the Debtors’ real estate was transferred.

84. Because the Term Loan Mortgages were not recorded within 10 days of March 5, 2004, the transfers to the Initial Term Agent of the security interests in the Debtors’ real estate would be deemed to have occurred, for purposes of section 547 of the Bankruptcy Code, on the date of recordation of the respective Term Loan Mortgages. See 11 U.S.C. § 547(e)(2)(B). As such, the transfers of such security interests would be deemed to be transfers of interests of the

Debtors in property, to or for the benefit of a creditor or creditors, for or on account of antecedent debt, made while the Debtors were insolvent, within the one-year period preceding the Petition Date and while the Term Lenders or their assignees were insiders of the Debtors, that enabled the Term Agent, the Term Lenders or their assignees, as applicable, to receive more than they would have received if the Debtors' cases were cases under Chapter 7 of the Bankruptcy Code, such transfers had not been made, and the Term Agent, the Term Lenders or their assignees, as applicable, had received payment of their debt to the extent provided by the provisions of the Bankruptcy Code.

85. Accordingly, the Trustee on behalf of the estates can avoid the Term Agent Lien, pursuant to section 547(b) of the Bankruptcy Code, with respect to the Debtors' real estate and the proceeds thereof, and the Term Agent Lien so avoided is automatically preserved for the benefit of the estates, pursuant to section 551 of the Bankruptcy Code.

WHEREFORE, the Trustee respectfully requests that (1) judgment be afforded to it under Count III of this Complaint against the Term Agent for the avoidance of the Term Agent Lien with respect to the Debtors' real estate and the proceeds thereof, and preservation of such Term Agent Lien with respect to the Debtors' real estate and the proceeds thereof for the benefit of the estates, pursuant to section 547(b) and 551 of the Bankruptcy Code; and (2) the Court grant such other and further relief as is necessary and appropriate.

COUNT IV

DETERMINATION OF VALIDITY OF LIENS (PLEGDED SHARES)

86. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 85 as if fully set forth herein.

87. To the extent, if any, the Court determines that the Term Agent Lien is perfected with respect to the UCC Collateral because of the filing of the Revolver Loan UCC-1's (other than intellectual property and the Pledged Shares, which are not covered by the Revolver Loan UCC-1's), the Trustee asserts that the Term Agent is estopped from asserting a security interest in the Pledged Shares or must be deemed to have waived, released or relinquished any interest in the Pledged Shares because the Revolver Loan UCC-1's expressly disavowed any security interest in the Pledged Shares. It would be highly inequitable to permit the Term Agent to obtain the benefit of the Revolver Loan UCC-1's while not being bound by the exclusions in those UCC-1's.

88. Therefore, to the extent, if any, the Court determines that the Term Agent Lien is perfected with respect to the UCC Collateral because of the filing of the Revolver Loan UCC-1's (other than intellectual property and the Pledged Shares, which are not covered by the Revolver Loan UCC-1's), the Term Agent Lien in and upon the Pledged Shares is invalid and unenforceable as against third-parties, including the Trustee.

WHEREFORE, the Trustee respectfully requests that (1) to the extent, if any, the Court determines that the Term Agent Lien is perfected with respect to the UCC Collateral because of the filing of the Revolver Loan UCC-1's (other than intellectual property and the Pledged Shares, which are not covered by the Revolver Loan UCC-1's), judgment be afforded to it under Count IV of this Complaint against the Term Agent for a determination that the Term Agent Lien with respect to the Pledged Shares is invalid because the Term Agent is estopped from asserting such a security interest or is deemed to have waived, released or relinquished such interest; and (2) the Court grant such other and further relief as is necessary and appropriate.

COUNT V

DETERMINATION OF VALIDITY OF LIENS (INVENTORY, ACCOUNTS RECEIVABLE, EQUIPMENT AND CASH)

89. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 88 as if fully set forth herein.

90. The Term Agent was not provided adequate protection of the Term Agent Lien (in the form of replacement liens or otherwise).

91. Even if the Court determines that the Term Agent Lien is otherwise perfected with respect to the UCC Collateral because of the filing of the Revolver Loan UCC-1's (other than intellectual property and the Pledged Shares, which are not covered by the Revolver Loan UCC-1's), the Trustee asserts that, pursuant to section 552 of the Bankruptcy Code, the Term Agent does not have a security interest or lien (including the Term Agent Lien) in or on inventory, accounts receivable, equipment and cash included in the Sale, unless such inventory, accounts receivable, equipment or cash was (i) on hand at the Petition Date; or (ii) constitutes the proceeds of the Term Agent Collateral.

92. Therefore, even if the Court determines that the Term Agent Lien is otherwise perfected with respect to the UCC Collateral because of the filing of the Revolver Loan UCC-1's (other than intellectual property and the Pledged Shares, which are not covered by the Revolver Loan UCC-1's), the alleged Term Agent Lien in the inventory, accounts receivable, equipment and cash included in the Sale, other than such inventory, accounts receivable, equipment or cash that was (i) on hand at the Petition Date; or (ii) constitutes the proceeds of the Term Agent Collateral, is invalid and unenforceable as against third-parties, including the Trustee.

WHEREFORE, the Trustee respectfully requests that (1) even if the Court determines that the Term Agent Lien is perfected with respect to the UCC Collateral because of the filing of

the Revolver Loan UCC-1's (other than intellectual property and the Pledged Shares, which are not covered by the Revolver Loan UCC-1's), judgment be afforded to it under Count V of this Complaint against the Term Agent for a determination that the alleged Term Agent Lien with respect to inventory, accounts receivable, equipment and cash included in the Sale, other than such inventory, accounts receivable, equipment or cash that was (i) on hand at the Petition Date; or (ii) constitutes the proceeds of the Term Agent Collateral, is invalid and unenforceable pursuant to section 552 of the Bankruptcy Code; and (2) the Court grant such other and further relief as is necessary and appropriate.

COUNT VI

DETERMINATION OF EXTENT OF LIENS

93. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 92 as if fully set forth herein.

94. In connection with the determination of the extent of the Term Agent Lien in the Net Proceeds, the Trustee requests that the Court determine the values of all of the assets sold to Patriarch by asset grouping (and by Debtor to the extent, if any, that substantive consolidation, which is addressed below, is denied), and allocate the Net Proceeds based on such valuation.

95. First, the Court should determine the values of each of the different categories of assets included in the Sale, including inventory, accounts receivable, machinery and equipment, real property, the Greensboro SCS stock and intellectual property. Then, the Court should allocate those values, plus the amount of any cash, among the Net Proceeds.

96. The determination and allocation of values of these assets is a necessary and appropriate step in the Court's determination as to the appropriate distribution by the Trustee pursuant to the Bankruptcy Code of the Net Proceeds among the Term Agent, the PBGC, and

any other creditors entitled to share in the distribution. Pursuant to the Sale Order, the Term Agent Lien attaches to the Net Proceeds to the extent (a) the lien is valid and unavoidable; and (b) the Net Proceeds represent the proceeds of the Term Lender Collateral. Because the Term Agent Lien may be avoidable with respect to (a) all of the UCC Collateral; (b) the intellectual property and the Pledged Shares; (c) only the intellectual property; or (d) some other combination, and because irrespective of whether the Term Agent Lien is avoided and in what, the Term Agent Lien does not extend to 35% of the Greensboro SCS Stock, it is impossible to determine what portion of the Net Proceeds are subject to the Term Agent Lien absent valuation of the asset groupings and allocation to the Net Proceeds.

WHEREFORE, the Trustee respectfully requests that (1) judgment be afforded to it under Count VI of this Complaint and the Court determine the extent of the Term Agent Lien in the Net Proceeds by determining the values of the particular assets sold to Patriarch by asset grouping (and by Debtor to the extent, if any, that substantive consolidation, which is addressed below, is denied), and allocating the Net Proceeds based on such valuation; and (2) the Court grant such other and further relief as is necessary and appropriate.

COUNT VII

SUBSTANTIVE CONSOLIDATION OF THE DEBTORS

97. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 96 as if fully set forth herein.

98. The Debtors' relationships among themselves reveal that each of these entities should be substantively consolidated with the others.

99. Prior to the Petition Date, on information and belief: (a) the Debtors failed to observe corporate formalities and otherwise observe the corporate distinctions between and

among each Debtor; (b) the Debtors had (i) common controlling equity holders, (ii) common officers and directors, (iii) common management, (iv) common office space, (v) common employees, and (vi) commingled other assets and business functions; (c) the Debtors provided or paid for certain services to or for the benefit of each other, which inter-company debts were not reimbursed; (d) the Debtors transferred assets to and for the benefit of one another without observing corporate formalities; (e) certain of the Debtors were grossly undercapitalized; (f) the Debtors prepared and utilized consolidated financial statements; (g) the Debtors were all parties to the Term Loan, the Revolver Loan and the DIP Loan, with Galey & Lord, Inc. as borrower, and the remainder of the Debtors as guarantors; and (h) the parent Debtor, Galey & Lord, Inc., owned the majority of its subsidiary Debtors' stock.

100. In the APA (as well as the other asset purchase agreements executed among the Debtors and Patriarch or its affiliates both prior and subsequent to the Petition Date), not only was there no allocation of the Sale proceeds among the various assets (other than for tax or financial reporting purposes), there was no allocation of the Sale proceeds among the Debtors on account of their inclusion of their respective assets in the Sale.

101. There is a substantial identity between and among each of the Debtors. The Trustee is informed and believes that confusion existed, as of and prior to the Petition Date, among creditors regarding the Debtors and the various services provided by each. The Trustee is further informed and believes that certain creditors relied on the combined credit of the Debtors in business dealings. Segregating and ascertaining the assets and liabilities of the Debtors likely will be extremely difficult.

102. The substantive consolidation of all of the Debtors' estates with each other is necessary to avoid harm to creditors, including but not limited to the absence of a distribution to

the unsecured creditors of Debtors Galey & Lord Industries, Inc. and Swift Textiles, Inc. from the Net Proceeds allocable to the Pledged Shares and the intellectual property.

103. These unsecured creditors will benefit from substantive consolidation of the Debtors, as funds will be available to make a distribution to them from the Net Proceeds allocable to the Pledged Shares and the intellectual property.

104. Only the Term Lenders and potentially the PBGC will be harmed by substantive consolidation.

105. The Term Lenders did not rely on the separate credit of any one of the Debtors, nor did the PBGC rely on the separate credit of any one of the Debtors.

106. The benefits of substantive consolidation of the Debtors heavily outweigh any potential harm to a particular creditor.

WHEREFORE, the Trustee respectfully requests that: (1) judgment be afforded to it under Count VII of this Complaint by substantively consolidating the estates of the Debtors; and (2) the Court grant such other and further relief as is necessary or appropriate.

COUNT VIII

DETERMINATION OF INTER-COMPANY DEBTS, CLAIMS AND OTHER OBLIGATIONS, AS ALTERNATIVE RELIEF TO COUNT VII, IF THE DEBTORS ARE NOT SUBSTANTIVELY CONSOLIDATED

107. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 106 as if fully set forth herein.

108. The Trustee currently is examining, among other things, the existence of inter-company debts, claims, other obligations and potential avoidable transfers of assets between Debtors.

109. In the event the Court does not order the substantive consolidation of the Debtors, the Trustee requests that the Court determine the extent and amount of inter-company debts, claims and other obligations between and among the Debtors.

110. This determination is required so that the Trustee and the Court will be able to determine whether any of the Debtors is entitled to a distribution from the Net Proceeds allocated to any of the other Debtors, based on such inter-company debts, claims or other obligations, for the benefit of each Debtor's creditors.

WHEREFORE, the Trustee respectfully requests that (1) judgment be afforded to it under Count VIII of this Complaint by a determination of the Debtors' inter-company debts, claims and other obligations; and (2) the Court grant such other and further relief as is necessary and appropriate.

COUNT IX

OBJECTION TO CLAIMS PURSUANT TO SECTION 502(d) OF THE BANKRUPTCY CODE

111. The Trustee repeats and realleges the allegations contained in paragraphs 1 through 110 as if fully set forth herein.

112. As set forth in Count I above, the Term Agent was the transferee of certain transfers that are avoidable under section 547 of the Bankruptcy Code. As further set forth in Count I above, property is recoverable from the Term Agent pursuant to section 550 of the Bankruptcy Code.

113. Pursuant to section 502(d) of the Bankruptcy Code, any claims of the Term Agent must be disallowed until such time as the Term Agent pays to the Debtors' estates, or if substantive consolidation is not ordered, Debtor Galey & Lord Industries, Inc.'s estate, the amount for which it is liable, pursuant to section 550 of the Bankruptcy Code.

WHEREFORE, the Trustee respectfully requests that (1) judgment be afforded to it under Count IX of this Complaint by disallowing any and all claims of the Term Agent pursuant to section 502(d) of the Bankruptcy Code; and (2) the Court grant such other and further relief as is necessary and appropriate.

DATED: March 31, 2005.

KILPATRICK STOCKTON LLP

By: /s/ Todd C. Meyers

Todd C. Meyers
Georgia Bar No. 503756
Craig E. Bertschi
Georgia Bar No. 055739
David A. Geiger
Georgia Bar No. 288898

1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309
(404) 815-6500 Telephone
(404) 815-6555 Facsimile

Special Counsel to S. Gregory Hays,
Chapter 7 Trustee

B104 (Rev. 2/92)	ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFF S. GREGORY HAYS, in his capacity as the duly-appointed Chapter 7 Trustee of Galey & Lord, Inc., et al.		DEFENDANT THE BANK OF NEW YORK, f/k/a BNY ASSET SOLUTIONS, LLC
ATTORNEYS (Firm Name, Address, and Telephone No.) Todd C. Meyers, Esq. Craig E. Bertschi, Esq. Kilpatrick Stockton LLP 1100 Peachtree Street, NE, Suite 2800 Atlanta, Georgia 30309-4530 (Tele.) 404-815-6500; (Fax) 404-815-6555		ATTORNEYS (If Known)
PARTY (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT <input checked="" type="checkbox"/> 3 U.S. NOT A PARTY		
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Complaint to avoid preferential transfers and liens; to determine the validity and the extent of liens; to determine inter-company debt, claims and other obligations; for substantive consolidation of the Debtors; and in objection to claims. -- 11 U.S.C. §§ 502, 544, 547, 550, 551 and 552; Rules 6009 and 7001 of the Fed. R. Bank. P.; and 28 U.S.C. §§ 157, 1409, and 1334.		
NATURE OF SUIT (Check the one most appropriate box only)		
454 To recover money or property	455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan	456 To obtain a declaratory judgment relating to any of the foregoing causes of action
435 To determine validity, priority, or extent of a lien or other interest in property	426 To determine the dischargeability of a debt 11 U.S.C. § 523	459 To determine a claim or cause of action removed to a bankruptcy court
458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property	434 To obtain an injunction or other equitable relief	498 Other (specify)
424 To object or to revoke a discharge 11 U.S.C. § 727	457 To subordinate any allowed claim or interest except where such subordination is provided in a plan	
ORIGIN OF PROCEEDINGS (Check one box only.)	<input checked="" type="checkbox"/> 1 Original Proceeding 2 Removed Proceeding 4 Reinstated or Reopened	5 Transferred from Another Bankruptcy Court CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P.
DEMAND <i>To Be Determined</i>	NEAREST THOUSAND \$	OTHER RELIEF SOUGHT
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Galey & Lord, Inc., et al.		BANKRUPTCY CASE NO. Chapter 7 Case Nos. 04-43097 through 04-43106 (Jointly Administered Under Case No. 04-43098)
DISTRICT IN WHICH CASE IS PENDING Northern District of Georgia	DIVISIONAL OFFICE Rome Division	NAME OF JUDGE Judge Diehl
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO. <i>To Be Determined</i>
DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE
FILING FEE (Check one box only.)	<input checked="" type="checkbox"/> FEE ATTACHED	<input type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED
DATE March 31, 2005	PRINT NAME	SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Todd C. Meyers, Esq.