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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**
11

12 In re) Case No. 2:06-11187-VZ
13 MARION KNIGHT, JR.,)
14 Debtor.) Chapter 11
15) **NOTICE OF CHAPTER 11 TRUSTEE'S**
16) **MOTION FOR ORDER AUTHORIZING THE**
17) **SALE OF SUBSTANTIALLY ALL OF THE**
18) **RECORDED MUSIC BUSINESS ASSETS AND**
19) **MUSIC PUBLISHING ASSETS OF THE**
20) **ESTATE FREE AND CLEAR OF LIENS,**
21) **CLAIMS AND ENCUMBRANCES, WAIVING**
22) **THE 10-DAY STAY, AND GRANTING**
23) **RELATED RELIEF**
24)
25) Date: December 9, 2008
26) Time: 1:30 p.m.
27) Place: Courtroom "1368"
28) 255 E. Temple St.
Los Angeles, CA

22 **PLEASE TAKE NOTICE** that an Auction for the sale of substantially all of the recorded
23 music business assets and music publishing assets (collectively the "Acquired Assets") of the
24 bankruptcy estates of Marion Knight, Jr. ("Knight") and Death Row Records, Inc. ("Death Row"),¹
25 is scheduled for December 9, 2008, at 1:30 p.m., in Courtroom "1368" of the United States
26

27 ¹ *In re Death Row Records, Inc.*, Bankr. Case No. 2:06-11205-VZ.
28

1 Bankruptcy Court, located at 255 East Temple Street, Los Angeles, California. Only Qualified
2 Bidders² may present bids at the Auction. Pursuant to the Sale Procedures approved in Knight's
3 case on or about October 28, 2008, **Qualified Bid packages should be submitted to counsel for**
4 **the Trustees by 4:00 p.m., California time, on November 17, 2008.**

5 Parties interested in becoming Qualified Bidders should contact either counsel for R. Todd
6 Neilson, Chapter 11 trustee (the "DRR Trustee") for Death Row's estate, or counsel for Richard K.
7 Diamond, Chapter 11 trustee (the "Knight Trustee" and, with the DRR Trustee, the "Trustees") for
8 Knight's estate, as follows:

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14 **PLEASE TAKE FURTHER NOTICE** that on December 9, 2008, at 1:30 p.m., or as soon
15 thereafter as the matter may be heard, the Knight Trustee will move the Court for an order
16 (1) authorizing the sale of substantially all of the Estates' recorded music business related assets
17 and music publishing business assets free and clear of all liens, claims and other interests pursuant
18 to 11 U.S.C. § 363 to either the party presenting the highest or best bid acceptable to the Trustees at
19 the Auction or, if such party fails to close, a Back Up Bidder presenting a back up bid acceptable to
20 the Trustees,³ (2) providing that such liens, claims and other interests are removed from the
21 Acquired Assets and, except for those liens, claims and encumbrances identified in the motion,
22 shall attach to a like amount of the net sales proceeds, up to the amount of the net sale proceeds,

23 _____
24 ² Capitalized terms not otherwise defined herein have the same meanings ascribed to them
in the Trustee's motion for authority to sell the Acquired Assets, filed concurrently herewith.

25 ³ If a sufficiently high price or otherwise satisfactory offer is not received through the
26 Action, each of the Trustees reserves the right, in his sole discretion and in the exercise of his
27 business judgment, to decline all of the offers received, withdraw the Acquired Assets from the
28 Auction, and pursue other opportunities, including but not limited to exploiting the Acquired
Assets through an operating plan of reorganization.

1 with the same force, effect, validity and priority that they have with respect to the Acquired Assets,
2 (3) approving the proposed purchase and sale agreement with the Successful Bidder and Back Up
3 Bidder(s), (4) if the Trustees determine that it is appropriate, determining that the Buyer and/or
4 Back Up Bidder(s) are good faith purchasers under 11 U.S.C. § 363(m), (5) waiving the 10-day
5 stay otherwise applicable under Federal Rule of Bankruptcy Procedure 6004(h), and (6) granting
6 related relief. A companion motion seeking similar relief is being filed by the DRR Trustee with
7 respect to the recorded music business related assets of Death Row's estate.

8
9 **Terms of the Trustee's Proposed Sale**

10 The Trustees propose to sell substantially all of the recorded music business assets and
11 music publishing business assets of the Estates to the Buyer presenting the highest or best offer
12 acceptable to the Trustees at the Auction, for cash in the amount of such party's offer plus the
13 Buyer's assumption of the Assumed Liabilities (defined below) which may arise in connection with
14 the sale of the assets (collectively the "Purchase Price"), substantially on the material terms set
15 forth in the form asset purchase agreement (the "APA") filed on October 17, 2008, by the DRR
16 Trustee in the Death Row bankruptcy case (case number 2:06-11205-VZ). Without limiting the
17 terms stated in the APA, to which interested parties should refer for a complete description of the
18 terms of the Trustees' proposed sale, the terms of the Trustees' proposed sale are as follows:

19 1. **The "Acquired Assets."** "Acquired Assets" shall mean substantially all of
20 the Estates' right, title and interest in the assets relating to the recorded music and music publishing
21 businesses of the Debtors. The Acquired Assets shall include, without limitation, all of the Estates'
22 right, title and interest in and to all trademarks, service marks, copyrights, inventory, accounts
23 receivable pertaining to the Knight Estate's music publishing business assets after the closing date,
24 videos, masters, compositions, digital recording rights, merchandising rights, agreements
25 (including the agreement, dated as of September 29, 1998, between Interscope Records
26 ("Interscope") and Death Row, as amended, in rights to certain Tupac Shakur master recordings
27 (the "Interscope Agreement"), and also including artist agreements, licenses, publishing
28 agreements, administration agreements, and other contracts, but only to the extent specified by the

1 Buyer as an Assigned Contract (as defined in the APA)), debit balances of artists who are parties to
2 agreements with Death Row, works in progress, claims for damages based upon reasons, facts, or
3 circumstances by way of past, present, and future infringement of any of the intellectual property
4 rights to the extent related to any of the foregoing, databases, domain names, websites, computer
5 software programs, or electronic or digital files, and copies of the Debtors' books and records to the
6 extent related to any of the foregoing. The Acquired Assets shall not include assets included within
7 the definition of "Excluded Assets," discussed below.

8 Without limiting the generality of the foregoing, the Acquired Assets shall include
9 all of the Estates' right, title and interest to (1) those masters (including the copyrights and digital
10 and other distribution rights) and compositions (as applicable) embodied on the albums identified
11 in a schedule to the APA, (2) the unreleased masters (including the copyrights and digital and other
12 distribution rights) that are covered by Death Row's right to acquire same from Amaru
13 Entertainment ("Amaru"), successor to the estate of Tupac Shakur, pursuant to Section 8 of that
14 certain Settlement Agreement, dated as of June 30, 1997, by and among Death Row, Knight,
15 Interscope Records and the estate of Tupac Shakur, and (3) any and all masters (including the
16 copyright and digital and other distribution and merchandising rights) and compositions in which
17 Death Row or Knight's interest was disputed in the adversary proceeding captioned *R. Todd*
18 *Neilson, Chapter 11 Trustee of Death Row Records, Inc. v. Digital Revolutions Holdings, Inc., et*
19 *al.*, Adv. Case No. 2:06-01911-VZ (subject to the terms and provisions of the settlement agreement
20 reached by the parties in that action (the "Hawkins Settlement"), which was approved by the
21 Bankruptcy Court by order entered on or about February 8, 2008).

22 2. **Sale Free and Clear of Liens, Claims and Encumbrances.** Pursuant to
23 Section 363(f) of the Bankruptcy Code, the Buyer will acquire all of the Estates' right, title,
24 interests in and to the Acquired Assets free and clear of all liens (including any purported
25 attachment liens, execution liens and judgment liens), claims, encumbrances and other interests in
26 such Acquired Assets, including any unpaid royalty claims through and including the date of
27 closing, claims for returns of goods distributed pre-closing, any competing interests in and to the
28 Acquired Assets (including any claims of rescission), recoupment or setoff rights, and any

1 purported rights of third parties (including Koch, Eagle Rock Entertainment Ltd. (“Eagle Rock”)
2 and Ron Winter Productions, Ltd. (“Ron Winter”)) under Section 365(n) of the Bankruptcy Code,
3 and Remrylie Licensing, Inc. (“Remrylie”) under the purported agreement between Dimples
4 Merchandizing, Inc., and Remrylie dated October 18, 2005 (the “Remrylie Agreement”) that was
5 assigned to the DRR Estate pursuant to the Hawkins Settlement (collectively the “Encumbrances”).

6 Except as identified herein, liens, claims and encumbrances will be removed from the Acquired
7 Assets and shall attach to a like amount of the net sales proceeds, up to the amount of the net sale
8 proceeds, with the same force, effect, validity and priority that they have with respect to the
9 Acquired Assets. Liens which shall be removed from the Acquired Assets and attach to the net
10 sales proceeds include but are not limited to the following:

- 11 i. any and all liens in favor of the Internal Revenue Service, including
12 but not limited to tax liens recorded in various counties from 2003
13 through 2006; and
- 14 ii. any and all liens in favor of the California Franchise Tax Board,
including but not limited to tax liens recorded in various counties
during 2002 and 2003.

15 The Knight Trustee has identified the following liens, claims and encumbrances which he does not
16 believe are asserted against the Knight estate assets included in the Acquired Assets. However, out
17 of an abundance of caution, the Knight Trustee requests that the Court’s order provide that the sale
18 is free and clear of the following liens, claims and encumbrances, with such interests *not* attaching
19 to the net sale proceeds:

- 20 i. any and all liens, claims and interests in favor of Santiago Sandy
21 SanGuillen (“SanGuillen”), including but not limited to any lien upon
22 which SanGuillen based his secured proof of claim that was filed in
23 the Knight case on or about October 31, 2006;
- 24 ii. any and all liens, claims and interests in the Knight estate assets that
25 are included in the Acquired Assets in favor of Eagle Rock, including
26 but not limited to any lien, claim or interest upon which Eagle Rock
27 based its secured proof of claim that was filed in the Knight case on
28 or about October 31, 2006;
- iii. any and all liens, claims and interests in favor of McPherson &
Kalmansohn (“McPherson”), including any liens created pursuant to
various writs of attachment and execution liens served by McPherson
prepetition;

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- iv. any and all liens, claims and interests in favor of Tracy L. Curry, including but not limited to any judgment lien recorded by Tracy Curry with the Los Angeles County Recorder's Office on or about December 22, 1998, document number 98-2316971;
- v. any and all liens, claims and interests in favor of Attorney Collection Services, Inc. ("ACS"), including but not limited to any judgment lien recorded by ACS with the Los Angeles County Recorder's Office on or about December 20, 2002, document number 02-3136830;
- vi. any and all liens, claims and interests in favor of O.C.F., Inc. ("OCF"), including but not limited to any judgment lien recorded by OCF with the California Secretary of State on or about January 13, 2003, filing number 03-1660623;
- vii. any and all liens, claims and interests in favor of Kopple & Klinger, LLP ("K&K"), including but not limited to (a) any judgment lien recorded by K&K with the California Secretary of State on or about May 15, 2003, filing number 03-13960162, and (b) any and all judgment liens recorded by K&K with county recorder's offices, including but not limited to the Los Angeles County Recorder's Office on or about August 1, 2003 (document number 03-2221935) and August 8, 2003 (document number 03-2297873);
- viii. any and all liens, claims and interests in favor of CLS Transportation, Inc. ("CLS"), including but not limited to (a) any judgment lien recorded by CLS with the California Secretary of State on or about January 8, 2004, filing number 04-1360833, and (b) any and all judgment liens recorded by CLS with the Los Angeles County Recorder's Office on or about February 17, 2004, document number 04-0360741;
- ix. any and all liens, claims and interests in favor of L. Miller, including but not limited to any judgment lien recorded by L. Miller with the California Secretary of State on or about March 9, 2005, filing number 05-7018708238;
- x. any and all liens, claims and interests in favor of Lydia Harris, including but not limited to any judgment lien recorded by Lydia Harris with the California Secretary of State on or about March 21, 2005, filing number 05-7020137277; and
- xi. any and all liens, claims and interests in favor of Amanda Metcalf ("Metcalf"), including but not limited to any judgment lien recorded by Metcalf with the Los Angeles County Recorder's Office on or about June 22, 2005, document number 05-1471697.
- xii. any and all liens, claims and interests in favor of Sharitha Golden fka Knight ("Golden"), including but not limited to any judgment liens recorded by Golden with the Los Angeles County Recorder's Office on or about July 22, 2002, document numbers 02-1697669 and 02-1697670.

1 xiii. any and all liens, claims and interests in favor of the County of Los
2 Angeles Child Support Services Department (the "County Child
3 Support Services Department"), including but not limited to any
4 judgment liens recorded by the County Child Support Services
5 Department with the Los Angeles County Recorder's Office on or
6 about (a) March 9, 2005, document number 05-543337, (b) June 13,
7 2005, document number 05-1382281, and (c) October 24, 2005,
8 document number 05-2555431.

9 3. **Acquired Assets Sold on an "As Is" and "Where Is" Basis.** The sale of
10 the Acquired Assets will be on an "as-is, where-is" basis and without representations or warranties
11 of any kind, nature or description by the Estates or the Trustees other than those set forth in Section
12 8(b) of the APA. Selection and acceptance by the Trustees of the highest or best bid at the Auction
13 will be made in accordance with the Court-approved Sale Procedures.

14 4. **The "Excluded Assets."** The Acquired Assets will not include the Debtors'
15 cash, bank and other deposits, cash equivalents, distribution agreements (together with all audit,
16 recoupment and other rights and claims of the Estates relating thereto), including, but not limited
17 to, the distribution agreements with Koch, Eagle Rock, and Ron Winter, tangible personal property
18 such as equipment, supplies, computers and office equipment and furniture, leases relating to real
19 or personal property, real property, accounts receivable pertaining to Death Row's recorded music
20 business on or prior to the closing of the sale, the Knight Estate's accounts receivable pertaining to
21 Knight's music publishing business on or prior to the closing of the sale, existing merchandise
22 inventory, the Debtors' books and records (to the extent not related to the Acquired Assets), any
23 rights to the CD and DVD that feature Tupac Shakur performing at the House of Blues on or about
24 July 4, 1996, claims for avoidance actions under the Bankruptcy Code, of whatever kind or nature,
25 as set forth in Sections 544 through 551, and 553 (but only to the extent of the Debtors' retained
26 rights of setoff as specified in Section 2 of the APA) and any other applicable provisions of the
27 Bankruptcy Code, postpetition claims arising through and including the closing (including, without
28 limitation, any claims related to the Trustees' efforts to sell the assets of the Estates), any claims
owned by the Knight Estate to audit Warner/Chappell's administration of the Knight Estate's
publishing rights (together with all recoupment and other rights and claims of the Knight Estate
relating thereto) through and including the date of closing, any claims owned by the DRR Estate to

1 audit Koch, Eagle Rock, Ron Winter, or Interscope for any amounts due on or prior to the date of
2 closing and any claims arising out of such audits, any related claims and actions arising under such
3 Bankruptcy Code sections by operation of law or otherwise, including any and all proceeds of the
4 foregoing, any inventory not owned by the Estates as of the closing date but acquired by a third
5 party to the extent the Estates are required to pay such third party for such inventory, the right of
6 the Trustees to receive an accounting statement (and all supporting documentation) from the Buyer
7 with respect to any account receivables or other amounts that are received or receivable by the
8 Buyer for amounts with respect to transactions or occurrences on or prior to the closing of the sale,
9 the right of the Trustees to audit the Buyer with respect to any account receivables or other
10 amounts that are received by the Buyer for amounts due or accruing for pre-closing transactions.

11 5. **The “Assumed Liabilities.”** The Buyer will not assume, perform or be
12 liable or in any way responsible for any liabilities or obligations of the Estates (including liabilities
13 for returns of products distributed by Koch, Eagle Rock or Ron Winter), except for (i) any and all
14 liabilities and obligations that arise specifically from the Buyer’s ownership and use of the
15 Acquired Assets on or after the closing, and (ii) any and all liabilities and obligations under the
16 Assigned Contracts specifically incurred or arising on or after the closing (it being understood and
17 agreed by the Buyer and the Trustees that, notwithstanding anything contained herein or in the
18 APA that is arguably to the contrary, the Buyer shall not assume, or in any way be responsible for,
19 royalties or other amounts due to any obligee or counterparty on account of sales or any other
20 exploitation of the Debtors’ recorded music or music publishing assets that occurred prior to the
21 closing (whether or not an accounting on account of such sales or other exploitation was rendered
22 subsequent to the closing)) (each of (i) and (ii) being referred to herein collectively as the
23 “Assumed Liabilities”).

24 The Buyer shall pay, perform and discharge the Assumed Liabilities in accordance
25 with their terms, subject to any defenses or offsets (including unrecouped advances to, and/or debit
26 balances of, Death Row’s artists) asserted in good faith against the obligee to whom such liabilities
27 or obligations are owed that are not otherwise utilized by the Estates in the bankruptcy process. In
28 furtherance of the preceding sentence, the Buyer and the Trustees agree that (i) the Estates shall

1 retain the right to utilize such defenses and offsets as the Trustees deem necessary (in the exercise
2 of their fiduciary duties to the Estates) to reduce or eliminate their liabilities or obligations to any
3 creditor of the Estates that arose or were incurred prior to the closing, and (ii) the Buyer shall be
4 bound by the Bankruptcy Court's determination regarding the validity or amount of any such
5 defense or offset.

6 6. **The "Designated Contracts."** The Interscope Agreement, the 1997
7 Settlement, and any other contract listed in Annex "A" to Exhibit "A" to the APA shall be assigned
8 to the Buyer. In addition, the Buyer shall have the right in its sole discretion to designate those of
9 the Debtors' artists agreements and publishing contracts, a list of which is attached as Annex "E" to
10 Exhibit "A" to the APA, which the Estates will assign to the Buyer (the "Designated Contracts").
11 The contracts listed in Annex "A" and Annex "E" to Exhibit "A" of the APA are collectively
12 referred to as the "Assigned Contracts." None of the Assigned Contracts are executory contracts.

13
14 **Obtaining Copies of the Motion and Papers in Support Thereof**

15 The motion is based upon this separate notice, the motion, the Memorandum of Points and
16 Authorities, Declaration of Richard K. Diamond, and Request for Judicial Notice appended thereto,
17 the papers and pleadings on file in this case, the sale motion filed or to be filed by the DRR Trustee
18 in Death Row's case and its supporting evidence, and such other evidence as may be presented to
19 the Court. Copies of the motion and papers filed in support thereof may be obtained from counsel
20 for the Knight Trustee or through the Court's electronic filing service at ecf.cacb.uscourts.gov. The
21 Knight Trustee reserves the right to charge for the costs of copying.

22
23 **Procedure for the Filing and Service of Oppositions to the Motion**

24 Pursuant to the Court's order establishing procedures for the Trustees' sale of the Acquired
25 Assets, any party opposing the relief sought by the Motion must file a response in writing and serve
26 such response, by e-mail, facsimile, overnight mail, or personal delivery, upon the following by no
27 later than **November 18, 2008**:
28

1 **Counsel for the DRR Trustee**

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13 -- and --

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20 The response shall contain a brief, but complete, written statement setting forth all of the reasons
21 for opposing the motion, a memorandum of points and authorities, declarations, and all evidence on
22 which the responding party intends to rely. Any response not timely filed and served may be
23 deemed by the Court to be consent to the granting of the motion. If you do not have any objection
24 to the motion, you do not need to take any further action.

25 Dated: November 4, 2008

DANNING, GILL, DIAMOND & KOLLITZ, LLP

26 By: *John N. Tedford IV*
27 John N. Tedford, IV
28 Attorneys for Richard K. Diamond,
Chapter 11 Trustee