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11 **UNITED STATES BANKRUPTCY COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **LOS ANGELES DIVISION**

14 **In re**

15 **ESTYLE, INC., a Delaware corporation, dba**
16 **babystyle, Cadeau, and Cadeau Designs,**

17 **Debtor.**

18 **Case No.: 08-13518-SB**

19 **Chapter 11**

20 **NORTHPARK PARTNERS, L.P.'S**
21 **LIMITED OBJECTION TO DEBTOR'S**
22 **MOTION FOR ORDER AUTHORIZING**
23 **AND APPROVING: (1) THE SALE OF**
24 **THE ASSETS OF ESYTLE, INC. FREE**
25 **AND CLEAR OF LIENS, AND (2) THE**
26 **ASSUMPTION AND ASSIGNMENT OF**
27 **UNEXPIRED NONRESIDENTIAL REAL**
28 **PROPERTY LEASES AND EXECUTORY**
 CONTRACTS IN CONNECTION
 THEREWITH

Date: July 8, 2008

Time: 2:00 p.m.

Place: Courtroom 1575

255 E. Temple Street

Los Angeles, CA 90012

23 NorthPark Partners, L.P. ("NorthPark"), lessor under a commercial real property lease with
24 eStyle, Inc., a Delaware Corporation d/b/a babystyle, Cadeau, and Cadeau Designs (the "Debtor"),
25 files this Limited Objection to the Debtor's Motion (the "Motion") for Order Authorizing and
26 Approving: (1) the Sale of the Assets of eStyle, Inc. Free and Clear of Liens, and (2) the Assumption
27 and Assignment of Unexpired Nonresidential Real Property Leases and Executory Contracts in
28 Connection Therewith, and respectfully represents as follows:

1 On December 17, 2004, NorthPark entered into a Shopping Center Lease (the “Lease”) with
2 the Debtor covering approximately 2,585 square feet of retail space (the “Premises”) at NorthPark
3 Center in Dallas, Texas.

4 The Lease contains the following use provision:

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6 ...Tenant shall use and occupy the [] Premises solely for the operation of a
7 retail store comparable to Tenant’s most current prototype stores, which
8 merchandise shall consist solely of maternity apparel and accessories, infant and
9 toddler apparel, children’s bedding, furniture, gear, toys and related items and
10 accessories, and other similar related items...

11 On March 19, 2008, the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy
12 Code. The Debtor proposes in its Motion to sell substantially all of the Debtor’s assets and assume
13 and assign certain nonresidential leases.

14 While NorthPark does not object to the Debtor’s sale generally, NorthPark objects to the
15 extent that the Debtor seeks to assume and assign the Lease.

16 First, the Lease contains a specific use provision (provided above) which cannot be
17 disregarded. Because the Lease contains a specific use provision, the Lease is not assignable to a
18 tenant that intends to make any other use of the premises. 11 U.S.C. § 363(b)(3)(C); *see Trak Auto*
19 *Corp. v. West Town Center, LLC (In re Trak Auto Corp.)*, 367 F.3d 237 (4th Cir. 2004).

20 Second, under Texas law, once a GOB sale has been conducted, a party cannot continue
21 operating the business. Specifically, Texas Business and Commerce Code § 17.82 provides that a
22 company may not conduct a GOB sale “unless the business is closing all of its operations in a county
23 and in all of the counties immediately adjacent to that county and follows the procedures required by
24 this subchapter.” Here, the Debtor is already conducting a GOB sale on the Premises and, therefore,
25 the business could not continue to operate after the conclusion of that sale.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is **KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP**, 10100 Santa Monica Boulevard, Seventh Floor, Los Angeles, California 90067.

On **June 27, 2008**, I served the foregoing document(s):

NORTHPARK PARTNERS, L.P.'S LIMITED OBJECTION TO DEBTOR'S MOTION FOR ORDER AUTHORIZING AND APPROVING: (1) THE SALE OF THE ASSETS OF ESTYLE, INC. FREE AND CLEAR OF LIENS, AND (2) THE ASSUMPTION AND ASSIGNMENT OF UNEXPIRED NONRESIDENTIAL REAL PROPERTY LEASES AND EXECUTORY CONTRACTS IN CONNECTION THEREWITH

on the interested parties in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed and sent as follows:

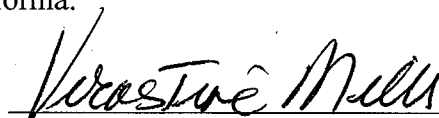
SEE ATTACHED SERVICE LIST

BY MAIL: I caused such envelope(s) to be deposited in the mail at Los Angeles, California with postage thereon fully prepaid to the office of the addressee(s) as indicated above. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day, with postage fully prepaid, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on **June 27, 2008**, at Los Angeles, California.



Verastine Mills

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SERVICE LIST
IN RE ESTYLE, INC.
USBC CASE NO. 2:08-bk-13518-SB

DEBTOR

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[eFabricant@babystyle.com](mailto:EFabricant@babystyle.com)

ATTORNEY FOR DEBTOR and DEBTOR IN POSSESSION

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OFFICE OF THE UNITED STATES TRUSTEE

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