

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Chapter 7

Debtor.

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**ORDER AUTHORIZING THE TRUSTEE TO ISSUE
SUBPOENAS FOR THE PRODUCTION OF DOCUMENTS
AND AUTHORIZING THE TRUSTEE TO EXAMINE ULTA INC.**

Upon the motion, dated January 2, 2025 (the "Motion"), of Kenneth P. Silverman, solely in his capacity as the chapter 7 trustee (the "Trustee") pursuant to Bankruptcy Rules 2004 and 9016 for an order authorizing the Trustee to issue subpoenas for the production of documents and to examine Ulta Inc. ("Ulta") as more fully set forth on Exhibit B to the Motion (the "Documents" and "Witnesses"); and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§1408 and 1409; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtor's estate, creditors and other parties-in-interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefore; it is

ORDERED, that the Motion is granted on the terms set forth herein; and it is further

ORDERED, that the Trustee is authorized under Bankruptcy Rules 2004 and 9016, to issue such subpoenas as may be necessary to compel the production of documents and the testimony of the Witnesses in connection with the administration of this Chapter 7 case; and it is further



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ORDERED, that unless otherwise agreed to by the Trustee, each Witness shall have twenty (20) days from the service of such subpoena, the Motion and a copy of this Order to either (1) produce to the Trustee all responsive documents requested in the Trustee's subpoena (including electronically stored information), other than those documents withheld under a claim of privilege or (2) file with this Court an objection or response to the subpoena with a hearing promptly scheduled; and it is further

ORDERED, that unless otherwise agreed to by the Trustee, if any Witness withholds any documents from the production based upon a claim of privilege, the Witness is directed to provide counsel for the Trustee with a privilege log, containing the information required under Bankruptcy Rule 7026 and S.D.N.Y. L.B.R. 7026-1, at the time of document production hereunder; and it is further

ORDERED, that each Witness is directed to submit to oral examination upon reasonable notice and, absent other agreement with the Trustee, in no event less than thirty (30) days from the date of the service of a deposition subpoena upon the Witness; and it is further

ORDERED, that the Trustee shall have the ~~exclusive~~ right, absent good cause shown, to determine if the examination shall be in person or conducted via remote video conferencing; and it is further **[DSJ 1/31/2025]**

ORDERED, that nothing herein shall limit the rights of any Witness under applicable law to object to or oppose any subpoena the Trustee may serve upon such Witness; and it is further

ORDERED, that such Witness shall, prior to conducting an electronic search utilizing search terms, meet and confer with the Trustee's counsel to attempt to agree on appropriate search terms; and it is further

ORDERED, that all disputes concerning such subpoenas issued pursuant to this Order, including objections thereto, that are not resolved by agreement of the parties may be raised only by letter brief to the Court not exceeding five (5) pages, single spaced. The other party shall file a responsive letter brief within three (3) business days, which shall not exceed five (5) pages, single spaced. Copies of such letter briefs shall also be emailed to the Court's chambers.

ORDERED, that in accordance with Bankruptcy Rules 2004 and 9016, (i) the Clerk of this Court shall issue subpoenas, signed, but otherwise in-blank, as requested by the Trustee, or (ii) provided that counsel for the Trustee is authorized to practice in this Court, counsel may issue and sign the subpoenas; and it is further

ORDERED, that the Trustee shall file with the Court an affidavit or declaration of service for each subpoena Trustee serves; and it is further

ORDERED, that this Order is without prejudice to the Trustee's right to file further motions seeking additional documents and testimony pursuant to Bankruptcy Rule 2004(a) or any other applicable law; and it is further

ORDERED, that this Court shall retain jurisdiction to resolve any disputes arising or related to this Order including any discovery disputes that may arise between or among the parties and to interpret, implement and enforce the provisions of this Order.

Dated: New York, New York
January 31, 2025

s/ David S. Jones
Honorable David S. Jones
United States Bankruptcy Judge