

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----	X	
	:	
In re:	:	Chapter 11
	:	
FILENE'S BASEMENT, LLC, <u>et al.</u> ,	:	Case No. 11-13511 (KJC)
	:	
Debtors. ¹	:	Jointly Administered
	:	
	:	Related Docket No. 1563
-----	X	

**CERTIFICATION OF COUNSEL IN SUPPORT OF ENTRY OF ORDER
PURSUANT TO 11 U.S.C. §§ 105(a), 1125, 1126, AND 1129 (I) AUTHORIZING
THE DEBTORS TO DISTRIBUTE AN ACCREDITED INVESTOR
QUESTIONNAIRE TO SYMS CORP. EQUITY HOLDERS, (II) APPROVING
PROCEDURES RELATED THERETO, AND (III) ESTABLISHING A
RIGHTS OFFERING RECORD DATE**

The undersigned counsel for the debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors") hereby certifies that on June 29, 2012, the Debtors filed the Debtors' Motion for Order Pursuant to 11 U.S.C. §§ 105(a), 1125, 1126, and 1129 (I) Authorizing the Debtors to Distribute an Accredited Investor Questionnaire to Syms Corp. Equity Holders, (II) Approving Procedures Related Thereto, and (III) Establishing a Rights Offering Record Date [Docket No. 1563] (the "Motion").

The undersigned counsel certifies that no objections to the Motion were filed. The undersigned counsel further certifies that he is aware of no informal objections or responses to the Motion.

On July 9, 2012, the Court held a telephonic hearing (the "Telephonic Hearing") on the Motion. At the Telephonic Hearing, counsel for the Debtors presented the Motion to the

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Filene's Basement, LLC (8277), Syms Corp. (5228), Syms Clothing, Inc. (3869), and Syms Advertising Inc. (5234). The Debtors' address is One Syms Way, Secaucus, New Jersey 07094.



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Court and indicated that the Debtors would submit under certification of counsel a revised form of order (the "Revised Proposed Order") after the Telephonic Hearing. The Revised Proposed Order is attached hereto as Exhibit 1.

The undersigned counsel certifies that the Revised Proposed Order was provided to counsel to the Official Committee of Unsecured Creditors (the "Creditors' Committee") and the Official Committee of Syms Corp. Equity Holders (the "Equity Committee"). The undersigned counsel further certifies that neither the Creditors' Committee nor the Equity Committee have objected to entry of the Revised Proposed Order.

For the Court's convenience, a blacklined copy of the Revised Proposed Order, marked to show changes against the version submitted to the Court with the Motion, is attached hereto as Exhibit 2.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Debtors respectfully request that this Court enter the Revised Proposed Order attached hereto as Exhibit 1 at its earliest convenience.

Dated: Wilmington, Delaware
July 9, 2012

/s/ Jason M. Liberi

Mark S. Chehi (I.D. No. 2855)
Jason M. Liberi (I.D. No. 4425)
Skadden, Arps, Slate, Meagher & Flom LLP
One Rodney Square
P.O. Box 636
Wilmington, Delaware 19899-0636
(302) 651-3000
(302) 651-3001

- and -

Jay M. Goffman
Mark M. McDermott
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036-6522
(212) 735-3000
(212) 735-2000

Counsel for Debtors and Debtors in Possession

EXHIBIT 1

Revised Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
In re: : Chapter 11
FILENE'S BASEMENT, LLC, et al., : Case No. 11-13511 (KJC)
Debtors.¹ : Jointly Administered
----- X **Related Docket No. 1563**

ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 1125, 1126, AND 1129 (I) AUTHORIZING THE DEBTORS TO DISTRIBUTE AN ACCREDITED INVESTOR QUESTIONNAIRE TO SYMS CORP. EQUITY HOLDERS, (II) APPROVING PROCEDURES RELATED THERETO, AND (III) ESTABLISHING A RIGHTS OFFERING RECORD DATE

Upon the motion (the "Motion")² of the Debtors for entry of an order under Bankruptcy Code sections 105(a), 1125, 1126, and 1129 (i) authorizing the Debtors to distribute the Accredited Investor Questionnaire to Syms equity holders, (ii) approving the Accredited Investor Procedures, and (iii) establishing the Accredited Investor Record Date and Rights Offering Record Date; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is fair and reasonable, in the best interests of the Debtors, their estates, their creditors, their stakeholders and other parties in interest; and the proposed notice is fair and adequate; and after due deliberation thereon; and sufficient cause appearing therefor, it is hereby

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Filene's Basement, LLC (8277), Syms Corp. (5228), Syms Clothing, Inc. (3869), and Syms Advertising Inc. (5234). The Debtors' address is One Syms Way, Secaucus, New Jersey 07094.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED.
2. The form of Accredited Investor Questionnaire attached hereto as Exhibit A is approved.
3. The following Accredited Investor Procedures shall govern the Debtors' determination of which Syms equity holders are "accredited investors," as such term is defined in Rule 501 promulgated under the Securities Act (collectively, the "Accredited Investors"):
 - (a) Commencing as soon as reasonably possible after the entry of this Order approving these Accredited Investor Procedures and the Accredited Investor Questionnaire and, in any event, no later than July 12, 2012, the Debtors' claims, noticing and solicitation agent, Kurtzman Carson Consultants LLC ("KCC"), shall mail, via first-class mail, one or more Accredited Investor Questionnaires, as applicable, to each broker, dealer, agent, bank or other entity (each, a "Record Holder") that holds book-entry positions in Syms stock as of the Rights Offering Record Date, either for itself or for beneficial owners of Syms stock as of the Rights Offering Record Date (collectively and, together with those Record Holders holding book-entry positions in Syms stock for themselves, the "Beneficial Owners").
 - (b) Prior to mailing the Accredited Investor Questionnaires to the Record Holders, KCC will contact each Record Holder to determine the number of Accredited Investor Questionnaires needed by the Record Holder for distribution to the Beneficial Owners for whom the Record Holder performs services. KCC will mail to each Record Holder the requisite number of Accredited Investor Questionnaires in accordance with paragraph (a) of these Accredited Investor Procedures. The Record Holders shall be required to distribute the Accredited Investor Questionnaires they receive as promptly as possible to the Beneficial Owners for whom they provide services. The Beneficial Owners shall then return the Accredited Investor Questionnaires directly or indirectly to KCC in the manner described in paragraph (c) of these Accredited Investor Procedures.
 - (c) Each Beneficial Owner must affirmatively certify on its Accredited Investor Questionnaire whether it is an Accredited Investor or not, as indicated on the Accredited Investor Questionnaire. To be deemed an Accredited Investor eligible to participate in the Rights

Offering, a Beneficial Owner must complete the Accredited Investor Questionnaire certifying such Beneficial Owner's status as an Accredited Investor and, if the Beneficial Owner is not the Record Holder, return the properly executed Accredited Investor Questionnaire to the Record Holder **so as to be actually received** by the Record Holder before such date and time as may be specified by the Record Holder. The Record Holder shall certify on the Accredited Investor Questionnaire the amount of shares of Syms stock it holds for the benefit of the Beneficial Owner and return the complete Accredited Investor Questionnaire to KCC **so as to be actually received** by KCC before 5:00 p.m. (Eastern Time) on August 2, 2012 (the "Accredited Investor Deadline"). Completed Accredited Investor Questionnaires may be transmitted electronically by Record Holders to KCC, by facsimile to (212) 702-0864 or by electronic mail to symsinfo@kccllc.com, so long as such electronic transmissions are actually received by the Accredited Investor Deadline. Any Record Holder that elects to electronically transmit completed Accredited Investor Questionnaires to KCC must also deliver the hard-copy original Accredited Investor Questionnaires to KCC no later than five (5) business days after the Accredited Investor Deadline.

- (d) Any Beneficial Owner that does not validly certify that it is an Accredited Investor on the Accredited Investor Questionnaire and return same to KCC before the Accredited Investor Deadline shall not be entitled to participate in the Rights Offering. Any Accredited Investor Questionnaire that is timely returned to KCC but does not indicate whether the relevant Beneficial Owner is or is not an Accredited Investor will not be deemed to have been validly executed, and the applicable Beneficial Owner will not be entitled to participate in the Rights Offering. Any Beneficial Owner that fails to submit a duly executed Accredited Investor Questionnaire to KCC before the Accredited Investor Deadline will not be entitled to participate in the Rights Offering.
- (e) The Debtors alone shall have the right to challenge the certification of any Beneficial Owner on its Accredited Investor Questionnaire. If the parties cannot resolve such dispute, the dispute shall be resolved by the Court.

4. The Accredited Investor Procedures set forth herein are approved.

5. July 10, 2012 is established as the Accredited Investor Record Date and

the Rights Offering Record Date. The Debtors shall cause notice of such record dates to be provided on the KCC website, at <http://www.kccllc.net/filenes>.

6. Only those Accredited Investors who were Syms equity holders as of the Rights Offering Record Date shall be entitled to participate in the Rights Offering, unless otherwise agreed by the Debtors in writing with the written consent of the Backstop Parties.

7. Notwithstanding anything in this Order or the Motion to the contrary, each of the parties to the Backstop Agreement shall be deemed to be an Accredited Investor for purposes of the Rights Offering and shall not be required to execute or return an Accredited Investor Questionnaire.

8. The Debtors are authorized to take all actions necessary or appropriate to implement the relief granted in this Order.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware
_____, 2012

Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

Form of Accredited Investor Questionnaire

ACCREDITED INVESTOR QUESTIONNAIRE

You have been identified as the beneficial owner, or a representative acting on behalf of a beneficial owner, of shares of common stock, par value \$0.05 per share, of Syms Corp., a New Jersey corporation (the “Company”).

On November 2, 2011, the Company and each of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware. In connection with their chapter 11 cases, the Debtors are contemplating a plan of reorganization that would involve certain transactions to be made available only to certain shareholders who are “Accredited Investors” as defined in the United States securities laws.

Please complete, and, if applicable, have your nominee complete the nominee confirmation of ownership form portion of, this “Accredited Investor Questionnaire”, certifying whether or not you are an accredited investor, and return such executed questionnaire to the Debtors’ claims and noticing agent, Kurtzman Carson Consultants LLC (the “Subscription Agent”), on or before 5:00 p.m. (prevailing Eastern Time) on August 2, 2012 (the “Accredited Investor Deadline”) at the following address:

*By First Class, Registered, Certified, or Express Mail,
Overnight Courier, Electronic Mail or via Facsimile:*

Syms Corp.
c/o Kurtzman Carson Consultants LLC
599 Lexington Avenue, 39th Floor
New York, NY 10022
E-mail: Symsinfo@kccllc.com
Fax: (212) 702-0864

Accredited Investor Questionnaires will be deemed to be timely returned only when actually received by the Subscription Agent on or before the Accredited Investor Deadline.

**IF YOU DO NOT PROPERLY MAKE EITHER OF THE TWO POSSIBLE
CERTIFICATIONS IN THE ACCREDITED INVESTOR QUESTIONNAIRE AND
CAUSE ITS RETURN TO THE SUBSCRIPTION AGENT PRIOR TO THE AUGUST 2,
2012 ACCREDITED INVESTOR DEADLINE YOU WILL NOT BE ENTITLED TO
PARTICIPATE IN THE RIGHTS OFFERING.**

This questionnaire shall not constitute an offer to sell or the solicitation of any offer to buy any securities.

IMPORTANT: If you hold your shares through a bank, broker or other nominee (collectively, the “Nominee”), you MUST return the completed Accredited Investor Questionnaire to your Nominee so they may complete the confirmation of ownership section on your behalf.

If you have any questions about the Accredited Investor Questionnaire or the procedures described herein, please contact the Subscription Agent, Kurtzman Carson Consultants LLC, at (877) 833-4150.

SIGNATURE PAGE TO ACCREDITED INVESTOR QUESTIONNAIRE

The undersigned hereby represents for the benefit of Syms Corp., a New Jersey corporation (the “Company”) and each of its subsidiaries (collectively, the “Debtors”) that, as of the date set forth below, it is the beneficial owner, or is acting on behalf of a beneficial owner, as of July 10, 2012 (the “Record Date”), of the number of shares of common stock, par value \$0.05 per share (“Common Stock”), set forth below.

The undersigned also hereby represents for the benefit of the Debtors that it:

☐

Is an “Accredited Investor” under the definition attached as Annex A.

☐

Is NOT an “Accredited Investor” under the definition attached as Annex A.

The undersigned understands that it is providing the information contained herein to the Company solely for purposes of enabling it to consider undertaking a transaction with respect to its shares of Common Stock. This letter neither is an offer with respect to the Common Stock nor creates any obligations whatsoever on the part of the Company to make any offer or on the part of the undersigned to participate if an offer is made.

The undersigned agrees that it will promptly notify the Subscription Agent in writing at either of the addresses indicated above if any of the representations it makes in this letter cease to be correct.

PLEASE COMPLETE AND RETURN THIS QUESTIONNAIRE AT THE ADDRESS INDICATED ABOVE SO THAT IT IS ACTUALLY RECEIVED BY THE SUBSCRIPTION AGENT ON OR PRIOR TO AUGUST 2, 2012. THIS QUESTIONNAIRE MAY BE RETURNED BY ELECTRONIC MAIL, FIRST CLASS, REGISTERED, CERTIFIED, OR EXPRESS MAIL, OVERNIGHT COURIER OR VIA FACSIMILE.

Dated: _____, 2012

Name of Holder:

Number of Shares of Common Stock held as of the Record Date:

By: _____
(Name)

Signature: _____

Title: _____

(Address)

(City/State/Zip Code)

(Phone)

(Facsimile)

(E-Mail Address)

NOMINEE'S CONFIRMATION OF OWNERSHIP

Your ownership of Common Stock must be confirmed to participate in the Rights Offering.

The Nominee holding your Common Stock as of the Record Date must complete Box A on your behalf. Box B is only required if any or all of your Common Stock was on loan as of the Rights Offer Record Date (as determined by your Nominee).

Box A	
For Use Only by the Nominee	
DTC Participant Name:	_____
DTC Participant Number:	_____
Number of Shares of Common Stock (CUSIP 871551 10 7) held by this account as of the Record Date:	_____ shares of Common Stock
Medallion Guarantee:	_____
Nominee contact name and telephone number:	_____
Contact name:	_____
Contact telephone number:	_____

Box B	
Nominee Proxy - Only if Needed	
DTC Participant Name:	
DTC Participant Number:	
Number of Shares of Common Stock (CUSIP 871551 10 7) held on behalf of, and hereby assigned to, the Nominee listed above in Box A as of the Record Date: _____ shares of Common Stock	
Medallion Guarantee:	
Nominee contact name and telephone number:	
Contact name:	
Contact telephone number:	

(TO BE COMPLETED ONLY IF YOUR SHARES ARE HELD IN A BANK OR
BROKERAGE ACCOUNT)

Definition of an “Accredited Investor”

“Accredited Investor” (pursuant to Rule 501 promulgated under the Securities Act of 1933, as amended (the “Act”)) means any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

- (i) Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;
- (ii) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;
- (iii) Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
- (iv) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;
- (v) Any natural person whose individual net worth, or joint net worth with that person’s spouse, at the time of his purchase exceeds \$1,000,000;¹
- (vi) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person’s spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;
- (vii) Any trust, with total assets in excess of \$5,000,000, not formed for the specific

¹ Net worth for this purpose means total assets (excluding primary residence but including personal property and other assets) in excess of total liabilities. (In calculating net worth, the related amount of indebtedness secured by the primary residence up to its fair market value may also be excluded. Indebtedness secured by the residence in excess of the value of the home should be considered a liability and deducted from net worth.)

purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii); and

- (viii) Any entity in which all of the equity owners are accredited investors.

EXHIBIT 2

Revised Proposed Order Blackline

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----	X	
	:	
In re:	:	Chapter 11
	:	
FILENE'S BASEMENT, LLC, <u>et al.</u> ,	:	Case No. 11-13511 (KJC)
	:	
Debtors. ¹	:	Jointly Administered
	:	
-----	X	Related Docket No. 1563

ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 1125, 1126, AND 1129 (I) AUTHORIZING THE DEBTORS TO DISTRIBUTE AN ACCREDITED INVESTOR QUESTIONNAIRE TO SYMS CORP. EQUITY HOLDERS, (II) APPROVING PROCEDURES RELATED THERETO, AND (III) ESTABLISHING A RIGHTS OFFERING RECORD DATE

Upon the motion (the "Motion")² of the Debtors for entry of an order under Bankruptcy Code sections 105(a), 1125, 1126, and 1129 (i) authorizing the Debtors to distribute the Accredited Investor Questionnaire to Syms equity holders, (ii) approving the Accredited Investor Procedures, and (iii) establishing the Accredited Investor Record Date and Rights Offering Record Date; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is fair and reasonable, in the best interests of the Debtors, their estates, their creditors, their stakeholders and other parties in interest; and the proposed notice is fair and adequate; and after due deliberation thereon; and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED.

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Filene's Basement, LLC (8277), Syms Corp. (5228), Syms Clothing, Inc. (3869), and Syms Advertising Inc. (5234). The Debtors' address is One Syms Way, Secaucus, New Jersey 07094.

2. The form of Accredited Investor Questionnaire attached hereto as Exhibit A is approved.

3. The following Accredited Investor Procedures shall govern the Debtors' determination of which Syms equity holders are "accredited investors," as such term is defined in Rule 501 promulgated under the Securities Act (collectively, the "Accredited Investors"):

- (a) Commencing as soon as reasonably possible after the entry of this Order approving these Accredited Investor Procedures and the Accredited Investor Questionnaire and, in any event, no later than July ~~16~~12, 2012, the Debtors' claims, noticing and solicitation agent, Kurtzman Carson Consultants LLC ("KCC"), shall mail, via first-class mail, one or more Accredited Investor Questionnaires, as applicable, to each broker, dealer, agent, bank or other entity (each, a "Record Holder") that holds book-entry positions in Syms stock as of the Rights Offering Record Date, either for itself or for beneficial owners of Syms stock as of the Rights Offering Record Date (collectively and, together with those Record Holders holding book-entry positions in Syms stock for themselves, the "Beneficial Owners").
- (b) Prior to mailing the Accredited Investor Questionnaires to the Record Holders, KCC will contact each Record Holder to determine the number of Accredited Investor Questionnaires needed by the Record Holder for distribution to the Beneficial Owners for whom the Record Holder performs services. KCC will mail to each Record Holder the requisite number of Accredited Investor Questionnaires in accordance with paragraph (a) of these Accredited Investor Procedures. The Record Holders shall be required to distribute the Accredited Investor Questionnaires they receive as promptly as possible to the Beneficial Owners for whom they provide services. The Beneficial Owners shall then return the Accredited Investor Questionnaires directly or indirectly to KCC in the manner described in paragraph (c) of these Accredited Investor Procedures.
- (c) Each Beneficial Owner must affirmatively certify on its Accredited Investor Questionnaire whether it is an Accredited Investor or not, as indicated on the Accredited Investor Questionnaire. To be deemed an Accredited Investor eligible to participate in the Rights

(cont'd from previous page)

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Offering, a Beneficial Owner must complete the Accredited Investor Questionnaire certifying such Beneficial Owner's status as an Accredited Investor and, if the Beneficial Owner is not the Record Holder, return the properly executed Accredited Investor Questionnaire to the Record Holder **so as to be actually received** by the Record Holder before such date and time as may be specified by the Record Holder. The Record Holder shall certify on the Accredited Investor Questionnaire the amount of shares of Syms stock it holds for the benefit of the Beneficial Owner and return the complete Accredited Investor Questionnaire to KCC **so as to be actually received** by KCC before 5:00 p.m. (Eastern Time) on August ~~6~~2, 2012 (the "Accredited Investor Deadline"). Completed Accredited Investor Questionnaires may be transmitted electronically by Record Holders to KCC, by facsimile to (212) 702-0864 or by electronic mail to symsinfo@kccllc.com, so long as such electronic transmissions are actually received by the Accredited Investor Deadline. Any Record Holder that elects to electronically transmit completed Accredited Investor Questionnaires to KCC must also deliver the hard-copy original Accredited Investor Questionnaires to KCC no later than five (5) business days after the Accredited Investor Deadline.

- (d) Any Beneficial Owner that does not validly certify that it is an Accredited Investor on the Accredited Investor Questionnaire and return same to KCC before the Accredited Investor Deadline shall not be entitled to participate in the Rights Offering. Any Accredited Investor Questionnaire that is timely returned to KCC but does not indicate whether the relevant Beneficial Owner is or is not an Accredited Investor will not be deemed to have been validly executed, and the applicable Beneficial Owner will not be entitled to participate in the Rights Offering. Any Beneficial Owner that fails to submit a duly executed Accredited Investor Questionnaire to KCC before the Accredited Investor Deadline will not be entitled to participate in the Rights Offering.
- (e) The Debtors alone shall have the right to challenge the certification of any Beneficial Owner on its Accredited Investor Questionnaire. If the parties cannot resolve such dispute, the dispute shall be resolved by the Court.

4. The Accredited Investor Procedures set forth herein are approved.

5. July ~~12~~10, 2012 is established as the Accredited Investor Record Date and

the Rights Offering Record Date. The Debtors shall cause notice of such record dates to be provided on the KCC website, at <http://www.kccllc.net/filenes>.

6. Only those Accredited Investors who were Syms equity holders as of the Rights Offering Record Date shall be entitled to participate in the Rights Offering, unless otherwise agreed by the Debtors in writing with the written consent of the Backstop Parties.

7. Notwithstanding anything in this Order or the Motion to the contrary, each of the parties to the Backstop Agreement shall be deemed to be an Accredited Investor for purposes of the Rights Offering and shall not be required to execute or return an Accredited Investor Questionnaire.

8. The Debtors are authorized to take all actions necessary or appropriate to implement the relief granted in this Order.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware
_____, 2012

Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

Form of Accredited Investor Questionnaire

Document comparison done by DeltaView on Sunday, July 08, 2012 8:17:35 PM

Input:	
Document 1	pcdocs://wilsr01a/686855/5
Document 2	pcdocs://wilsr01a/686855/6
Rendering set	Option 3a strikethrough double score no moves

Legend:	
<u>Insertion</u>	
Deletion	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:		
	Count	
Insertions		4
Deletions		4
Moved from		0
Moved to		0
Style change		0
Format changed		0
Total changes		8

ACCREDITED INVESTOR QUESTIONNAIRE

You have been identified as the beneficial owner, or a representative acting on behalf of a beneficial owner, of shares of common stock, par value \$0.05 per share, of Syms Corp., a New Jersey corporation (the “Company”).

On November 2, 2011, the Company and each of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware. In connection with their chapter 11 cases, the Debtors are contemplating a plan of reorganization that would involve certain transactions to be made available only to certain shareholders who are “Accredited Investors” as defined in the United States securities laws.

Please complete, and, if applicable, have your nominee complete the nominee confirmation of ownership form portion of, this “Accredited Investor Questionnaire”, certifying whether or not you are an accredited investor, and return such executed questionnaire to the Debtors’ claims and noticing agent, Kurtzman Carson Consultants LLC (the “Subscription Agent”), on or before 5:00 p.m. (prevailing Eastern Time) on August 6th, 2012 (the “Accredited Investor Deadline”) at the following address:

*By First Class, Registered, Certified, or Express Mail,
Overnight Courier, Electronic Mail or via Facsimile:*

Syms Corp.
c/o Kurtzman Carson Consultants LLC
599 Lexington Avenue, 39th Floor
New York, NY 10022
E-mail: Symsinfo@kccllc.com
Fax: (212) 702-0864

Accredited Investor Questionnaires will be deemed to be timely returned only when actually received by the Subscription Agent on or before the Accredited Investor Deadline.

IF YOU DO NOT PROPERLY MAKE EITHER OF THE TWO POSSIBLE CERTIFICATIONS IN THE ACCREDITED INVESTOR QUESTIONNAIRE AND CAUSE ITS RETURN TO THE SUBSCRIPTION AGENT PRIOR TO THE AUGUST 6th, 2012 ACCREDITED INVESTOR DEADLINE YOU WILL NOT BE ENTITLED TO PARTICIPATE IN THE RIGHTS OFFERING.

This questionnaire shall not constitute an offer to sell or the solicitation of any offer to buy any securities.

IMPORTANT: If you hold your shares through a bank, broker or other nominee (collectively, the “Nominee”), you MUST return the completed Accredited Investor Questionnaire to your Nominee so they may complete the confirmation of ownership section on your behalf.

If you have any questions about the Accredited Investor Questionnaire or the procedures described herein, please contact the Subscription Agent, Kurtzman Carson Consultants LLC, at (877) 833-4150.

SIGNATURE PAGE TO ACCREDITED INVESTOR QUESTIONNAIRE

The undersigned hereby represents for the benefit of Syms Corp., a New Jersey corporation (the "Company") and each of its subsidiaries (collectively, the "Debtors") that, as of the date set forth below, it is the beneficial owner, or is acting on behalf of a beneficial owner, as of July 4~~2~~¹⁰, 2012 (the "Record Date"), of the number of shares of common stock, par value \$0.05 per share ("Common Stock"), set forth below.

The undersigned also hereby represents for the benefit of the Debtors that it:

☐

Is an "Accredited Investor" under the definition attached as Annex A.

☐

Is NOT an "Accredited Investor" under the definition attached as Annex A.

The undersigned understands that it is providing the information contained herein to the Company solely for purposes of enabling it to consider undertaking a transaction with respect to its shares of Common Stock. This letter neither is an offer with respect to the Common Stock nor creates any obligations whatsoever on the part of the Company to make any offer or on the part of the undersigned to participate if an offer is made.

The undersigned agrees that it will promptly notify the Subscription Agent in writing at either of the addresses indicated above if any of the representations it makes in this letter cease to be correct.

PLEASE COMPLETE AND RETURN THIS QUESTIONNAIRE AT THE ADDRESS INDICATED ABOVE SO THAT IT IS ACTUALLY RECEIVED BY THE SUBSCRIPTION AGENT ON OR PRIOR TO [AUGUST 6~~2~~¹⁰, 2012. THIS QUESTIONNAIRE MAY BE RETURNED BY ELECTRONIC MAIL, FIRST CLASS, REGISTERED, CERTIFIED, OR EXPRESS MAIL, OVERNIGHT COURIER OR VIA FACSIMILE.

Dated: _____, 2012

Name of Holder:

Number of Shares of Common Stock held as of the Record Date:

By: _____
(Name)

Signature: _____

Title: _____

(Address)

(City/State/Zip Code)

(Phone)

(Facsimile)

(E-Mail Address)

NOMINEE'S CONFIRMATION OF OWNERSHIP

Your ownership of Common Stock must be confirmed to participate in the Rights Offering.

The Nominee holding your Common Stock as of the Record Date must complete Box A on your behalf. Box B is only required if any or all of your Common Stock was on loan as of the Rights Offer Record Date (as determined by your Nominee).

Box A	
For Use Only by the Nominee	
DTC Participant Name:	_____
DTC Participant Number:	_____
Number of Shares of Common Stock (CUSIP 871551 10 7) held by this account as of the Record Date:	_____ shares of Common Stock
Medallion Guarantee:	_____
Nominee contact name and telephone number:	_____
Contact name:	_____
Contact telephone number:	_____

Box B	
Nominee Proxy - Only if Needed	
DTC Participant Name:	
DTC Participant Number:	
Number of Shares of Common Stock (CUSIP 871551 10 7) held on behalf of, and hereby assigned to, the Nominee listed above in Box A as of the Record Date: _____ shares of Common Stock	
Medallion Guarantee:	
Nominee contact name and telephone number:	
Contact name:	
Contact telephone number:	

(TO BE COMPLETED ONLY IF YOUR SHARES ARE HELD IN A BANK OR
BROKERAGE ACCOUNT)

Definition of an “Accredited Investor”

“Accredited Investor” (pursuant to Rule 501 promulgated under the Securities Act of 1933, as amended (the “Act”)) means any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

- (i) Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;
- (ii) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;
- (iii) Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
- (iv) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;
- (v) Any natural person whose individual net worth, or joint net worth with that person’s spouse, at the time of his purchase exceeds \$1,000,000;¹
- (vi) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person’s spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;
- (vii) Any trust, with total assets in excess of \$5,000,000, not formed for the specific

¹ Net worth for this purpose means total assets (excluding primary residence but including personal property and other assets) in excess of total liabilities. (In calculating net worth, the related amount of indebtedness secured by the primary residence up to its fair market value may also be excluded. Indebtedness secured by the residence in excess of the value of the home should be considered a liability and deducted from net worth.)

purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii); and

- (viii) Any entity in which all of the equity owners are accredited investors.