

**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	

**NOTICE OF FILING OF FOURTH PLAN SUPPLEMENT
TO SECOND AMENDED JOINT CHAPTER 11 PLAN OF
REORGANIZATION OF SYMS CORP. AND ITS SUBSIDIARIES**

PLEASE TAKE NOTICE that, on August 13, 2012, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the Notice of Filing of First Plan Supplement to Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. and its Subsidiaries (Docket No. 1831) (the “First Plan Supplement”).² The First Plan Supplement is comprised of Exhibits A through H to the Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. and its Subsidiaries (Docket No. 1640) (the “Plan”) and certain additional documents attached to the First Plan Supplement as Annexes 1 through 3.

PLEASE TAKE FURTHER NOTICE that, on August 21, 2012, the Debtors filed the Notice of Filing of Second Plan Supplement to Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. and Its Subsidiaries (Docket No. 1898)

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 First Plan Supplement.



111351112091300000000005

(the “Second Plan Supplement”). The Second Plan Supplement is comprised of amended versions of Plan Exhibit B and Annex 1 to the First Plan Supplement.

PLEASE TAKE FURTHER NOTICE that, on August 29, 2012, the Debtors filed the Notice of Filing of Third Plan Supplement to Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. and Its Subsidiaries (Docket No. 1974) (the “Third Plan Supplement”) to the Plan. The Third Plan Supplement is comprised of amended versions of Plan Exhibit C.

PLEASE TAKE FURTHER NOTICE that the Plan was confirmed by the Bankruptcy Court on August 30, 2012.

PLEASE TAKE FURTHER NOTICE that, on September 13, 2012, the Debtors filed the Notice of Filing of Fourth Plan Supplement to Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. and Its Subsidiaries (the “Fourth Plan Supplement”) to the Plan. The Fourth Plan Supplement amends Annex 1 to the First Plan Supplement.

PLEASE TAKE FURTHER NOTICE that Mark Ettenger shall serve as a director of Reorganized Syms designated by the Equity Committee and/or the Backstop Parties under the Equity Commitment Agreement, replacing Richard McGuire, who was formerly listed in Annex 1 to the First Plan Supplement as a director of Reorganized Syms designated by the Equity Committee and/or the Backstop Parties under the Equity Commitment Agreement. Attached hereto as Exhibit A is the resume of Mr. Ettenger. Mr. Ettenger is party to a consulting agreement with Marcato Capital Management, under which he will earn \$100,000 per annum for the period of time that he remains a director of Reorganized Syms.

PLEASE TAKE FURTHER NOTICE that copies of the pleadings filed in these chapter 11 cases can be obtained by using the Bankruptcy Court's electronic case filing system at <http://www.deb.uscourts.gov> (password required) or for free on the website maintained by the Debtors' claims agent at <http://www.kccllc.net/filenes>.

Dated: Wilmington, Delaware
September 13, 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 A. 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 A

Mark D. Ettenger

Experience

The Mills Corporation (MLS:NYSE)

February 2004 – August 2006

President

Responsible for executing business strategy including, acquisitions, capital markets, human resources, legal and accounting and leading organizational restructurings.

- Chaired the company's Operating Committee
- Oversaw the acquisition of 13 malls totaling approximately \$2 billion
- Responsible for multi-billion dollar capital raising program
- Implemented reorganizations of Asset Management and Accounting Departments; established regionalized organizational structure; created Best Practices Office for accounting and IT
- Led effort to replace General Counsel, head of Asset Management and CFO
- Implemented G&A savings including 125 employee reduction in force
- Secured a \$2 billion financing from Goldman Sachs in May 2006 to replace the line bank group during the company's restructuring process
- Led the company in exploring strategic alternatives

Goldman, Sachs & Co.

1984 – 2004

Managing Director

Joined Goldman, Sachs & Co., Real Estate Department, as an Associate in 1984. Promoted to Vice President in 1987 and Managing Director in 1997.

- Head of the real estate strategic merger/asset sale business
- Held leadership roles in various businesses during tenure: co-headed mortgage finance and pioneered rated debt for malls; retail effort; sale leasebacks; syndications
- Lead banker on over \$20 billion of complex real estate transactions described on Annex A including the sale and financing of Rockefeller Center, and the sales of Cadillac Fairview, IBM's mall portfolio and the Jacobs' mall portfolio in an upreit structure, and the acquisitions of both Hahn's and Centermark's mall portfolio

Simpson Thacher & Bartlett

1981 – 1984

Associate

Worked in both the real estate and tax departments on a variety of real estate, partnership and corporate finance transactions.

Education

New York University, L.L.M. (Tax), 1986

University of Virginia School of Law, J.D., 1981 (Research Editor, Virginia Tax Journal)

Duke University, B.A., 1978 (Accounting and Economics; Summa Cum Laude; Phi Beta Kappa)

Memberships

Real Estate Roundtable; ICSC