

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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: Chapter 11  
*In re* :  
: Case No. 09-13931 (KJC)  
ADVANTA CORP., *et al.*, :  
: (Jointly Administered)  
Debtors.<sup>1</sup> :  
: **Hearing Date: April 7, 2010 at 3:00 p.m.**  
-----X **Obj. Deadline: March 31, 2010 at 4:00 p.m.**

**MOTION FOR AN ORDER AUTHORIZING THE  
REJECTION OF THE SPRING HOUSE FACILITY LEASE**

Advanta Corp. (“*Advanta*”), as debtor and debtor in possession in the above-referenced chapter 11 case, respectfully represents:

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<sup>1</sup> The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477-0844. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801. Additional information regarding the Debtors’ businesses and the background relating to events leading up to these chapter 11 cases can be found in (i) the Declaration of William A. Rosoff in Support of the Debtors’ Chapter 11 Petitions and First-Day Motions, filed on November 8, 2009, (the “*Rosoff Declaration*”), the date the majority of Debtors filed their petitions (the “*Commencement Date*”) under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”), and (ii) that certain supplement thereto, filed on November 20, 2009, the date Advanta Ventures Inc., BizEquity Corp., Ideablob Corp. and Advanta Credit Card Receivables Corp. filed their chapter 11 cases (the “*Second Commencement Date*”, and together with the Commencement Date, the “*Commencement Dates*”). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Further, in accordance with an order of this Court, the Debtors’ cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”).

### **Relief Requested**

1. By this motion (the “*Motion*”), Advanta requests, pursuant to section 365(a) of the Bankruptcy Code, entry of an order substantially in the form of the proposed order attached hereto as *Exhibit A* approving the rejection of that certain lease, dated August 4, 1995, along with the first amendment to that certain lease, dated November 22, 2006 (together, the “*Lease*”), between Ortho Pharmaceutical Corporation (“*Ortho Pharmaceutical*”) and Advanta pursuant to which Ortho Pharmaceutical leases certain premises consisting of 109,511 rentable square feet of space located in Lower Gwynedd, County of Montgomery, Commonwealth of Pennsylvania (the “*Spring House Facility*”) to Advanta. Advanta seeks rejection of the Lease effective as of June 30, 2010, *provided, however*, that the Debtors have the ability, upon 30 days notice to Ortho Pharmaceutical, to extend or reduce the rejection date by 30 days, provided, that in the event of an extension, Ortho Pharmaceutical has not found a new tenant for the Spring House Facility (the “*Proposed Rejection Date*”).

### **Rejection of the Lease is Supported by Advanta’s Business Judgment and Should Be Approved by the Court**

2. Section 365(a) of the Bankruptcy Code provides in relevant part that a debtor in possession,<sup>2</sup> “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). Courts approve the assumption or rejection of an executory contract, as long as the debtor has exercised its reasonable business judgment. *See Sharon Steel Corp. v. Nat’l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 39-40 (3d Cir. 1989) (holding that a the trustee can assume or reject any executory contract of the debtor where such a rejection

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<sup>2</sup> Although section 365(a) of the Bankruptcy Code refers to a “trustee” only, a debtor in possession in a chapter 11 case has the rights and powers, and performs the functions, of a trustee, including assuming or rejecting executory contracts and unexpired leases. 11 U.S.C. § 1107(a).

would benefit the estate); *N.L.R.B. v. Bildisco & Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982), *aff'd*, 465 U.S. 513 (1984) (“The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the “business judgment” test.”); *see also In re Market Square Inn, Inc.*, 978 F.2d 116, 121 (3d Cir. 1992) (holding that the “resolution of [the] issue of assumption or rejection [is] a matter of business judgment”); *Glenstone Lodge, Inc. v. Buckhead Am. Corp. (In re Buckhead Am. Corp.)*, 180 B.R. 83, 88 (D. Del. 1995) (same); *In re III Enters., Inc., V*, 163 B.R. 453, 469 (Bankr. E.D. Pa. 1994), *aff'd sub nom, Pueblo Chem., Inc.*, 169 B.R. 551 (E.D. Pa. 1994) (same). A court “will not substitute [its] own business judgment for that of the Debtor . . . unless ‘the decision is so unreasonable that it could not be based on sound business judgment, but only on bad faith or whim.’” *III Enters.*, 163 B.R. at 469 (quoting *In re Hardie*, 100 B.R. 284, 287 (Bankr. E.D.N.C. 1989)). The burden is, therefore, on the nonmoving party to establish that “the debtor’s decision was one taken in bad faith or in gross abuse of its retained business discretion.” *In re Wheeling-Pittsburgh Steel Corp.*, 72 B.R. 845, 849 (Bankr. W.D. Pa. 1987). Until such time, “a court should not interfere with or second guess the debtor’s sound business judgment.” *Id.* at 849.

3. Advanta has reviewed the Lease and has determined that it is no longer of any value or utility to Advanta or its estate because Advanta is in the process of winding down its operations. Advanta has reduced its workforce significantly and no longer needs the amount of space subject to the Lease. Advanta has offered to enter into a new lease with Ortho Pharmaceutical to lease a portion of the Spring House Facility that would better suit Advanta during this wind down process. A new lease between Advanta and Ortho Pharmaceutical for a portion of the Spring House Facility would also help mitigate the damages that Ortho Pharmaceutical would incur as a result of the rejection of the Lease.

4. Here, the balance of the equities favors a rejection of the Lease effective as of the Proposed Rejection Date. After the Proposed Rejection Date, Advanta will no longer occupy the premises relating to the Lease and will have returned the keys to the Spring House Facility to the lessor. Advanta provided the requisite notice of its intention to reject the Lease prior to the Proposed Rejection Date to Ortho Pharmaceutical.

5. Ortho Pharmaceutical will not be prejudiced by rejection as of the Proposed Rejection Date because it has received advance notice of Advanta's intent to reject the Lease. *See e.g., In re Mid Region Petroleum, Inc.* 111 B.R. 968 (Bankr. N.D. Okla. 1990) (effective date of rejection of leases was the date the trustee gave notice to lessor of intent to reject); *Carlisle Homes Inc., v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 535 (Bankr. D.N.J. 1988) (holding that a debtor may reject executory contracts by clearly communicating intention to reject).

6. In light of the foregoing, Advanta respectfully requests that the Court approve rejection of the Lease under section 365(a) of the Bankruptcy Code in the manner requested herein as a sound exercise of Advanta's business judgment and direct that any claim for damages arising as a result of the rejection of the Lease be filed by such date as may be fixed by the Court for the filing of proofs of claim.

#### **Jurisdiction**

7. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

#### **Notice**

8. No trustee or examiner has been appointed in these chapter 11 cases. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of

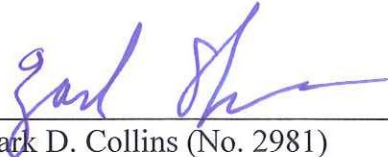
Delaware; (ii) counsel to the official committee of general unsecured creditors; (iii) Bank of New York Mellon as trustee under the Investment Note Indenture and Law Debenture Trust Company of New York as trustee under the 8.99% Indenture (both as defined in the Rosoff Declaration); (iv) Ortho Pharmaceutical; and (v) those parties who have requested notice pursuant to Bankruptcy Rule 2002 (collectively, the “*Notice Parties*”). Advanta respectfully submits that no further notice of this Motion is required.

**No Prior Request**

9. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, Advanta respectfully requests that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: March 19, 2010  
Wilmington, Delaware

  
\_\_\_\_\_  
Mark D. Collins (No. 2981)  
Paul N. Heath (No. 3704)  
Chun I. Jang (No. 4790)  
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ATTORNEYS FOR  
DEBTORS AND DEBTORS IN  
POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

-----x  
: Chapter 11  
*In re* :  
: Case No. 09-13931 (KJC)  
ADVANTA CORP., *et al.*, :  
: (Jointly Administered)  
Debtors.<sup>1</sup> :  
: **Hearing Date: April 7, 2010 at 3:00 p.m. (EDT)**  
-----x **Obj. Deadline: March 31, 2010 at 4:00 p.m. (EDT)**

**NOTICE OF MOTION AND HEARING**

PLEASE TAKE NOTICE that, on March 19, 2010, Advanta Corp. and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (collectively, the “Debtors”) filed the **Motion for an Order Authorizing the Rejection of the Spring House Facility Lease** (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, filed with the Clerk of the Bankruptcy Court and served upon and received by the undersigned counsel for the Debtors on or before **March 31, 2010 at 4:00 p.m. (Eastern Daylight Time)**.

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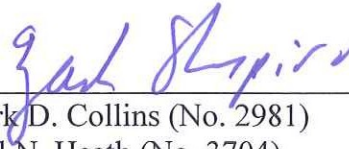
<sup>1</sup> The Debtors in these jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477-0844. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that if an objection is timely filed, served and received and such objection is not otherwise timely resolved, a hearing to consider such objection and the Motion will be held before The Honorable Kevin J. Carey at the Bankruptcy Court, 824 Market Street, 5th Floor, Courtroom 5, Wilmington, Delaware 19801 on **April 7, 2010 at 3:00 p.m. (Eastern Daylight Time)**.

IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.



Dated: March 19, 2010  
Wilmington, Delaware



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Paul N. Heath (No. 3704)  
Chun I. Jang (No. 4790)  
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ATTORNEYS FOR DEBTORS AND  
DEBTORS IN POSSESSION

**Exhibit A**

**The Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

-----X  
:   
*In re* : Chapter 11  
:   
ADVANTA CORP., *et al.*, : Case No. 09-13931 (KJC)  
:   
Debtors.<sup>1</sup> : (Jointly Administered)  
:   
-----X **Re: Docket No. \_\_\_\_**

**ORDER AUTHORIZING REJECTION  
OF THE SPRING HOUSE FACILITY LEASE**

Upon the motion (the “*Motion*”), dated March 19, 2009, of Advanta Corp. (“*Advanta*”), as debtor and debtor in possession in the above captioned chapter 11 case, pursuant to section 365 of title 11 of the United States Code (the “*Bankruptcy Code*”), for approval of rejection of the Lease<sup>2</sup>, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief 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 due and proper notice of the Motion having been provided to the Notice Parties; and the relief requested in the Motion being in the best interests of Advanta, its estate

<sup>1</sup> The Debtors in these cases jointly administered chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Advanta Corp. (2070), Advanta Investment Corp. (5627), Advanta Business Services Holding Corp. (4047), Advanta Business Services Corp. (3786), Advanta Shared Services Corp. (7074), Advanta Service Corp. (5625), Advanta Advertising Inc. (0186), Advantennis Corp. (2355), Advanta Mortgage Holding Company (5221), Advanta Auto Finance Corporation (6077), Advanta Mortgage Corp. USA (2654), Advanta Finance Corp. (8991), Advanta Ventures Inc. (5127), BizEquity Corp. (8960), Ideablob Corp. (0726), Advanta Credit Card Receivables Corp. (7955), Great Expectations International Inc. (0440), Great Expectations Franchise Corp. (3326), and Great Expectations Management Corp. (3328). Each of the Debtors (other than Advanta Credit Card Receivables Corp. and the Great Expectations entities) maintains its principal corporate office at Welsh & McKean Roads, P.O. Box 844, Spring House, Pennsylvania 19477-0844. Advanta Credit Card Receivables Corp. maintains its principal corporate office at 2215 B. Renaissance Drive, Suite 5, Las Vegas, Nevada 89119, and the Great Expectations entities maintain their principal corporate office at 1209 Orange Street, Wilmington, Delaware 19801.

<sup>2</sup> Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

and its creditors; and the Court having reviewed the Motion; 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 upon the record of the hearing on the Motion, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to section 365(a) of the Bankruptcy Code, rejection of the Lease is hereby approved and the Lease shall be deemed rejected effective as of June 30, 2010 *provided, however*, that the Debtors have the ability, upon 30 days notice to Ortho Pharmaceutical, to extend or reduce the rejection date by 30 days, provided that, in the event of an extension, Ortho Pharmaceutical has not found a new tenant for the Spring House Facility; and it is further

ORDERED that all claims for damages arising as a result of the rejection of the Lease shall be filed by the deadline, once established by order of the Court, for filing proofs of claim in Advanta's chapter 11 case; and it is further

ORDERED that nothing herein shall constitute a waiver by Advanta of any potential claims any of them may have related to the Lease; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: April \_\_\_\_\_, 2010  
Wilmington, Delaware

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THE HONORABLE KEVIN J. CAREY  
CHIEF UNITED STATES BANKRUPTCY JUDGE