

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

In re: ) Chapter 11  
 )  
DIAMOND GLASS INC., *et al.*,<sup>1</sup> ) Case No. 08-10601 (CSS)  
 )  
Debtors. ) Jointly Administered  
 )  
 ) **Objection Date: April 17, 2008 at 4:00 p.m. (ET)**  
 ) **Hearing Date: April 24, 2008 at 2:00 p.m. (ET)**

**NOTICE OF FILING AMENDMENT TO FIRST MOTION OF THE DEBTORS FOR AN ORDER AUTHORIZING THE DEBTORS TO (I) REJECT *NUNC PRO TUNC* TO THE PETITION DATE CERTAIN UNEXPIRED NON-RESIDENTIAL REAL PROPERTY LEASES, AND (II) ABANDON ANY PROPERTY THAT REMAINS ON THE PREMISES COVERED BY THE LEASES REGARDING DOCKET NO. 27**

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE; (II) COUNSEL TO THE COMMITTEE; (III) COUNSEL TO THE PRE-PETITION AGENT; (IV) COUNSEL TO THE PROPOSED DIP AGENT; (V) THE NON-DEBTOR PARTIES TO THE LEASES; AND (VI) ALL PARTIES THAT HAVE REQUESTED NOTICE PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2002, IN ACCORDANCE WITH DEL. BANKR. LR 2002-1(b)

**PLEASE TAKE NOTICE** that on April 1, 2008, Diamond Glass, Inc. and DT Subsidiary Corporation, a wholly owned subsidiary of Diamond Glass, Inc. (together, the “Debtors”), filed the *First Motion of the Debtors for an Order Authorizing the Debtors to (I) Reject Nunc Pro Tunc to the Petition Date Certain Unexpired Non-Residential Real Property Leases; and (II) Abandon any Property that Remains on the Premises Covered by the Leases [Docket No. 27] (the “Motion”)*.

**PLEASE TAKE FURTHER NOTICE** that on April 14, 2008, the Debtors filed the *Amendment to First Motion of the Debtors for an Order Authorizing the Debtors to (I) Reject Nunc Pro Tunc to the Petition Date Certain Unexpired Non-Residential Real Property Leases; and (II) Abandon any Property that Remains on the Premises Covered by the Leases (the “Amendment”)*, attached hereto as Exhibit A.

**PLEASE TAKE FURTHER NOTICE** that objections to the relief requested in the Motion must be filed on or before **April 17, 2008 at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 3rd Floor 824

<sup>1</sup> The Debtors in these proceedings are: Diamond Glass, Inc. (Tax ID No. XX-XXX8853); and DT Subsidiary Corporation, a wholly owned subsidiary of Diamond Glass (Tax ID No. XX-XXX3494), each with a mailing address of 220 Division Street, Kingston, PA 18704. Diamond Glass, Inc. is formerly known as Diamond Glass Companies, Inc. and Diamond Triumph Auto Glass, Inc.



**EXHIBIT A**

Amendment

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

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DIAMOND GLASS INC., *et al.*,<sup>1</sup> ) Case No. 08-10601 (CSS)  
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**AMENDMENT TO FIRST MOTION OF THE DEBTORS FOR AN ORDER  
AUTHORIZING THE DEBTORS TO (1) REJECT *NUNC PRO TUNC* TO THE  
PETITION DATE CERTAIN UNEXPIRED NON-RESIDENTIAL REAL PROPERTY  
LEASES, AND (2) ABANDON ANY PROPERTY THAT REMAINS ON THE PREMISES  
COVERED BY THE LEASES RE: DOCKET NO. 27**

Diamond Glass, Inc. ("Diamond Glass") and DT Subsidiary Corp., a wholly-owned subsidiary of Diamond Glass ("DT Subsidiary") (collectively, the "Debtors," and each individually, a "Debtor"), by and through their undersigned counsel, file this amendment (the "Amendment") to the First Motion Of The Debtors For An Order Authorizing The Debtors To (I) Reject *Nunc Pro Tunc* To The Petition Date Certain Unexpired Non-Residential Real Property Leases, And (II) Abandon Any Property That Remains On The Premises Covered By The Leases (the "Motion"), [Docket No. 27].

1. By the Motion, the Debtors moved for entry of an order pursuant to sections 105, 365(a) and 554(a) of Title 11 of the Bankruptcy Code:<sup>2</sup> (i) authorizing the rejection

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<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

of the Leases *nunc pro tunc* to the Petition Date; (ii) authorizing the Debtors to abandon any Personal Property that remains at the Closed Locations; and (iii) granting related relief.

2. In support of their request for *nunc pro tunc* relief, the Debtors stated in the Motion that they had made an unequivocal expression of their intention to reject the Leases. In support thereof, the Debtors alleged, *inter alia*, that they had “vacated the Closed Locations and returned the keys when appropriate to the respective landlords of the Closed Locations.” *See* Motion, ¶29.

3. Although the Debtors had, in fact, vacated each of the Closed Location prior to the Petition Date, subsequent to the filing of the Motion, the Debtors determined that they had inadvertently retained keys for seven (7) of the ten (10) Closed Locations. Upon making this discovery, the Debtors immediately remitted the keys for these seven (7) Closed Locations to the respective landlords, in five cases by overnight delivery, in one case by hand delivery and in the remaining case by certified mail. Attached hereto as Exhibit A is a table which shows, *inter alia*, both the dates on which the Debtors vacated each of the Closed Locations as well as the dates on which the keys were returned to the landlords.<sup>3</sup>

4. Notwithstanding the Debtors’ inadvertent failure to return the keys for all of the Closed Location prior to the Petition Date, the Debtors submit that they have nonetheless satisfied the requirements for rejection of the Leases *nunc pro tunc* to the Petition Date since the

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<sup>3</sup> The circumstances surrounding the return of the keys to Store Nos. 82 and 168 necessitate some explanation. With respect to Store No. 82, it was the Debtor’s understanding that the neighboring tenant would be taking over the leased premises. Accordingly, on April 3, 2008, the keys were given to the neighboring tenant and a letter was sent to the landlord on April 10, 2008 advising him of this fact. On April 14, 2008, the Debtors were advised by the landlord that the keys should not have been given to the neighboring tenant. The landlord also stated that he would contact the neighboring tenant in order to obtain the keys, and that there was therefore no need for the Debtors to take such action. With respect to Store No. 168, the lease provides a post office box address for the landlord. Because the post office box will not accept overnight delivery, the keys were sent to the landlord via certified mail/return receipt requested on April 10, 2008.

Debtors: (i) had unequivocally vacated the Closed Locations prior to the Petition Date; (ii) advised the landlords under the Leases for the Closed Locations through the Motion that the Debtors were unequivocally tendering possession of the Closed Locations; (iii) represented in the Motion that the Debtors would not withdraw the motion, (iv) returned the keys for three (3) of the Closed Locations prior to the Petition Date; (v) took steps, within ten (10) days following the Petition Date, to return the keys for the remaining seven (7) Closed Locations; and (vi) served notice of the Motion by first class mail on the Petition Date to all of the counterparties on the Leases.

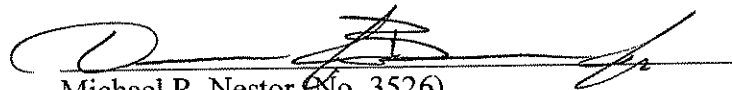
WHEREFORE, the Debtors respectfully request the Court enter the order, attached as Exhibit A to the Motion, granting the relief requested in the Motion, as amended hereby, and such other and further relief as is just and proper.

Dated: Wilmington, Delaware  
April 14, 2008

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*Proposed Attorneys for the Debtors  
and Debtors in Possession*

**EXHIBIT A**

<b>STORE#</b>	<b>LOCATION</b>	<b>COUNTERPARTY TO LEASE</b>	<b>DATE ON WHICH DEBTORS VACATED PROPERTY</b>	<b>DATE ON WHICH KEYS WERE RETURNED TO LANDLORD</b>
292	236 Connellsville Rd, Uniontown, PA 15401	Gary and Barbara Sisson 1116 Connellsville Road Uniontown, PA 15401	3/20/07	Keys given to landlord on or about 3/20/07
709	347 Main Street Watertown, MA 02472	Arsin Kozelian and Margo Kozelian 6 Thoreau Circle Winchester, MA 01890	3/23/07	Keys sent to landlord via overnight mail on 4/9/08
717	62 Chelsea Street Everett, MA 02149	Via Chelsea Trust - Guido Mondello Trustee 100 Broadway Everett, MA 02149	9/19/07	Keys sent to landlord via overnight mail on 4/9/08
204	190 Ben Burton Road, Suite I, Bogart / Athens, GA 30622	Diane McLean - Garmac Development 113 Buttonwood Loop Athens, GA 30605	11/6/07	Keys sent to landlord via overnight mail on 4/10/08
209	Shawnee / Merriam / Kansas City / Overland Park, KS 6443 Vista Drive Shawnee, KS 66218	The Captiva Properties, LLC 6447 Vista Drive Shawnee, KS 66218	11/7/07	Keys given to landlord during the week of 11/26/07
168	108 Prince Drive, Unit B, 30907 Augusta, GA 30907	Schafer Family Partnership, LP PO BOX 204688 Martinez, GA 30917	11/30/07	Keys sent to landlord via certified mail/return receipt requested on 4/10/08
210	1063 N. Eastern Blvd. Montgomery, AL 36117	1065 East Blvd., LLC 1065 N. Eastern Blvd. Montgomery, AL 36117	11/30/07 <sup>1</sup>	Keys sent to landlord via overnight mail on 4/10/08

<sup>1</sup> In Exhibit A to the Lease Rejection Motion, the date the Debtors vacated Store No. 210 was inadvertently listed as March 1, 2007.



256	124 Woodburn Drive Dothan, AL 36305	Woodland Development 911 Fox Ridge Road Eufaula, AL 36027	11/30/07	Keys given to landlord during the week of 1/14/08
082	2880 W. 23 <sup>rd</sup> Street Erie, PA	Susan & Everett Walker 2800 W. 21 <sup>st</sup> Street Erie, PA 16506-2980	2/12/08	Keys given to neighboring tenant on 4/3/08; letter advising landlord of this sent via overnight mail on 4/10/08; on 4/14/08, landlord advised that he would obtain keys from replacement tenant
058	13440 Delmar Drive, Unit N-12 Philadelphia/Bensalem, PA 19116	13440 Associates 13440 Delmar Drive Philadelphia, PA 19116	3/14/08	Keys sent to landlord via overnight mail on 4/9/08