

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

_____)	
In the Matter of)	
)	
Dollar Tree, Inc.,)	
a corporation;)	
)	
and)	Docket No. C-4530
)	PUBLIC VERSION
)	
Family Dollar Stores, Inc.,)	
a corporation.)	
)	
_____)	

**APPLICATION FOR APPROVAL OF PROPOSED SALE OF
DOLLAR EXPRESS ASSETS AND REQUEST FOR EXPEDITED TREATMENT**

Pursuant to Section 2.41(f) of the Federal Trade Commission (“Commission”) Rules of Practice and Procedure, 16 C.F.R § 2.41(f) (2016), and Paragraph VI of the Commission’s Decision and Order in the above-captioned matter, Sycamore Partners II, L.P. (“Sycamore”), and its portfolio companies operating under the “Dollar Express” brand, including Dollar Express LLC, Dollar Express Stores LLC and Dollar Properties LLC (collectively, “Dollar Express”), hereby petition the Commission to approve the proposed assignment by Dollar Express to Dollar General Corporation and/or its affiliates (collectively, “Dollar General”) of the real property leases for the dollar retail stores currently operated by Dollar Express and the assumption by Dollar General of certain liabilities related thereto, as well as the sale to Dollar General of the dollar retail stores owned by Dollar Express.

1. INTRODUCTION

Pursuant to an Agreement and Plan of Merger dated as of July 27, 2014, as amended on September 4, 2014, Dollar Tree, Inc. (“Dollar Tree”) and Family Dollar Stores Inc. (“Family Dollar”) entered into an agreement whereby Dollar Tree would purchase all issued and outstanding common stock of Family Dollar in a transaction valued at approximately \$9.2 billion. On July 2, 2015, the Commission issued a complaint alleging that the transaction would substantially lessen competition. On the same day, the Commission accepted an Agreement Containing Consent Order, including a proposed Decision and Order and an Order to Maintain Assets, resolving the charges in the complaint. Following a public comment period, the Commission approved the final Decision and Order (“Order”) on September 16, 2015.

The Order required Dollar Tree and Family Dollar to divest 330 stores and related assets (“Divestiture Assets”) located in 222 cities nationwide. Paragraph II.A. of the Order required the divestiture of the Divestiture Assets to Sycamore within 150 days of closing (“Divestiture Date”). The Order further provided that for three years following the Divestiture Date, Sycamore must obtain the Commission’s prior approval for the sale of “[a]ll or substantially all” of the Divestiture Assets.¹

Dollar Express has entered into a definitive agreement to assign all leases and ongoing lease liabilities currently held by Dollar Express (“Leases”) and sell all dollar retail stores owned by Dollar Express (the “Owned Dollar Express Stores”) to Dollar General (“Transaction”). Sycamore and Dollar Express hereby request the Commission to approve the proposed Transaction. This petition outlines the principal terms of the Transaction, describes Sycamore’s

¹ [REDACTED]

and Dollar Express's rationale for the proposed Transaction and explains why the proposed Transaction merits Commission approval. The Commission should approve the proposed Transaction because (1) Dollar Express can no longer viably operate as a standalone business; and (2) prompt assignment of the Leases and sale of the Owned Dollar Express Stores to Dollar General is in the best interests of the various constituents, [REDACTED]

2. REQUEST FOR EXPEDITED TREATMENT

Sycamore and Dollar Express desire to complete the proposed Transaction as soon as possible following Commission approval. As outlined below, Dollar Express can no longer operate as a viable standalone business. Expedited review and consummation of the transaction would allow Dollar Express to fulfill the majority of its commitments, including commitments to its approximately 3,000 employees, and would allow Dollar General to preserve the locations as ongoing dollar store outlets. In light of these circumstances and the clear bases for approval set forth below, Sycamore and Dollar Express request that the Commission waive the customary 30-day public comment period as permitted under Section 2.41(f)(2) of the Commission Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(2), and approve the proposed Transaction no later than April 14, 2017.

3. TRANSACTION DESCRIPTION

On March 29, 2017, the Asset Purchase Agreement ("APA") attached herewith as Confidential Exhibit A was executed by Dollar Express and Dollar General. Pursuant to the APA, Dollar Express will assign the Leases and sell the Owned Dollar Express Stores to Dollar General. Dollar General will also assume any go-forward lease and other liabilities with respect to the Leases and the Owned Dollar Express Stores. The purchase price for the proposed Transaction is [REDACTED]

[REDACTED]. The Transaction is subject to customary closing conditions, including the accuracy of each party's representations and warranties and compliance by each party with its covenants and agreements, as well as receipt of Commission approval. The APA contemplates that, prior to closing of the proposed Transaction, Dollar Express will facilitate the transition to Dollar General's ownership and operations by selling all remaining inventory, including by displaying signs and advertising that such stores are closing and conducting "going out of business" or liquidation sales and/or sales promotions such that the premises would be vacated and inventory removed therefrom. The APA also contemplates that the parties will provide such cooperation as is reasonable and necessary to transition the business to Dollar General's ownership and operation. The APA also prohibits Dollar General from using any of the "Dollar Express", "Dollar Tree" or "Family Dollar" names in the conduct of Dollar General's business, and also obligates Dollar General to promptly (and in any event within 60 days) remove or obliterate any such names from any of the acquired dollar retail store locations prior to conducting business at any such location.

As noted above, the Transaction is conditioned upon Commission approval and will close no later than 60 days following receipt of Commission approval.

4. TRANSACTION RATIONALE

(a) Dollar Express's Reasons for Pursuing the Transaction

Due to an overall decline in sales in the dollar store industry, targeted attacks by competitors, and other unanticipated costs eroding margins, Dollar Express can no longer operate as a viable standalone business. In contrast to the trends of the last decade, performance across the dollar store industry (measured on a same-store sales basis) has significantly eroded since the

acquisition of the Divestiture Assets by Sycamore in November 2015.² In addition, Dollar Tree, as part of a targeted attempt to drive Dollar Express out of business, has opened 37 new stores since November 2015³ in the same trade area as Dollar Express stores using the same Family Dollar banner as the current Dollar Express stores.⁴ Dollar Express reasonably believes, based on publicly available information, market research and general industry knowledge, that Dollar Tree plans to open at least 70 other Family Dollar stores in the same trade area as a Dollar Express store⁵ and believes Dollar Tree will almost certainly open many more. The number of these targeted openings is expected to increase [REDACTED]. Cumulatively, these more than 100+ new Family Dollar stores opened or believed to be opening in the same trade areas as Dollar Express stores are projected to result in an annual pro forma sales decline [REDACTED],⁶ with a resultant projected annual pro forma EBITDA decline [REDACTED]. Lastly, Dollar Express has experienced eroding margins due to unanticipated wage inflation and higher than anticipated corporate and supply chain costs.

² [REDACTED] are attached herewith as Confidential Exhibit B.

³ [REDACTED] is attached herewith as Confidential Exhibit C.

⁴ Dollar Express stores have not yet completed the rebanner transition to the Dollar Express brand. Accordingly, all Dollar Express stores remain operating under the “Family Dollar” banner.

⁵ [REDACTED] attached herewith as Confidential Exhibit D.

[REDACTED] Dollar Express believes that Dollar Tree is targeting many more Family Dollar stores to be opened in the same trade area as Dollar Express’s stores.

⁶ [REDACTED]

[REDACTED]

(b) Prompt Assignment to Dollar General is in The Best Interests of All

A prompt assignment of the Leases and sale of the Owned Dollar Express Stores will provide the best opportunity for Dollar Express to meet its current obligations, and provide the best possible outcome for Dollar Express's employees, customers and other constituents.

[REDACTED], Dollar Express's financial condition will only worsen with time, making it unable meet a majority of its obligations if the Transaction is delayed. Absent the prompt receipt of Commission approval for the Transaction, Dollar Express's board of directors has resolved to wind-up and liquidate the Dollar Express business in an expeditious manner and has already begun to take steps to promptly do so. In any event, Dollar Express anticipates liquidating its existing store inventories and shuttering its stores no later than [REDACTED]. Prompt receipt of the Commission's approval of the Transaction will obviate significant disruptions for Dollar Express's constituents, by increasing the likelihood that most of Dollar Express's current dollar store retail locations continue to operate as dollar stores, [REDACTED]

[REDACTED]

⁷ [REDACTED]

Further, the proposed Transaction with Dollar General will provide the greatest likelihood that the locations will continue as dollar stores following Dollar Express's exit, preserving customer choice in the relevant trade areas. Prior to signing with Dollar General, Dollar Express contacted other potential buyers to take over the operation of its locations as dollar stores, including [REDACTED] and others. No other potential acquirer expressed interest in operating these locations as dollar stores. Accordingly, absent the Transaction, these locations will cease to operate as dollar stores, as the Dollar Express board of directors has otherwise determined to expeditiously wind-up and liquidate the Dollar Express business.

5. CONCLUSION

For the foregoing reasons, Dollar Express respectfully requests that the Commission expeditiously approve the proposed Transaction no later than April 14, 2017 and waive the public comment period, allowing Dollar Express to begin transitioning the stores to Dollar General as soon as reasonably practicable.

6. REQUEST FOR CONFIDENTIAL TREATMENT

This application contains confidential, competitively sensitive information of Sycamore and Dollar Express, the disclosure of which would significantly harm Sycamore's and Dollar Express's business. Accordingly, pursuant to Sections 2.41(f)(4), 4.9(c), and 4.10(a)(2) of the Commission's Rules of Practice and Procedure, 16 C.F.R. §§ 2.41(f)(4), 4.9(c), 4.10(a)(2), and Sections 6(f) and 21(c) of the Federal Trade Commission Act, 15 U.S.C. §§ 46(f), 57b-2(c), Sycamore requests that this information be treated as strictly confidential. In accordance with Section 4.2(d) of the Commission's Rules of Practice and Procedure, Sycamore is submitting a public version of the application with confidential information redacted, as well as a confidential version including such information.

Dated: March 30, 2017

Respectfully submitted,

A handwritten signature in blue ink, consisting of several overlapping loops and a vertical line, positioned above a horizontal line.

Ian G. John, P.C.
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, N.Y. 10022
Phone: (212) 446-4800
ian.john@kirkland.com

*Counsel for Sycamore Partners II, L.P. and
Dollar Express, LLC*

Confidential Exhibit A

[Redacted from the Public Version]

Confidential Exhibit B

[Redacted from the Public Version]

Confidential Exhibit C

[Redacted from the Public Version]

Confidential Exhibit D

[Redacted from the Public Version]

Confidential Exhibit E

[Redacted from the Public Version]