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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91239466
Party	Defendant Provide Commerce, Inc.
Correspondence Address	SCOTT J MAJOR MILLEN WHITE ZELANO & BRANIGAN PC 2200 CLARENDON BLVD SUITE 1400 ARLINGTON, VA 22201 UNITED STATES docketing@mwzb.com, major@mwzb.com, culver@mwzb.com 703-243-6333
Submission	Other Motions/Papers
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Date	06/07/2019
Attachments	Stay 466 6-7-19.pdf(143740 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Edible Arrangements, LLC)	
)	
Opposer;)	
)	
v.)	Opposition No. 91239466
)	Application No. 87364735
Provide Commerce, Inc.,)	Mark: SHARI'S GOURMET
)	
Applicant.)	

REQUEST FOR STAY PENDING DISPOSITION OF BANKRUPTCY PROCEEDING

Provide Commerce, Inc. (“Applicant/Debtor”) filed on June 3, 2019 a voluntary petition for bankruptcy under Section 301 of the United States Bankruptcy Code, 11 U.S.C. § 301, in the United States Bankruptcy Court for the District of Delaware (Case 19-11252; copy of Form 201 petition attached). The automatic stay provisions of Section 362 of the United States Bankruptcy Code, 11 U.S.C. § 362, provide that a petition for bankruptcy under Section 301 operates as a stay of, among other things, the continuation of an administrative proceeding against the debtor that was or could have been commenced before the commencement of the bankruptcy case. TBMP § 510.03(a). This opposition clearly was commenced against Applicant/Debtor prior to the filing of the bankruptcy petition on June 3, 2019. Accordingly, Applicant/Debtor requests that the Board stay this opposition pending disposition of the bankruptcy case.

PROVIDE COMMERCE, INC.

Dated: June 7, 2019

By: /Scott J. Major/
Scott J. Major
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Attorneys for Applicant

Certificate of Service

This is to certify that a copy of the foregoing was served this 7th day of June 2019 by email on counsel for the Opposer at michael.hobbs@troutman.com, john.bowler@troutman.com, courtney.thornton@troutman.com and trademarks@troutman.com.

By: /Scott J. Major/
Attorney for Applicant

Fill in this information to identify the case:

United States Bankruptcy Court for the:

_____ District of Delaware
(State)

Case number *(if known)*: _____ Chapter 11

Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. **Debtor's name** Provide Commerce LLC

2. **All other names debtor used in the last 8 years** Provide Commerce, Inc.
 Include any assumed names, trade names, and *doing business as* names

3. **Debtor's federal Employer Identification Number (EIN)** 8 4 - 1 4 5 0 0 1 9

4. Debtor's address	Principal place of business	Mailing address, if different from principal place of business
	<u>4830 Eastgate Mall</u> Number Street	<u>3113 Woodcreek Drive</u> Number Street
	<u>San Diego CA 92121</u> City State ZIP Code	<u>Downers Grove IL 60515</u> City State ZIP Code
	<u>San Diego</u> County	Location of principal assets, if different from principal place of business <u>Number Street</u> <u>City State ZIP Code</u>

5. **Debtor's website (URL)** www.proflowers.com; www.berries.com; www.proplants.com

6. **Type of debtor**
 Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
 Partnership (excluding LLP)
 Other. Specify: _____

Debtor Provide Commerce LLC
Name

Case number (if known) _____

7. Describe debtor's business

A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. § 101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. § 781(3))
- None of the above

B. Check all that apply:

- Tax-exempt entity (as described in 26 U.S.C. § 501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

4 5 3 1

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- Chapter 7
- Chapter 9
- Chapter 11. Check all that apply:
 - Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
 - The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
 - A plan is being filed with this petition.
 - Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
 - The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
 - The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

No

Yes. District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

No

Yes. Debtor See Schedule 1 Attached Relationship Affiliate
District Delaware When Date Hereof
Case number, if known Pending MM / DD / YYYY

List all cases. If more than 1, attach a separate list.

Debtor Provide Commerce LLC
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- No
- Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
What is the hazard? _____
- It needs to be physically secured or protected from the weather.
- It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- Other _____

Where is the property?

Number _____ Street _____

City _____ State _____ ZIP Code _____

Is the property insured?

- No
- Yes. Insurance agency _____
Contact name _____
Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- Funds will be available for distribution to unsecured creditors.
- After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Debtor Provide Commerce LLC
Name

Case number (if known) _____

16. Estimated liabilities

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 06 03 2019
MM / DD / YYYY

/s/ Scott D. Levin
Signature of authorized representative of debtor

Title President and CEO

Scott D. Levin
Printed name

18. Signature of attorney

/s/ Daniel J. DeFranceschi
Signature of attorney for debtor

Date 06 03 2019
MM / DD / YYYY

Daniel J. DeFranceschi
Printed name

Richards Layton & Finger, P.A.
Firm name

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