

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

In re:

EARTH FARE, INC., *et al.*,¹

Debtors.

Chapter 11

Case No.: 20-10256 (KBO)

(Jointly Administered)

Re: D.I. 33, 62, 70, 90, 92, 101, 102, & 103

**JOINDER OF CRESCENT CCRE LUCERNE VENTURE, LLC TO LIMITED
OBJECTIONS OF VARIOUS LANDLORDS TO DEBTORS' MOTION FOR
ENTRY OF AN ORDER (A) APPROVING *DE MINIMIS* ASSET SALE PROCEDURES;
(B) APPROVING CERTAIN BIDDING PROCEDURES, ASSUMPTION AND
ASSIGNMENT PROCEDURES, AND THE FORM AND MANNER OF NOTICE
THEREOF; (C) AUTHORIZING THE DEBTORS TO ENTER INTO ASSET
PURCHASE AGREEMENTS WITH STALKING HORSE BIDDER; AND
(D) SCHEDULING A HEARING ON THE APPROVAL OF THE SALE OF THE
DEBTORS' REMAINING ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES
AS WELL AS THE ASSUMPTION AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Crescent CCRE Lucerne Venture, LLC ("CCRE"), by its undersigned counsel, hereby joins (the "Joinder") in the limited objections of various landlords [including, but not limited to D.I. 62, 70, 90, 92, 101, 102, and 103] (the "Limited Objection(s)") to the *Debtors' Motion for Entry of an Order (A) Approving De Minimis Asset Sale Procedures, (B) Approving Certain Bidding Procedures, Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof; (C) Authorizing the Debtors to Enter into Asset Purchase Agreements with Stalking Horse Bidder; and (D) Scheduling a Hearing on the Approval of the Sale of the Debtors' Remaining Assets Free and Clear of all Encumbrances as well as the Assumption and Assignment of Certain*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Earth Fare, Inc. (3936) and EF Investment Holdings, Inc. (8084). The mailing address for each of the Debtors is 220 Continuum Drive, Fletcher, North Carolina 28732.

Executory Contracts and Unexpired Leases [D.I. 33] (the “Procedures Motion”). In support of the Joinder, CCRE respectfully states as follows:

BACKGROUND

1. CCRE is the owner, affiliate, or managing agent of Lucerne Mixed Use Development located in Orlando, Florida where the Debtors lease retail space pursuant to a written lease dated December 16, 2015 (the “Lease”) for Store # 580 (the “Leased Premises”).

2. On February 4, 2020 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) with the United States Bankruptcy Court for the District of Delaware (the “Court”). Since the Petition Date, the Debtors have continued to manage their business as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. On February 5, 2020, the Debtors filed the Procedures Motion, which seeks to sell certain assets, including the Debtors’ interests in various leases, to a stalking horse bidder, or to one or more high bidders to be identified after an auction (the “Successful Bidder(s)”).

4. In order to accomplish the sales, the Debtors seek to establish (a) certain bidding procedures (the “Bidding Procedures”) to govern sales of assets with an individual or collective value of more than \$100,000 and (b) certain procedures to govern the sale of *de minimis* assets.

5. In the Procedures Motion, the Debtors also seek to establish certain procedures to govern the Debtors’ potential assumption and assignment of unexpired leases to the Successful Bidder(s) (the “Assumption Procedures”).

6. On February 7, 2020, the Debtors filed their *First Notice of Possible Assumption and Assignment and Cure Amounts with Respect to Executory Contracts and Unexpired Leases of the Debtors* [D.I. 70] (the “Assumption Notice”).

7. The Debtors include the Lease (Store # 580) on Exhibit A to the Assumption Notice and list \$126,337.90 as the estimated cure amount owed for the Lease. As such, CCRE is directly impacted by the Assumption Procedures and by the Assumption Notice. Further, CCRE intends to file an objection to the cure amount set forth in the Assumption Notice.

JOINDER AND RESERVATION OF RIGHTS

8. CCRE hereby joins in, and incorporates herein by reference, the Limited Objection(s), and adopts the arguments in the Limited Objection(s) as its own. For the reasons stated in the Limited Objection(s), CCRE objects to, including but not limited to, the proposed procedures regarding adequate assurance of future performance, proposed auction timeframe, and landlord participation in the auction process.

9. CCRE reserves the right to object to any proposed order approving Bidding Procedures or any other aspect of proposed sale(s) including but not limited to, the Debtors' proposed assumption and assignment of the Lease and/or the Debtors' proposed cure amounts related to the Lease.

10. CCRE reserves any and all rights to supplement and/or amend this Joinder and expressly reserves the right to raise any additional objections with respect to the Procedures Motion at the hearing to consider the Procedures Motion and to object to the assumption and assignment of the Lease on any basis, including, without limitation, that the Debtors or any proposed assignee have failed to provide adequate assurance of future performance.

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WHEREFORE, CCRE respectfully requests that this Court enter an order: (a) sustaining the Limited Objection(s); (b) modifying the Procedures Motion consistent with this Joinder and the Limited Objections(s), in order to ensure that the rights of CCRE are adequately protected; and (c) granting CCRE such other and further relief as this Court deems just and appropriate under the circumstances.

Dated: February 13, 2020
Wilmington, Delaware

BAYARD, P.A.

/s/ Evan T. Miller

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