

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division**

In re:	*
	*
CREATIVE HAIRDRESSERS, INC., et al. ¹	* Case Nos. 20-14583, 20-14584 TJC
	* Chapter 11
Debtors.	*
	* (Jointly Administered)
	*

LIMITED OBJECTION BY ACP JERSEY ASSOCIATES, LLC, ACP BURLINGTON, LLC AND ACP CUMBERLAND ASSOCIATES, L.L.C. AND JOINDER IN OBJECTIONS OF OTHER LANDLORDS, TO EMERGENCY MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (I) APPROVING RELIEF RELATED TO THE INTERIM BUDGET, (II) TEMPORARILY ADJOURNING CERTAIN MOTIONS AND APPLICATIONS FOR PAYMENT, AND (III) GRANTING RELATED RELIEF

ACP Jersey Associates, LLC, ACP Burlington, LLC and ACP Cumberland Associates, L.L.C. (collectively, the “**ACP Landlords**”) by and through the undersigned do hereby file this limited objection and joinder in objections filed by other Landlords, to the Emergency Motion of the Debtors for Entry of an Order (I) Approving Relief Related To The Interim Budget, (II) Temporarily Adjourning Certain Motions And Applications For Payment, and (III) Granting Related Relief (the “**Emergency Motion**”) (Doc. No. 12), and in support thereof do state as follows:

1. The debtor, Creative Hairdressers, Inc. (“**Hair Cuttery**”), and the Landlords are parties to those certain leases as follows:

(a) Hair Cuttery and ACP Jersey Associates, LLC are parties to that certain Lease made as of April 22, 1993 (as the same has been amended, modified, supplemented, extended and/or amended and restated from time to time, the “**Berlin Lease**”) pursuant to which

¹ The Debtors in these chapter 11 cases are (i) Creative Hairdressers, Inc. and (ii) Ratner Companies, L.C.

Hair Cuttery leases that certain premises within the Berlin Circle Shopping Center in Berlin, New Jersey, as more particularly described in the Berlin Lease and known to Hair Cuttery as Store # 1866 (the “**Berlin Premises**”). The Berlin Lease has not expired or been terminated.

(b) Hair Cuttery and ACP Burlington, LLC are parties to that certain Lease made as of January 29, 2015 (as the same has been amended, modified, supplemented, extended and/or amended and restated from time to time, the “**Burlington Lease**”) pursuant to which Hair Cuttery leases that certain premises in the Wishing Well Shopping Center in Burlington, New Jersey, as more particularly described in the Burlington Lease and known to Hair Cuttery as Store #4164 (the “**Burlington Premises**”). The Burlington Lease has not expired or been terminated.

(c) Hair Cuttery and ACP Cumberland Associates, L.L.C. are parties to that certain Lease Agreement dated as of April 22, 1993 (as the same has been amended, modified, supplemented, extended and/or amended and restated from time to time, the “**Cumberland Lease**”, and together with the Berlin Lease and the Burlington Leads, the “**Leases**”), pursuant to which Hair Cuttery leases certain premises within the Cumberland Crossing Shopping Center in Millville, New Jersey, as more particularly described in the Lease and known to Hair Cuttery as Store #1879 (the “**Cumberland Premises**”, and together with the Berlin Premises and the Burlington Premises, the “**Premises**”). The Cumberland Lease has not expired or been terminated.

2. On or about April 23, 2020 (the “**Petition Date**”), Hair Cuttery filed its voluntary petition pursuant to Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

3. Hair Cuttery continues in possession of each of the Premises and has failed to pay certain rent owed to the Landlords under the Leases for a two-month pre-petition period and has

also failed to make any payment of post-petition rent for (a) the period commencing on the Petition Date through April 30, 2020, or (b) the month of May, which rent became due and owing on May 1, 2020.

4. The relief requested in the Motion would permit Hair Cuttery to avoid the requirement to pay any post-petition rent to the Landlords for an unspecified period of time.

5. The relief requested in the Motion runs contrary to the well-established requirements of the Bankruptcy Code that require debtors to make post-petition payments of rent, including Section 356(d)(3) of the Bankruptcy Code, which requires the debtor-in-possession to “timely perform all the obligations of the debtor . . . under any unexpired lease of nonresidential real property, until such lease is assumed or rejected.”

6. While the Bankruptcy Code anticipates a 60-day extension to the obligation of a debtor to pay post-petition rent, no provision in the Bankruptcy Code entirely excuses a debtor from paying post-petition rent, nor requires a commercial landlord to accept a non-consensual rent abatement.

7. Thus, the Court should deny the Motion’s request to indefinitely suspend the obligation of the Debtors in this case to pay rent, and Hair Cuttery should be required to adhere to the provisions of the Bankruptcy Code requiring performance under the Leases.

8. Moreover, to the extent consistent herewith, the Landlords hereby join in, adopt and incorporate by reference the points, authorities and arguments advanced in the objections by various other landlords of the debtors, which have filed objections to the Motion, as applicable, for the reasons stated therein and requests an extension of the relief requested therein.

WHEREFORE, the Landlords respectfully request that the Court require that any order granting the Motion specifically require the payment of post-petition rent when and as due and grant such other and further relief deemed appropriate by the Court.

Dated: May 14, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2020, a copy of the foregoing was served via CM/ECF to all parties on record and via electronic mail on the following:

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