

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MARYLAND
GREENBELT DIVISION**

In re:

CREATIVE HAIRDRESSERS, INC., *et al.*¹

Chapter 11

Case No. 20-14583-TJC

Case No. 20-14584-TJC

Debtors.

(Jointly Administered)

**LIMITED OBJECTION OF LEVIN MANAGEMENT CORPORATION AND RETAIL
SITES, LLC TO DEBTORS NOTICE OF PROPOSED ASSUMPTION, ASSIGNMENT
AND CURE AMOUNTS WITH RESPECT TO EXECUTORY CONTRACTS AND
UNEXPIRED LEASES AND MOTION APPROVING THE SALE
(Doc. Nos. 22, 137 and 147)**

Levin Management Corporation (“Levin Management”), as agent for Levin Properties, L.P. (“Levin”), and High Pointe Commons Holdings, LP (“High Pointe”); and Retail Sites, LLC (“Retail”), as agent for both Brookhaven Equites, LLC (“Brookhaven”) and Douglass Equites, LLC (“Douglass” and with Brookhaven, Levin and High Pointe, collectively “Landlords”), by and through their counsel, Tayman Lane Chaverri LLP and Stark & Stark, P.C. hereby file this limited objection (the “Objection”) to the Debtor’s *Notice of Proposed Assumption, Assignment and Cure Amounts With Respect to Executory Contracts and Unexpired Leases of the Debtors* (the “Notice”)[Doc No. 147], and Motion Approving the Sale of Substantially All of Debtor’s Assets (the “Sale Motion”)[Doc No. 22 and 137] (collectively the “Notice” and the “Sale Motion” shall be referred to as the “Motion”), and respectfully represent as follows:

BACKGROUND²

1. On or about April 23, 2020 (the “Petition Date”), the debtors in the above captioned cases (the “Debtors”) filed voluntary petitions under chapter 11 of title 11 of the United States Code

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

² Landlords do not attach referenced documents which are voluminous, but reserve the right to submit the same, upon the request of the Court and/or a party-in-interest.

(the “Bankruptcy Code”).

2. Upon information and belief, the Debtors are operating their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Leases and Cure Amounts

Levin Management Locations

3. On or about December 29, 1994, Levin and one of the Debtors entered into a lease (the “Hamilton Lease”) for premises located at 1273 Highway 33, Hamilton, NJ 08690 which is designated in the Notice as store number 02065 (the “Hamilton Premises”).

4. As of May 14, 2020, \$18,288.07, plus all additional rent, including reconciliations, taxes, and attorneys’ fees and costs (the “Actual Cure”), is due and owing for the Hamilton Lease.

5. The Notice improperly lists the cure amount for the Hamilton Premises to be \$17,760.28 (Notice, Entry No. 408).

6. On or about October 12, 2002, High Pointe and one of the Debtors entered into a lease (the “High Pointe Lease”) for premises located at the High Pointe Commons Mall, Harrisburg, Pennsylvania, which is designated in the Notice as store number 03561 (the “High Pointe Premises”).

7. As of May 14, 2020, \$13,612.54, plus any additional rent, including reconciliations, taxes, and attorneys’ fees and costs, is due and owing for the High Pointe Lease.

8. The Notice lists the arrears for the High Pointe Premises to be \$13,612.54 (Notice, Entry No. 326), but does not reference additional rent, including reconciliations, taxes, and attorneys’ fees and costs.

Retail Sites Locations

9. On or about May 26, 2009, Douglass and one of the Debtors entered into a lease (the “Douglass Lease”) for premises located at 173 Holly Rd., Suite 70, Gilbertsville, PA 19525

(the “Douglass Premises”).

10. As of May 14, 2020, \$10,680.19, plus any additional rent, including reconciliations, taxes, and attorneys’ fees and costs, is due and owing for the Douglass Lease.

11. The Notice lists the arrears for the Douglass Premises to be \$17,865.54 (Notice, Entry No. 211), but does not reference additional rent, including reconciliations, taxes, and attorneys’ fees and costs.

12. On or about May 26, 2009, Brookhaven and one of the Debtors entered into a lease (the “Brookhaven Lease”) for premises located at 4920 Edgmont Ave, Brookhaven, PA 19015 (the “Brookhaven Premises”). Hereinafter, the “Hamilton Premises”, “High Pointe Premises”, “Douglass Premises” and “Brookhaven Premises” shall be collectively referred to as the “Premises”.

13. As of May 14, 2020, \$16,782.01, plus any additional rent, including reconciliations, taxes, and attorneys’ fees and costs, is due and owing for the Brookhaven Lease. Hereinafter, the “Hamilton Lease”, “High Pointe Lease”, “Douglass Lease” and “Brookhaven Lease” shall be collectively referred to as the “Leases”.

14. The Notice lists the arrears for the Brookhaven Premises to be \$17,865.54 (Notice, Entry No. 211), but does not reference additional rent, including reconciliations, taxes, and attorneys’ fees and costs.

15. The Leases are each a lease “of real property in a shopping center” within the meaning of section 365(b)(3) of the Bankruptcy Code. *See In re Joshua Slocum, Ltd.*, 922 F.2d 1081, 1086-87 (3d Cir. 1990).

16. Both pre-petition and post-petition rental amounts under the Leases have not been paid. The Motion contemplates, the sale, assumption and assignment of the Leases and provides cure amounts for the Leases.

OBJECTIONS

17. Landlords have not received certain information to which they are entitled, nor have they fully resolved open issues relating to the Leases, with the Debtor and/or the potential assignee, and accordingly object to the Motion being granted.

18. Specifically, the Debtors have not provided sufficient information to adequately assure Landlords of performance under the Leases prospectively. They received conclusory letters from unknown entities regarding financial commitments made to the proposed purchases. Landlords are unable to discern from these conclusory assertions whether the proposed assignee will be able to performed under the Leases.

19. In addition, the cure amounts, which are subject to reconciliation, have not been resolved and as noted above are subject to dispute. Moreover, the Cure amounts will continue to grow until such time as the Leases are assumed, given the current non-payment of rent by the Debtors.

20. In order to assume the Leases, Debtors are required to cure all defaults under the leases, pursuant to §365(b)(1)(A). As such, any and all unpaid rent, including attorneys' fees and costs, additional rent, late fees, interest, reconciliation amounts and any unbilled charges and any other claim it may assert, including, without limitation, any contingent or unliquidated rights that Landlords may have against Debtors must be resolved prior to the Motion being granted.

**JOINDER IN OBJECTIONS RAISED BY OTHER
LANDLORDS AND RESERVATION OF RIGHTS**

21. To the extent consistent with the objections expressed herein, Landlords also join in the objections of other shopping center lessors to the Motion as well as any other objections (formal or informal) advanced by other creditors, including the official committee of unsecured creditors. Further, Landlord reserves its rights to make further and or future objections, as additional

information is disclosed.

WHEREFORE, for the foregoing reasons, Levin Management Corporation, as agent for Levin Properties, L.P. and High Pointe Commons LLC, and Retail Sites, LLC, as agent for both Brookhaven Equities, LLC and Douglass Equities, LLC respectfully requests the entry of an order denying the Motion and granting such other relief as is just and proper.

Dated: May 18, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 18, 2020, a copy of the foregoing Objection was duly served to all registered parties through the CM/ECF system for the United States Bankruptcy Court for the District of Maryland and on additional parties as follows:

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