

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

IN RE:

RED LOBSTER MANAGEMENT LLC, *et al.*,¹

Debtors.

Chapter 11 Cases
Case No. 6:24-bk-02486-GER
Jointly Administered

**OBJECTION TO PROPOSED ASSUMPTION AND ASSIGNMENT OF
CONTRACTS, PROPOSED CURE AMOUNT, AND RESERVATION OF RIGHTS**

SWR-LV LLC (the “Creditor” or “SWR”), by and through counsel, hereby files this limited objection and reservation of rights (the “Objection”) to the proposed assumption, assignment, and cure amount for a ground lease between Creditor and Debtors pursuant to that certain *Order (I) Approving Bidding Procedures for the Sale of Substantially All of the Debtors’ Assets, (II) Authorizing the Debtors to Enter into Stalking Horse Agreement and to Provide Bidding Protections Thereunder, (III) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (IV) Approving Assumption and Assignment Procedures, (V) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof and (VI) Granting Related Relief* [Docket No. 386] (the “Sale Procedures Order”), and the *Notice to Contract Parties of Potentially Assumed Contracts and Unexpired Leases and any Cure Costs Associated Therewith in Connection with Sale of Debtors’ Assets* (Docket No. 476)(the “Cure Notice”). In support of the Objection, SWR states as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are Red Lobster Management LLC (6889); Red Lobster Sourcing LLC (3075); Red Lobster Supply LLC (9187); RL Kansas LLC (2396); Red Lobster Hospitality LLC (5297); Red Lobster Restaurants LLC (4308); RL Columbia LLC (7825); RL of Frederick, Inc. (9184); RL Salisbury, LLC (7836); RL Maryland, Inc. (7185); Red Lobster of Texas, Inc. (1424); Red Lobster of Bel Air, Inc. (2240); RLSV, Inc. (6180); Red Lobster Canada, Inc. (4569); and Red Lobster International Holdings LLC (4661). The Debtors’ principal offices are located at 450 S. Orange Avenue, Suite 800, Orlando, FL 32801.

1. On or about May 19, 2024, the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Middle District of Florida. This Court has authorized the joint administration of each of the Debtors’ cases.

2. Debtor Red Lobster Restaurants LLC (“RLR”) and SWR are parties to a ground lease for certain real property located at 3937 Lavista Road, Tucker, Georgia, also identified as “Restaurant #91” (the “Premises”), which was entered into on or about May 11, 1973, as amended, restated, and/or modified from time to time (the “Lease”).

3. The Debtors have indicated an initial desire in assuming Lease and list the cure amount for the Lease as “\$0.00.” See, *Cure Notice* (Docket No. 476), page 60 of 72.

4. SWR objects to the cure amounts listed in the Cure Notice and avers that the total amount necessary to cure the Lease, as of July 10, 2024, is **\$5,160.82** (“Cure Amount”).

5. The Cure Amount is comprised of outstanding invoices for the Debtors’ water usage at the Premises, which is part of the ground lease rent as provided for in the Lease, as follows:

Cure Amount :

Amount Outstanding: **\$5,160.82** (for services provided pre- and post-petition)

<u>Date of Services</u>	<u>Date Invoiced</u>	<u>Description</u>	<u>Amount</u>
04/02/24-05/03/24	05/07/24	Water bill for Premises	\$1,653.55
05/03/24-05/31/24	06/10/24	Water bill for Premises	\$1,745.23
05/31/24-07/5/24	07/08/24	Water bill for Premises	\$1,762.04
Total:			\$5,160.82

Copies of the invoices referenced hereinabove are attached hereto as “Exhibit A.”

6. SWR does not dispute that the Debtors have the right to sell their assets or their general right to assume and assign executory contracts and leases to a successful bidder, but SWR disputes and objects to any proposed assumption and assignment that would limit and/or modify SWR's rights under the Lease, the Bankruptcy Code, and/or applicable law.

7. SWR objects to any attempt by the Debtors to avoid, limit, or invalidate the bargained-for protections it has under Lease. SWR is entitled to the full benefit of its bargains and also entitled to the protections provided by section 365 of the Bankruptcy Code. *See, e.g., In re Entertainment, Inc.*, 223 B.R. 141, 151 (Bankr. N.D. Ill. 1998). The Debtors, and any successful bidder, must strictly comply with all contractual provisions, duties, and responsibilities and any sale and/or assumption and assignment agreement should specifically include language requiring the same.

8. The Cure Amount represents the amounts currently due as of July 10, 2024, and may increase or decrease prior to the date of any actual assumption and assignment based upon any payments from the Debtors that are received by SWR, the accrual of additional charges, or the discovery of any new information that would alter, amend, or revise the Cure Amount. Accordingly, SWR reserves its right to amend or supplement the Cure Amount from time to time and at any time, and requests that the Debtors remain liable for all amounts that become due and owing pursuant to the Lease.

9. Nothing in this Objection is intended to be, or should be construed as, a waiver by SWR of any of its rights under the Lease, the Bankruptcy Code, or applicable law. SWR expressly reserves all such rights including, without limitation, the rights to: (a) supplement and/or amend this Objection and to assert any additional objections with respect to the proposed assumption and assignment; and (b) assert any further objections with respect to the requested relief that may subsequently be sought by the Debtors, any prospective purchaser, or any other party, as such requested relief relates to or affects the Premises, the Lease, and/or the interests of SWR.

CONCLUSION

WHEREFORE, SWR respectfully requests that this Court enter an order: (a) sustaining this Objection; and (b) granting SWR such other and further relief as this Court deems appropriate.

Dated: July 10, 2024.

/s/ Michael A. Paasch
MICHAEL A. PAASCH
Florida Bar No. 852805
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Attorneys for Creditor, SWR-LV, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of July, 2024, the foregoing *Objection* was filed electronically with the Clerk's office by using the CM/ECF system and served by ECF Notice or first class mail to Red Lobster Management LLC, et al., Debtor, 450 S. Orange Ave., Suite 800, Orlando, FL 32801; and all parties in interest or their counsel as indicated on the receipt issued by the Court's electronic filing system. Service is made upon the following specific entities and counsel in the manner and method set forth as follows:

King & Spalding LLP
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Attn: W. Austin Jowers, Jeffrey R. Dutson,
And Sarah Primrose
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401 N. Michigan, Ste 1630
Chicago, IL 60611
Attn: Teri Stratton
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/s/ Michael A. Paasch
MICHAEL A. PAASCH
Florida Bar No. 852805

EXHIBIT A

REDD REALTY SERVICES

INVOICE

FROM:

SWR-LV LLC
 3949 Holcomb Bridge Rd, Suite 202
 Peachtree Corners, GA 30092
 (404) 841-0123 phone

DATE:

5/7/24

TO:

Darden Acct# RL 0091W
 Property Accounting Department
 Darden Restaurant
 P.O. Box 695016
 Orlando, FL 32869-5016
livebills@ecova.com

Gallons Consumed 4/2/24-5/3/24	105,000	
Cost per gallon water	\$0.0033	\$342.30
Cost per gallon sewer	\$0.0120	\$1,262.10
County service charges		\$49.15
Subtotal		\$1,653.55
Less monthly minimum payment		\$0.00
NET AMOUNT DUE		\$1,653.55

**Please make check payable to SWR-LV, LLC and remit to
 3949 Holcomb Bridge Rd, Suite 202, Peachtree Corners, GA 30092**

WE HAVE MOVED! PLEASE NOTE NEW REMITTANCE ADDRESS ABOVE.

REDD REALTY SERVICES

INVOICE

FROM:

SWR-LV LLC
 3949 Holcomb Bridge Rd, Suite 202
 Peachtree Corners, GA 30092
 (404) 841-0123 phone

DATE:

6/10/24

TO:

Darden Acct# RL 0091W
 Property Accounting Department
 Darden Restaurant
 P.O. Box 695016
 Orlando, FL 32869-5016
livebills@ecova.com

Gallons Consumed 5/3/24-5/31/24	111,000	
Cost per gallon water	\$0.0033	\$361.86
Cost per gallon sewer	\$0.0120	\$1,334.22
County service charges		\$49.15
Subtotal		\$1,745.23
Less monthly minimum payment		\$0.00
NET AMOUNT DUE		\$1,745.23

**Please make check payable to SWR-LV, LLC and remit to
 3949 Holcomb Bridge Rd, Suite 202, Peachtree Corners, GA 30092**

WE HAVE MOVED! PLEASE NOTE NEW REMITTANCE ADDRESS ABOVE.

REDD REALTY SERVICES

INVOICE

FROM:

SWR-LV LLC
 3949 Holcomb Bridge Rd, Suite 202
 Peachtree Corners, GA 30092
 (404) 841-0123 phone

DATE:

7/8/24

TO:

Darden Acct# RL 0091W
 Property Accounting Department
 Darden Restaurant
 P.O. Box 695016
 Orlando, FL 32869-5016
livebills@ecova.com

Gallons Consumed 5/31/24-7/5/24	112,100	
Cost per gallon water	\$0.0033	\$365.45
Cost per gallon sewer	\$0.0120	\$1,347.44
County service charges		\$49.15
Subtotal		\$1,762.04
Less monthly minimum payment		\$0.00
NET AMOUNT DUE		\$1,762.04

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WE HAVE MOVED! PLEASE NOTE NEW REMITTANCE ADDRESS ABOVE.