IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
	)	
	)	Case No. 26-90831 (CML)
TASTY CHICK'N, LLC, *et al.*,[1]	)	
	)	
Debtors.	)	(Joint Administration Requested)
	)	

PRELIMINARY OBJECTION AND RESERVATION OF RIGHTS OF FRANCHISOR KFC US, LLC TO FIRST DAY RELIEF SOUGHT BY THE DEBTORS

Franchisor KFC US, LLC ("KFC"), by its undersigned attorneys, hereby files this *Preliminary Objection and Reservation of Rights of Franchisor KFC US, LLC to First Day Relief Sought by the Debtors* (the "Preliminary Objection")[2] and respectfully states as follows:

PRELIMINARY STATEMENT

1. For more than a year, KFC has worked with both the Debtors and the Debtors' prepetition lender, MidCap, to identify a solution that would both maximize value and allow for the continued operation of, and preservation of jobs related to, the Debtors' nearly 100 KFC locations. Unfortunately, no resolution was reached and, to the contrary, the Debtors continued to close restaurant locations, at times without following the requirements of the applicable Franchise Agreement. In an effort to find a solution, in addition to allowing arrearages to grow to unprecedented levels of not less than $16 million, KFC has met with the business teams of both the Debtors and MidCap on several occasions to discuss the path forward. To maximize

[1] A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their tax identification numbers may be obtained on the website of the Debtors' proposed claims and noticing agent at https://dm.epiq11.com/TastyChickn. The Debtors' address for service in these chapter 11 cases is Tasty Restaurant Group, 6201 W Plano Parkway, Plano, TX 75093.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Declaration of Thomas M. Scott, President and CEO, In Support of Chapter 11 Petitions and First Day Motions* [Docket No. 22] or the Interim DIP Order (as defined below), as applicable.

participation in the sale process, KFC has provided preliminary feedback to both the Debtors and MidCap on potential operators/sale partners, has sought and continues to seek to identify potential operators/sale partners and, at the request of both the Debtors and MidCap, has met with potential alternative operators. And KFC continues to engage in a dialogue with the Debtors regarding how to ensure value is maximized for all stakeholders.

2. The Debtors' proposed DIP Lender, MidCap, on the other hand, seeks to use the DIP Facility and other first day motions to assert control over the Debtors' chapter 11 cases, without regard to the other stakeholders which include landlords, counterparties and employees. In particular, rather than working collaboratively with all stakeholders, MidCap attempts, on the first day of the case and as a condition to further funding, to dictate not only key provisions of the procedures that will govern the Debtors' sale process, but also the package of assets the Debtors may operate and expose to a sales process and to lock in, among other things, the rejection of certain contracts and its own credit bid rights. This, despite the existence of a viable alternative that would allow the Debtors to operate and market test the sale of a larger portfolio of assets, which may bring more value into the estate, without incurring additional costs.

3. Why would a lender impose these requirements? While no discovery has been taken, one can only observe that MidCap's demands, which have shifted during the prepetition period, are an attempt by MidCap to ensure that only the assets it wants to purchase are available, exert pressure on other stakeholders, including KFC, and to otherwise stymie the sale process. KFC acknowledges that it is not uncommon for a debtor's lender to influence the shape of a chapter 11 case through budgetary restraints and case controls embedded in the DIP. However, the level of control exercised by MidCap in this instance is inappropriate and calls into question whether MidCap may exercise its credit bid rights or if it has crossed the line.

4. Rather than acquiesce to the overbearing demands of the prepetition lender on less than 24 hours' notice and in connection with a first day hearing, KFC requests that this Court provide the Debtors only with such relief as is required to avoid irreparable harm during the first 14 days of this case as required by Bankruptcy Rule 4001 and empower the Debtors and their stakeholders to investigate MidCap's prefiling activities.

BACKGROUND

5. KFC is the franchisor with respect to the KFC® restaurants operated by franchisee Tasty Chick'n, LLC and the additional above-captioned debtors and debtors in possession ("Tasty" or the "Debtors"). Tasty first became a KFC franchisee in December of 2021 with 90 locations and acquired an additional 64 restaurants in May of 2024. Tasty began facing operational difficulties and fell into payment arrears with KFC in June of 2025. Those arrearages grew steadily through the end of 2025 and into 2026. During that period, apart from funds drawn on the letter of credit, Tasty made minimal, sporadic payments to KFC. To mitigate the significant level of arrearages during this time period, KFC drew on the letter of credit on December 19, 2025, and on September 8, 2026. As of early November 2026, Tasty's total arrearages under the Yum! Parties Agreements amount to not less than $16 million.

6. After reaching a peak of over 150 locations, Tasty began ramping up store closures, with 44 closures year to date. Through both its growth and its recent challenges, Tasty's business has depended on its integrated relationship agreement, franchise agreements, and other operational agreements with KFC, which remain core to the operation of the Debtors' business.[3] Indeed, the

[3] The Debtors are party to certain franchise and license agreements (collectively, the "Franchise Agreements") with KFC and/or Taco Bell Franchisor, LLC (the "Yum! Parties"), as applicable. The Yum! Parties and the Debtors are also parties to that certain Relationship Agreement dated as of December 22, 2021 (as amended, the "Relationship Agreement" and as further amended the "Second Amendment to the Relationship Agreement"). Debtors Midwest and Southeast are also parties to those certain Advertising Agreements, dated December 23, 2021 (the "Advertising Agreements") and certain technology agreements (the "Technology Agreements" and together with the Franchise Agreements, the Relationship Agreement, and the Advertising Agreements, the "Yum! Parties Agreements" and any

proposed Interim DIP Order itself acknowledges that the DIP Facility and cash collateral are needed to operate the Debtors' restaurants, each of which operates under the KFC brand (ten (10) of the Debtors' 94 locations are KFC and Taco Bell co-branded restaurants). Interim DIP Order ¶ G.

7. KFC's relationship with its franchisees, including Tasty, is mutually beneficial, with each party undertaking ongoing obligations to the other. Tasty's closures, however, have caused significant harm to the KFC brand, causing KFC to "go dark" in select markets and eroding brand presence and consumer confidence in those communities. That harm extends well beyond Tasty's own restaurants. As Tasty's operations contract, so do its contributions to the system-wide advertising fund that supports the KFC brand as a whole, to the detriment of KFC and every other franchisee that depends on that fund.

8. Notwithstanding Tasty's operational and financial challenges, KFC has maintained a constructive working relationship with Tasty and continues to engage in active dialogue with Tasty regarding these proceedings. KFC's interest lies in the continued, successful operation of the KFC-branded restaurants and in a value-maximizing outcome for the Debtors' stakeholders. To that end, KFC supports the Debtors' efforts to stabilize their business and preserve the value of the KFC-branded restaurants at the heart of these chapter 11 cases. KFC objects, however, to the extent the Debtors seek first-day approval of financing terms that go beyond what is necessary to avoid immediate and irreparable harm pending a final hearing. As detailed below, a number of the proposed DIP Facility provisions would grant the DIP Lender (as defined below) significant control over these cases and affect KFC's rights before parties in interest have had a meaningful

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obligations arising under the Yum! Parties Agreements, the "Yum! Parties Obligations") with KFC National Council and Advertising Cooperative, Inc. The Yum! Parties Agreements are valid, binding, enforceable, and unavoidable obligations owed by the Debtors.

opportunity to be heard. KFC therefore files this Preliminary Objection to ensure that any interim relief is narrowly tailored and to reserve all of its rights pending a final hearing.

PRELIMINARY OBJECTION

I. The relief requested under the proposed DIP Facility is overbroad and must be limited

9. The Debtors seek approval of a secured, superpriority, priming debtor-in-possession ("DIP") financing facility of up to $20,000,000 (the "DIP Facility") and the use of cash collateral pursuant to a proposed interim order (the "Interim DIP Order") and initial approved budget (the "Budget"), to be provided by MidCap Financial Trust ("MidCap" or the "DIP Lender"). Without reciting each provision of the DIP, which the Debtors have already summarized for this Court, KFC would highlight the following provisions of the DIP:

a. DIP Liens on General Intangibles. Interim DIP Order ¶ 5(a)
b. Credit Bidding. Interim DIP Order ¶ 19
c. Rejection of Franchise Agreements. Interim DIP Order ¶¶ 11, 16(o)
d. Sale Milestones. Interim DIP Order ¶ 14
e. Debtors' Stipulations, Challenge Period, and Investigation Budget Cap. Interim DIP Order ¶¶ E(iii), 25, 26
f. Various economic provisions for which no evidentiary support has been presented

10. KFC does not ask the Court to deny the Debtors access to the liquidity necessary to continue operating their restaurants pending a final hearing. Rather, KFC submits that the relief granted on an interim basis must be limited to what the Bankruptcy Rules permit before parties in interest have received appropriate notice and opportunity to be heard. As set forth below, the Debtors have not demonstrated that the full scope of the proposed DIP Facility, or the extraordinary lender protections that accompany it, is necessary to avoid immediate and irreparable harm before a final hearing.

A. The proposed DIP collateral package is overly broad and fails to recognize the unique nature of the relationship between a franchisor and franchisee

11. The DIP Collateral purports to include general intangibles and the proceeds of the Debtors' restaurant operations, without limitation. Interim DIP Order ¶ 5(a). Although the prepetition loan documents provided the prepetition lenders with a lien on general intangibles, those documents contained important enforcement carve-outs that must be preserved. Interim DIP Order ¶ E(iii). Prepetition, KFC and the Debtors agreed that the Debtors would not grant any third party a lien on the Franchise Agreements. In particular, the Relationship Agreement prohibits the Debtors from granting a lien on the Franchise Agreements and this understanding was affirmed in connection with the Second Amendment to the Relationship Agreement. *See*, Consent and Second Amendment to Relationship Agreement, May 16, 2024, at ¶ 1(b).[4] The Relationship Agreement and the Security and Pledge Agreement each acknowledged these restrictions, with the Relationship Agreement permitting the Debtors, on a limited basis, to provide a security interest to their lenders in accordance with UCC § 9-408. *Id.* ¶ 1; Security and Pledge Agreement § 2(b).

12. This restriction is important because although UCC § 9-408 permits a lender to take a lien on a franchise agreement, it also strictly prohibits the lender from stepping into the franchisee's shoes or enforcing the security interest against the franchisor without the franchisor's consent. In the instant case, that means that although MidCap may hold a prepetition lien on the

[4] Pursuant to UCC § 9-408 and the provisions of the Second Amendment to the Relationship Agreement, any lien held by MidCap on the Franchise Agreements is subject to the following limitations:

a. the lien is not enforceable against the Yum! Parties;
b. the lien does not impose any duty or obligation on the Yum! Parties;
c. the lien does not require the Yum! Parties to recognize the security interest, pay or render performance to MidCap, or accept payment or performance from MidCap;
d. the lien does not entitle MidCap to use or assign the franchisees' rights under the Franchise Agreements, including any related information or materials furnished to the franchisees in the transaction giving rise to the Franchise Agreements;
e. the lien does not entitle MidCap to use, assign, possess, or have access to any trade secrets or confidential information of the Yum! Parties; and
f. the lien does not entitle MidCap to enforce the security interest in the Franchise Agreements.

See, Consent and Second Amendment to Relationship Agreement, May 16, 2024, at ¶ 1(b).

Franchise Agreements, it cannot step into the Debtors' shoes and/or enforce the Franchise Agreements with respect to KFC including by demanding that KFC accept MidCap as a new franchisee, demanding operational control of the licensed brand, or accessing KFC's confidential and proprietary trade secrets.

13. These protections for franchisors exist for good reason. As discussed above, the relationship between a franchisor and its franchisees impacts not only these two parties. Franchisees "share" the KFC reputation. A poor customer experience at one location can damage the overall brand, missed advertising contributions reduce the resources available to support the entire system, and a failure to meet shared brand standards weakens the entire brand. As a result, it is critical that notwithstanding its franchisees' financing arrangements, a franchisor maintains control over who can access its franchise agreements and the benefits thereunder.

14. UCC § 9-408 seeks to provide franchisees with the ability to obtain financing, while preserving the business needs of a franchisor. MidCap seeks to turn this upside down, by, on the first day of these cases, purporting to take a lien on all general intangibles (including the Franchise Agreements) without the protections that UCC § 9-408 provides to KFC. The reason is transparent: MidCap is seeking a sale process in which it can credit bid its DIP claim and force entry into the KFC brand while avoiding KFC's right to consent. Not only would such a lien constitute an event of default under the Yum! Parties Agreements, but it would also likely serve to dampen auction results. Third parties are unlikely to bid if they know that MidCap is able to avoid the process of qualifying as an operator by virtue of the DIP.

15. Any lien granted as part of the DIP Facility must recognize these critical limitations and must not inappropriately expand MidCap's rights with respect to the Franchise Agreements. The proposed Interim DIP Order does not do so. Instead, it would grant MidCap, on a first-day

record and without any acknowledgment of the restrictions to which MidCap itself agreed prepetition, "continuing, valid, binding, enforceable, non-avoidable, and automatically perfected security interests in and liens" on "all property of the Loan Parties," expressly including "all tangible, intangible, real, and personal property," "intellectual property," and "general intangibles." Interim DIP Order ¶ 5(a). The Franchise Agreements, which license the KFC® and Taco Bell® marks, system standards, and confidential operating methods to the Debtors, fall squarely within that sweeping grant. KFC objects to any lien on the Franchise Agreements, expressly reserves all of its rights, and submits that the Court should not approve any such lien, especially on an interim basis.[5]

B. The proposed DIP inappropriately provides MidCap with unfettered credit bid rights based only on the record before this Court at a first day hearing

16. The proposed Interim DIP Order would also give the DIP Lender, on a first-day record, a court-approved right to credit bid every dollar it claims: the Existing Credit Facility, the New Money DIP Loans, and the Roll-Up DIP Loans and, through that right, gives the DIP Lender

[5] To the extent the Court is inclined to approve any lien on general intangibles or contract rights on an interim basis, KFC submits that, at a minimum, the Interim DIP Order should incorporate limitations comparable to those approved by this Court in *In re NPC Int'l, Inc.*, No. 20-33353 (DRJ) (Bankr. S.D. Tex. July 2, 2020) [Docket No. 112] (the "NPC Interim Order"). There, although the adequate protection liens extended to, among other things, "contract rights, . . . patents, trademarks, copyrights, and licenses therefor, . . . general intangibles, payment intangibles, . . . [and] contracts," the grant was expressly qualified: "*provided* that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, the foregoing collateral shall not include leasehold interests or leases of non-residential real property (in either case, unless otherwise expressly permitted by the terms of such nonresidential leases or if the imposition of a lien therein would not otherwise constitute a default or event of default under any such lease of non-residential real property or if a default occurred thereunder that would be excused or rendered ineffective by operation of the Bankruptcy Code or applicable non-bankruptcy law), but, in any such case, the foregoing collateral shall include the proceeds, products or offspring thereof." NPC Interim Order ¶ 4(a)(1). The NPC Interim Order further provided that any override of contractual consent requirements applied only "[t]o the fullest extent permitted by the Bankruptcy Code or other applicable law," was limited to "the granting of the Adequate Protection Liens on the proceeds of any assignment and/or sale of a leasehold interest," and remained "subject to applicable law." Id. ¶ 14(c). The Debtors and MidCap could resolve this aspect of the Preliminary Objection by adopting analogous language providing that the DIP Liens shall not attach to the Franchise Agreements or the other Yum! Parties Agreements unless expressly permitted by their terms or to the extent the grant would not constitute a default thereunder, that any lien shall be granted only to the fullest extent permitted by the Bankruptcy Code or other applicable law (including UCC § 9-408) and subject to applicable law, and that, in any such case, the DIP Liens shall attach to the proceeds of the Franchise Agreements, thereby preserving the limitations described in paragraphs 11-14 while protecting the DIP Lender's interest in proceeds.

substantial control over the outcome of any sale of the Debtors' assets. Interim DIP Order ¶ 19. The Court should not approve that right on an interim basis. Section 363(k) permits the holder of an allowed claim secured by a lien on the property sold to credit bid, unless the Court, for cause, orders otherwise. 11 U.S.C. § 363(k). Neither element, an allowed secured claim or the absence of cause, can be tested on the present record.

17. Bankruptcy Code section 363(k) establishes the rights of a secured creditor to submit a credit bid in connection with a sale process. Those rights are not, however, unlimited. Rather the Court may, for cause, limit a secured lender's credit bid rights. Section 363(k) does not define cause, and courts determine it on a case-by-case basis. *In re Aéropostale, Inc.,* 555 B.R. 369, 414-15 (Bankr. S.D.N.Y. 2016). Cause is not confined to inequitable conduct; a court may limit a credit bid to serve any policy the Bankruptcy Code advances, including fostering a competitive bidding environment. *In re Fisker Auto. Hldgs., Inc.,* 510 B.R. 55, 59-60 (Bankr. D. Del. 2014) (quoting *In re Phila. Newspapers, LLC,* 599 F.3d 298, 316 n.14 (3d Cir. 2010)); *In re Free Lance-Star Publ'g Co. of Fredericksburg, VA,* 512 B.R. 798 (Bankr. E.D. Va. 2014). In *Fisker*, the court capped the credit bid because an uncapped bid would have frozen bidding, the lender insisted on a hurried process, and the validity of its secured status had not been determined. 510 B.R. at 61. In *Free Lance-Star,* the court limited a loan-to-own lender's credit bid where the lender sought to enlarge its collateral, and engaged in conduct that depressed bidder interest. 512 B.R. at 800-801. The court also held that the lender could not bid at all against assets that did not secure its allowed claim. *Id.* Many of the same features appear to be present here. MidCap has sought to control the sale process at every turn. MidCap seeks to dictate the form of the bidding procedures and the pool of assets that will be exposed to the sale process. Interim DIP Order ¶ 14(a). It has conditioned the Final Draw on motions to close nine stores and reject their leases,

shrinking the pool of assets before any bidder sees it. *Id.* ¶ 11. On information and belief, certain of those locations are attractive to potential franchisees, and their exclusion would deprive the estates of value that a properly marketed sale could capture. MidCap also asserts liens on the Debtors' rights under the Yum! Parties Agreements, which KFC disputes. *See* ¶¶ 11-15, *supra*. And it has limited the estates' investigation of its liens to $25,000. Interim DIP Order ¶ 26. When the record is developed, on information and belief, KFC expects the evidence may come to light supporting a limitation on MidCap's credit bid.

18. KFC recognizes that the party seeking to limit a credit bid bears the burden of establishing cause, while the lienholder bears the burden on the validity, priority, and extent of its liens. 11 U.S.C. § 363(p)(2); *In re Free Lance-Star*, 512 B.R. 798 at 801. That allocation of burdens underscores why the question should not be resolved now. These cases have been on file for 24 hours and no party has yet had a fair opportunity to develop the record that either burden requires. The rolled-up debt warrants particular scrutiny, because its credit bid value depends on prepetition claims and liens that remain subject to challenge. Courts have treated rolled-up prepetition debt as a distinct category for credit bid purposes. *See In re Noble Logistics, Inc.,* No. 14-10442 (CSS), 2014 WL 1884106, at *13 (Bankr. D. Del. Apr. 2, 2014).

19. For these reasons, the Court should not approve, authorize, or confirm any credit bid rights in favor of MidCap under section 363(k) on an interim basis. To the extent the Interim DIP Order, the First Day Pleadings, or any other proposed order seeks to authorize, confirm, or preserve such rights, KFC objects. Any determination of the scope of MidCap's right to credit bid, including whether cause exists to limit or condition the right, should, at a minimum, be reserved for the final hearing on a full record.

C. The milestone requiring rejection of the Franchise Agreements for the Closing Stores within approximately one week of the Petition Date is unnecessary and premature

20. The proposed Interim DIP Order further requires that the Debtors reject not only the leases but also the Franchise Agreements for the nine (9) restaurants the Debtors propose to close (the "Closing Stores"). See Interim DIP Order ¶¶ 11, 16(o).

21. While it may seem unremarkable to reject contracts, the milestone unnecessarily puts a complex legal issue (that will likely be resolved on a consensual basis as part of the sale process) before the Court early in the case. KFC's position is that the Franchise Agreements and the other Yum! Parties Agreements are integrated agreements that must be treated together for purposes of Bankruptcy Code section 365. It is black-letter law that a debtor may not pick and choose among the provisions of an executory contract or unexpired lease. The contract must be assumed or rejected in its entirety. The same principle applies where separate documents form a single, integrated agreement. A debtor may not reject part of that agreement while retaining the remainder. Whether, and to what extent, the Debtors may reject the Franchise Agreements for the Closing Stores independently of the remaining Yum! Parties Agreements is therefore a contested question that turns on the terms of these agreements and the parties' intent. The parties have reached an agreement on reservation of rights language that will allow this issue to be preserved with respect to the rejection of certain franchise agreements as required by the filed DIP Motion.[6] However, KFC understands, based on discussions with Debtors' counsel, that the DIP Lender intends to require that all issues related to the integrated nature of the Yum! Parties Agreements be resolved prior to funding the second tranche.

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[6] *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 16] (the "DIP Motion").

22. There is no basis to force the parties to litigate that issue early in these chapter 11 cases. In the context of a sale case such as this one, questions related to the assumption and rejection of contracts and their integrated nature are regularly resolved in a commercial manner. Forcing this issue as part of the DIP Motion, at a time when the Debtors and their stakeholders should be focused on stabilizing the business and executing a robust sale process, can only hurt the Debtors' estates. The Court should therefore decline to approve revisions to the DIP Motion that require a resolution as to whether the Yum! Parties Agreements are integrated.

D. The Debtors have not established immediate and irreparable harm

23. The Debtors have failed to establish that their requests are sufficiently narrow to warrant the interim use of cash collateral. Rule 4001(c)(2) does not permit the Debtors to obtain on a first-day record relief that the Bankruptcy Rules reserve for a noticed final hearing. A final hearing on a motion to obtain credit may begin no earlier than 14 days after service, and, before that hearing, the Court may authorize the Debtors to obtain credit "only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing." Fed. R. Bankr. P. 4001(c)(2)(A). The same limitation governs interim use of cash collateral. Fed. R. Bankr. P. 4001(b)(2)(A). Thus, interim financing is permissible only where the debtor demonstrates that the requested relief cannot await a final hearing on appropriate notice. *See In re Colad Grp., Inc.,* 324 B.R. 208, 217-18 (Bankr. W.D.N.Y. 2005); *see also In re Reilly*, 542 B.R. 317, 319 (Bankr. W.D.N.Y. 2015) ("Except in an emergency context, the rule mandates a hearing on 14 days notice prior to any authorization of credit.").

24. The Debtors bear the burden of demonstrating that the harm they invoke is both immediate and irreparable and that the specific relief requested is necessary to prevent that harm before a final hearing can be held. *See In re Sullivan Ford Sales*, 2 B.R. 350, 356-7 (Bankr. D.

Me. 1980); *In re Adamson Co.*, Inc., 29 B.R. 937, 940-941 (Bankr. E.D. Va. 1983) (debtor seeking interim financing with a §364(c) priority should carry "at least the same if not a heavier burden of proof than that a petitioner asking for a temporary restraining order must bear"; denying relief where advance notice would not cause immediate or irreparable injury). Harm that can await a noticed hearing is not immediate. Courts therefore scrutinize the debtor's near-term liquidity needs and do not authorize expenditures that can await a noticed hearing. *See* Hr'g Tr. at 105–07, *In re Cleveland Imaging & Surgical Hospital, L.L.C.*, No. 14-34974 (JPN) (Bankr. S.D. Tex. Mar. 12, 2015) [Docket No. 215].

25. This limitation applies to both the amount of interim borrowing and the terms accompanying that borrowing. Interim relief must be narrowly tailored to the amount and protections required to preserve the estate until a final hearing. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 36 (Bankr. S.D.N.Y. 1990) (authorizing $25 million of $52 million in requested interim financing and excluding specific categories of expenditures); *In re Colad Grp.*, 324 B.R. at 218 (refusing interim order whose terms were essentially identical to the proposed final terms); *cf. In re Visionaire Corp.*, 299 B.R. 530, 535 (B.A.P. 8th Cir. 2003). Consistent with that requirement, the Complex Case Procedures require an extraordinary showing before certain provisions, including roll-ups, cross-collateralization, liens on avoidance actions, self-executing remedies, releases, and non-consensual priming liens, may be approved on an interim or emergency basis. Procedures for Complex Cases in the Southern District of Texas § C, ¶ 8 (eff. Jan. 1, 2023).

26. The Debtors must therefore establish, on an expenditure-by-expenditure and provision-by-provision basis, what relief is necessary before a final hearing can be held and why the balance cannot await appropriate notice. *See* Hr'g Tr. at 279:11-13*, In re Ascend Elements,*

Inc., No. 26-90440 (CML) (Bankr. S.D. Tex. May 14, 2026) [Docket No. 339]. To the extent the Debtors have sufficient liquidity to operate through a final hearing, or the requested expenditures are not payable during the interim period, Rule 4001(c)(2) does not permit the Debtors to obtain the corresponding financing or lender protections on a first-day record. In the instant case, KFC questions the Debtors' need to fund (a) in excess of $1 million for professional fees during the first 14 days of the case, (b) more than $800,000 of rent during the first week and (c) closure costs of $195,000 during the first week to avoid irreparable harm. KFC respectfully reserves the right to supplement this Preliminary Objection based on the Debtors' cash position, proposed interim borrowing, and anticipated expenditures before the final hearing.

E. Additional Concerning DIP Motion Provisions

27. Several additional provisions of the proposed DIP Facility warrant scrutiny.

a. Roll-up: The DIP Facility contemplates a $15 million roll-up of MidCap's prepetition obligations upon entry of a final order, representing a 3x roll-up of new money. KFC reserves its right to object to the proposed roll-up at the final hearing, including on the ground that the Debtors cannot establish that such extraordinary relief is warranted under the circumstances.
b. Exit Fee: The proposed DIP Facility includes a 1% commitment fee on new money, fully earned upon entry of the Interim DIP Order, and a 1% exit fee payable upon any Termination Event or any "repayment, satisfaction, or refinancing" of the DIP Loans. As drafted, the exit fee would be triggered by a credit bid and by the closing of the resulting sale. Interim DIP Order ¶¶ 8, 16(g), 19. A DIP Lender that acquires the Debtors' assets through a credit bid should not also earn an exit fee.
c. Carve-Out: The proposed $500,000 Post-Carve-Out Trigger Notice Cap is excessive for an interim order and should be appropriately limited. Interim DIP Order ¶ 9(a)(iv).
d. Surcharge: Waiver of the estates' surcharge rights under section 506(c) is premature and should not be approved on an interim basis. Interim DIP Order ¶ 24.
e. Prepayment: The proposed DIP Facility requires the prepayment of the DIP Loans with 100% of the net proceeds of any sale of the Debtors' assets under Bankruptcy Code section 363, in each case within two Business Days and subject only to the Carve-Out. Interim DIP Order ¶ 18(b). As drafted, MidCap would receive every dollar of net sale proceeds, leaving nothing for the estates to satisfy administrative expense claims or other obligations

arising during these cases. Any such sweep is premature and should be considered only at the final hearing.

f. Information Rights: Any reporting or information rights provided to the DIP Lender should also be provided to KFC, particularly given KFC's interest in the ongoing operation of the Debtors' KFC-branded restaurants. In addition, the Budget should appropriately account for administrative expense obligations and should not authorize expenditures in a manner that effectively subordinates or disregards administrative claims.

II. Additional first day relief

28. Although the DIP Facility is KFC's primary focus at this stage of these chapter 11 cases, KFC is also in the process of evaluating and responding to the other First Day Pleadings and reserves all rights with respect thereto, including, without limitation, with respect to the *Debtors' Emergency Motion for Entry of an Order (I) Authorizing (A) the Rejection of Certain Leases, (B) the Rejection of Certain Agreements, and (C) the Abandonment of Certain Property; and (II) Granting Related Relief* [Docket No. 15] (the "Lease Rejection Motion"). The proposed order attached to the Lease Rejection Motion affirms the extent and validity of MidCap's liens. If MidCap is permitted to rely on the Debtors' Stipulations as to the extent, validity, and priority of its liens, the Carve-Out is rendered meaningless in the context of the Lease Rejection Motion.

RESERVATION OF RIGHTS

29. This Preliminary Objection is submitted without prejudice to, and with a full and express reservation of, KFC's rights, claims, defenses and remedies, including the right to amend, modify, or supplement this Preliminary Objection. Without limiting the foregoing, KFC expressly reserves the right to raise any and all issues at the final hearing on the DIP Facility, including any terms of the DIP Facility that have not been fully resolved. KFC further reserves the right to object to any proposed final order approving the DIP Facility, any bidding procedures, any sale of the Debtors' assets, and any proposed assumption, assumption and assignment, or rejection of the Franchise Agreements or the other Yum! Parties Agreements, including, without limitation, the

right to object to the identity and qualifications of any proposed assignee or successor operator, to require adequate assurance of future performance, and to assert cure amounts and any other amounts owing under the Yum! Parties Agreements. Nothing herein is intended to be a waiver by KFC of any right, objection, argument, claim or defense with respect to any matter, all of which are hereby expressly reserved. Nothing contained herein shall constitute a waiver of any rights or remedies of KFC under the Yum! Parties Agreements, the Bankruptcy Code or applicable law.

Dated: November 17, 2026
Houston, Texas

Respectfully Submitted,

AKIN GUMP STRAUSS HAUER & FELD LLP

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CERTIFICATE OF SERVICE

I certify that on November 17, 2026, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/ Sarah Link Schultz
Sarah Link Schultz