

institutions (collectively, the “**Banks**”) to honor and process check and electronic transfer requests related to the foregoing. The facts and circumstances supporting this Motion are set forth in the concurrently filed *Declaration of Robert Griffin In Support of Debtors’ Chapter 11 Petitions and First Day Motions and Applications* (the “**First Day Declaration**”).² In further support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the “**Amended Standing Order**”). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief sought herein are 105(a), 363(c), 503(b)(1), 1107(a), and 1108 of the Bankruptcy Code.

BACKGROUND

A. General

2. On the date hereof (the “**Petition Date**”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Concurrently with this Motion, the Debtors have also filed certain other motions and applications seeking certain “first day” relief.

3. The Debtors have continued in possession of their properties and have continued to operate and maintain their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration.

4. No request has been made for the appointment of a trustee or examiner and no official committee has been established in these chapter 11 cases.

5. Additional information about the Debtors' business and the events leading up to the Petition Date can be found in the First Day Declaration, which is incorporated herein by reference.

B. Customer Programs³

6. In an effort to attract new customers and to earn and maintain the goodwill of their existing customers, the Debtors over the course of time have developed certain customer programs (collectively, the "**Customer Programs**"). The Debtors' Customer Programs generally fall into the following categories: (1) customer safekeeping and front money deposits at the casino cages located at the Debtors' properties (collectively, the "**Safekeeping and Front Money Program**"); (2) customer deposits for hotel rooms, meetings, meals, banquets, catering halls, tickets to events held at the Debtors' properties and other goods and services provided by the Debtors (collectively, the "**Deposits**"), gift certificates (collectively, the "**Gift Certificates**"), and coupons (collectively, the "**Coupons**"); (3) prepetition wagers on events to take place postpetition, such as pari-mutuel events and tournaments, prepetition casino chips and tokens in the public domain, ongoing customer promotions, including, but not limited to, player cards, unpaid or uncashed Keno tickets, slot machine vouchers and jackpot claims, and multi-casino progressive jackpot claims (collectively, the "**Prepetition Wagers**"); (4) the "Trump One Card" company-wide customer loyalty program that enables customer to accumulate "Comp Dollars" based upon, among other things, their slot machine and table games play, which may be redeemed for, among other things, complimentary food, beverage and retail items and salon

³ The descriptions of the Customer Programs provided herein are intended only as a summary, and the actual terms of such Customer Programs shall govern in the event of any inconsistency with the descriptions set forth herein.

services (“**Trump One**”), and similarly, the ability of the Debtors’ customers to charge their room accounts for such items and services; (5) claims of casino guests who suffered immaterial property damage (collectively, the “**Property Damage Claims**”); and (6) miscellaneous customer programs similar to the foregoing.

i. Safekeeping and Front Money Program

7. The New Jersey Casino Control Act (N.J.S.A. 5:12-1 through 201; referred to herein as the “**Casino Control Act**”) authorizes a safekeeping and front money program, which permits customers to deposit casino chips, cash, or wire transfers of funds into a deposit account established for the patron while the patron is a guest at the Debtors’ casino properties. If a customer deposits funds in “safekeeping,” the customer deposits the funds at the casino cage and can withdraw such funds as and when needed. “Front money,” on the other hand, is deposited by the customer at the casino cage and may later be withdrawn by the customer at the cage or at a gaming table. If the customer withdraws “front money” at the gaming table, a counter check is issued and endorsed by the customer as a front money withdrawal. The amount of the front money deposit is debited by the amount of the counter check withdrawal.

8. As of the Petition Date, as part of the Safekeeping and Front Money Program, the Debtors were holding approximately \$1,090,000 in the aggregate on account of the Trump Taj Mahal Casino Resort (the “**Taj Mahal**”) and do not believe that they were holding any such amounts on account of the Trump Plaza Hotel and Casino (the “**Trump Plaza**”). However, because the amount of money held by the Debtors in connection with the Safekeeping and Front Money Program can fluctuate dramatically in a short time period, it is impossible to estimate the exact amount of money in the Safekeeping and Front Money Program that the Debtors were holding as of the Petition Date.

ii. Deposits, Gift Certificates, and Coupons

9. In the ordinary course of business, the Debtors accept Deposits for hotel rooms, meetings, meals, banquets, catering halls, tickets to events held at the Debtors' properties and other goods and services provided by the Debtors. In addition, the Debtors, or third-party vendors, sell or offer the Gift Certificates and the Coupons. The Gift Certificates and the Coupons may be redeemed for, among other things, hotel stays, dining, entertainment, and retail merchandise at various locations throughout the Debtors' facilities. The Debtors estimate that, as of August 31, 2014, the date of the Debtors' most recent monthly closing of their books and records, the Debtors were holding approximately \$500,000 and \$2,000 in Deposits on account of the Taj Mahal and the Trump Plaza, respectively, and were holding approximately \$100,000 and \$12,500 for unredeemed Gift Certificates on account of the Taj Mahal and the Trump Plaza, respectively.⁴

iii. Prepetition Wagers

10. The Debtors also seek authority to pay Prepetition Wagers, consisting of prepetition wagers on events to take place postpetition, such as pari-mutuel events and tournaments, prepetition casino chips and tokens issued by the Debtors' casinos in the public domain, ongoing customer promotions, including, but not limited to, player cards, slot machine player cards, unpaid or uncashed Keno winning tickets, jackpot claims and multi-casino progressive jackpot claims.

11. As wagers can be placed by patrons in advance of certain events, such as Keno, it is likely that prepetition wagers will have been made as of the Petition Date on events that did not or will not occur until postpetition. The Debtors' inability to pay such wagers upon

⁴ The Debtors do not track outstanding coupons because such coupons are generally distributed through newspapers, magazines, and other mass media.

the occurrence of the subject events would be disastrous to the Debtors' ability to successfully prosecute these chapter 11 cases. As of August 31, 2014, the Debtors estimate that there were outstanding prepetition wagers in the approximate amount of \$1,000.

12. As of August 31, 2014, the Debtors estimate that in the aggregate approximately \$2.7 million and \$500,000 in slot machine vouchers, casino chips, and tokens were outstanding in the public domain on account of the Taj Mahal and the Plaza, respectively. Vouchers, chips and tokens from the Trump Plaza can be redeemed at the Taj Mahal. Except at tremendous cost to the Debtors' estates and disruption to their business operations, the Debtors will not be able to distinguish between those voucher, chips and tokens that would have been distributed prepetition from those that will be distributed postpetition. In any event, it is necessary to the Debtors' ability to successfully prosecute these chapter 11 cases that they be granted authority to honor those vouchers, chips and tokens placed into the public domain prepetition.

13. The Debtors have several ongoing programs whereby the Debtors reward certain patrons based on their level of wagering. Participants become eligible for various discretionary awards, including complimentary show tickets, meals and hotel stays. For example, "Bonus Slot Dollars" is a slot incentive program authorized under the Casino Control Act. In particular, it is an electronic slot credit offered to, and earned by, casino patrons based upon a pre-determined schedule or percentage of slot handle. There are generally two ways to receive Bonus Slot Dollars. The first is based on the quantity of slot machine play. Under this method, a patron must play to a certain level to earn points and each point has a Bonus Slot Dollar value depending on the customer's level of play. The second way to receive Bonus Slot Dollars is through a direct mail program. Customers are mailed vouchers, which are thereafter

redeemed for cash or slot credit at the Debtors' establishments. Generally, Bonus Slot Dollars earned under standard promotions that are not gambled within ninety (90) days automatically expire, and those earned under "Multiplier" promotions (standard Bonus Slot Dollars multiplied by a promotional factor or Trump One card level) that are not gambled within thirty (30) days automatically expire. As of August 31, 2014, the Debtors estimate that approximately \$400,000 and \$40,000 in Bonus Slot Dollars on account of the Taj Mahal and the Trump Plaza, respectively, were outstanding. Bonus Slot Dollars from the Trump Plaza can be redeemed at the Taj Mahal.

14. Additionally, the Debtors seek to honor their accrued multi-casino progressive jackpot liability. The Casino Control Act provides that, under this arrangement, each casino pays amounts into various trusts. If a customer wins a multi-casino progressive jackpot at the Debtors' casino, the Debtors pay either the initial winning installment or the entire jackpot and are reimbursed by the trust. All further installments are paid from the trust. As of August 31, 2014, the Debtors estimate that the total accrued and unpaid progressive jackpot liability to the trusts for the required percentage of handle was approximately \$150,000 for the Taj Mahal and \$85,000 for the Trump Plaza.

15. Finally, the Debtors seek authority to honor, in the ordinary course of business, unpaid and unclaimed winnings, jackpots, confiscated funds,⁵ and Keno claims which, as of August 31, 2014, are estimated to be approximately \$85,000 for the Taj Mahal and \$12,500 for the Trump Plaza.

⁵ In the ordinary course of business, the Debtors confiscate funds from gaming patrons for, among other reasons, failing to provide proper identification or being suspected of cheating. If the Debtors are later able to verify that such gaming patrons are of age or did not cheat, the Debtors promptly return the confiscated funds.

iv. Trump One and Room Account Charges

16. The Debtors also seek authority to honor “Comp Dollars” earned by customers under Trump One. Trump One allows customers to accumulate certain point-based rewards based on, among other things, the volume of their gaming activity. Comp Dollars accumulate over time and may be redeemed at the customer’s discretion under the terms of the program. Trump One customers may earn Comp Dollars redeemable for, among other things, dining, shopping and salon services at certain third-party vendors located at the Debtors’ facilities (collectively, the “**Trump One Vendors**”). The Debtors estimate that, as of August 31, 2014, approximately \$1.5 million and \$160,000 was accrued but remain unused by the Debtors’ customers under Trump One on account of the Taj Mahal and the Trump Plaza, respectively. Points under Trump One earned from the Trump Plaza can be redeemed at the Taj Mahal.

17. Within the industry within which the Debtors operate, as part of their overall hotel and casino entertainment experience, customers expect access to, among other things, high-quality restaurants, retail stores and beauty salons. Trump One is designed to encourage the Debtors’ customers to continue gaming, while at the same providing the customers access to tempting restaurants, chic retail stores and high-end beauty salons. The Debtors rely on the Trump One Vendors to provide the Debtors’ customers with the access to high-quality restaurants, retail stores and beauty salons that they desire.

18. In addition to affording their customers the opportunity to redeem Comp Dollars at the Trump One Vendors, as is typical of resort facilities, the Debtors provide their customers, for the sake of their convenience, with the option of charging their room accounts (collectively, “**Room Charges**”) for purchases that they make at certain third-party vendors located at the Debtors’ facilities (collectively, the “**Room Account Vendors**”). Any failure by the Room Account Vendors to allow the Debtors’ customers to continue to charge their room

accounts would be enormously disruptive to the customers that are seeking to patronize the restaurants, retail stores and beauty salons located at the Debtors' facilities.

19. Accordingly, the Trump One Vendors and the Room Account Vendors are integral to the Debtors' ability to offer their customers a high-quality casino entertainment and hospitality experience through the Customer Programs.

20. The Debtors reimburse some of the Trump One Vendors and the Room Account Vendors on a weekly basis and others on a monthly basis on account of Comp Dollars redeemed, and Room Charges made, at their establishments. On average, each month the Debtors reimburse the Trump One Vendors and the Room Account Vendors in the aggregate approximately \$350,000 and \$85,000 for the Taj Mahal and the Trump Plaza, respectively. For some of the Trump One Vendors and the Room Account Vendors, these reimbursements occur by the Debtors setting off the amount to be reimbursed to the particular vendor against the rent payment that the vendor owes to the Debtors, and then the Debtors remit payment to the vendor for any remaining balance due to the vendor. For others, the Debtors simply remit payment to the particular Trump One Vendor or Room Account Vendor for the amount of the reimbursement. The Trump One Vendors offer the Debtors discounts ranging from 10% to 25% off of services purchased with Comp Dollars. Several of the Trump One Vendors redeem Comp Dollars at a two for one ratio, meaning that a customer must use two Comp Dollars for one dollar of services. The Debtors estimate that, as of the Petition Date, in the aggregate approximately \$465,000 and \$85,000 remained unreimbursed to the Trump One Vendors and the Room Account Vendors for the Taj Mahal and the Trump Plaza, respectively (collectively, the "**Trump One and Room Account Vendor Claims**").

21. The Debtors request authority, in their discretion, to continue reimbursing Trump One Vendors and the Room Account Vendors in the ordinary course of business on account of the Trump One and Room Account Vendor Claims in a manner consistent with past practice, as the Debtors cannot risk even the perception that their business will be able to offer anything but a high-quality casino entertainment and hospitality experience to their customers for the duration of these chapter 11 cases.

v. *Property Damage Claims*

22. Additionally, the Debtors seek authority to pay Property Damage Claims, consisting of approximately 180 claims for damage to motor vehicles in the Debtors' garage, additional property damage claims, and lost property claims, in the aggregate amount not to exceed approximately \$15,000.

RELIEF REQUESTED

23. By this Motion, the Debtors request the Court to enter the Proposed Order, (i) authorizing, but not directing, the Debtors, in their discretion, to continue, maintain, implement new, and/or terminate any of the Customer Programs, and to pay, honor, and otherwise satisfy prepetition obligations related to the Customer Programs, including, without limitation, Trump One and Room Account Vendor Claims, in the ordinary course of business and in a manner consistent with past practice, and (ii) authorizing the Banks to honor and process check and electronic transfer requests related thereto.

BASIS FOR RELIEF

A. The Court Should Authorize, But Not Direct, the Debtors, in Their Discretion, to Continue to Support and Honor the Customer Programs and Related Obligations

I. The Customer Programs Are Essential to Avoid Unexpected or Inopportune Interruption to the Debtors' Business Operations

24. The Debtors respectfully submit that continuing, maintaining, replacing, initiating, and terminating their Customer Programs is in the ordinary course of their business and permitted by sections 363(c), 503(b), 1107(a) and 1108 of the Bankruptcy Code, without further application to the Court. However, out of an abundance of caution, the Debtors seek authority, but not direction, as they deem appropriate, to continue, renew, replace, implement, modify and/or terminate the Customer Programs, and to honor their undisputed prepetition obligations related thereto, in the ordinary course of business and in accordance with prepetition practices.

25. Honoring and supporting the Customer Programs will enable the Debtors to retain, maintain, and create valuable customer relationships, which will strengthen the Debtors' business and their prospects for successfully prosecuting these chapter 11 cases. The necessity of the Customer Programs in the Debtors' highly competitive industry cannot be overstated and many of the Customer Programs are standard practice. If the Debtors' obligations under the Customer Programs cannot be honored in the ordinary course of business, it is likely that the Debtors' customers would choose to go elsewhere thereby adversely impacting the Debtors' business and thus their ability to maximize the value of their assets. The Debtors cannot risk even the perception that their business during the chapter 11 cases will offer anything but high quality casino entertainment and hospitality experiences to their customers. To that end, absent the ability to satisfy Trump One and Room Account Vendor Claims, the Debtors run the

significant risk that the Trump One Vendors and Room Account Vendors will refuse, among other things, to honor Comp Dollars and allow Room Charges. Such a result would adversely impact the Debtors' customers' overall experience by significantly limiting (or potentially eliminating) the options available to redeem Comp Dollars and have convenient access to restaurants, retail stores and beauty salons. Simply put, the Debtors are not the only choice in Atlantic City for gaming or entertainment and thus, any impairment of the customers' overall experience will adversely affect the Debtors' efforts to maximize the value of their assets for the benefit of all stakeholders.

26. To the extent any prepetition claims under the Customer Programs represent priority claims under section 507(a)(7) of the Bankruptcy Code, pursuant to section 1129(a)(9), holders are entitled to receive payment in full (subject to the statutory cap) under a chapter 11 plan. The relief requested herein will protect the Debtors' customer relationships and goodwill and help maintain and maximize the value of the Debtors' estates during this critical time.

27. For the foregoing reasons, the Debtors respectfully submit that entry of the Proposed Order is in the best interests of the Debtors, their estates, and creditors.

II. The Relief Requested Herein Is Supported by the Doctrine of Necessity

28. Section 363(b)(1) of the Bankruptcy Code provides that, after notice and a hearing, the trustee "may use, sell, or lease, other than in the ordinary course of business, property of the estate...." 11 U.S.C. § 363(b)(1).

29. Section 105(a) of the Bankruptcy Code empowers a bankruptcy court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Bankruptcy courts have invoked the equitable power of

section 105 of the Bankruptcy Code to authorize the post-petition payment of pre-petition claims where such payment is necessary to preserve the value of a debtor's estate. See, e.g., Tropical Sportswear Int'l Corp., 320 B.R. 15, 20 (Bankr. M. D. Fla. 2005) (“Bankruptcy courts recognize that section 363 is a source for authority to make critical vendor payments, and section 105 is used to fill in the blanks.”). Courts have likewise acknowledged that “[u]nder [section] 105, the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.” In re NVR L.P., 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing In re Ionosphere Clubs, Inc., 98 B.R. 174, 177 (Bankr. S.D.N.Y. 1989)); see In re Just for Feet, Inc., 242 B.R. 821, 825 (D. Del. 1999) (citing In re Penn Cent. Transp. Co., 467 F.2d 100, 102 n.1 (3d Cir. 1972)) (holding that the court is authorized under section 105(a) of the Bankruptcy Code to allow immediate payment of pre-petition claims of vendors found to be critical to the debtor's continued operation).

30. In a long line of well-established cases, federal courts consistently have permitted post-petition payment of pre-petition obligations where necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. See, e.g., Miltenberger v. Logansport, C. & S. W. Ry. Co., 106 U.S. 286, 312 (1882) (payment of pre-receivership claim permitted to prevent “stoppage of [crucial] business relations”); In re Lehigh & New Eng. Ry. Co., 657 F.2d 570, 581 (3d Cir. 1981) (holding that “if payment of a claim which arose prior to [the commencement of the bankruptcy case] is essential to the continued operation of the [business] during [the bankruptcy case], payment may be authorized even if it is made out of [the] corpus”) (internal citations omitted); Dudley v. Mealey, 147 F.2d 268, 271 (2d Cir. 1945) (extending doctrine for payment of pre-petition claims beyond railroad reorganization cases).

31. This legal principle—known as the “doctrine of necessity”—functions in chapter 11 cases as a mechanism by which a bankruptcy court can exercise its equitable power to allow payment of critical pre-petition claims not explicitly authorized by the Bankruptcy Code. See Just for Feet, 242 B.R. at 826 (finding that “[t]o invoke the necessity of payment doctrine, a debtor must show that payment of the pre-petition claims is ‘critical to the debtor’s reorganization.’”) (internal citations omitted); In re Columbia Gas Sys., Inc., 136 B.R. 930, 939 (Bankr. D. Del. 1992) (recognizing that “[i]f payment of a pre-petition claim ‘is essential to the continued operation of [the debtor], payment may be authorized.’”) (internal citations omitted); In re Boston & Me. Corp., 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors’ continued operation). The doctrine is frequently invoked early in a bankruptcy case, particularly in connection with those Bankruptcy Code sections that relate to payment of pre-petition claims. In one case, a bankruptcy court indicated its accord with “the principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize payment of pre-petition claims where such payment is necessary ‘to permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately.’” In re Structurelite Plastics Corp., 86 B.R. 922, 931 (Bankr. S. D. Ohio 1988) (internal citations omitted).

32. As explained above, the Debtors’ ability to honor the terms of the Customer Programs, including, without limitation, satisfying Trump One and Room Account Vendor Claims, is essential to avoid any unexpected or inopportune interruption to the Debtors’ business operations. If the Debtors cannot continue, maintain, implement new, and/or terminate the Customer Programs in a manner consistent with their past business practices, customers will

lose confidence in the Debtors and may begin to patronize the Debtors' competitors that do provide such programs, thereby damaging the Debtors' business to an extent that far exceeds the cost associated with honoring and continuing the Customer Programs.

33. Accordingly, the Debtors submit that the Court should exercise its equitable power to grant the relief requested herein.

III. The Court Should Authorize the Debtors to Continue the Customer Programs and Satisfy Obligations Related Thereto as a Valid Exercise of the Debtors' Fiduciary Duties

34. Authority for the relief requested herein also may be found in sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors, operating their business as a debtor in possession under sections 1107(a) and 1108, are fiduciaries "holding the bankruptcy estate and operating the business for the benefit of [their] creditors and (if the value justifies) equity owners." In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (internal citations omitted). Implicit in the duties of a chapter 11 debtor in possession is the duty "to protect and preserve the estate, including an operating business's going-concern value." Id.

35. Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." Id. The CoServ court specifically noted that preplan satisfaction of prepetition claims would be a valid exercise of a debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate," Id., and also when the payment was to "sole suppliers of a given product." Id. at 498. The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim was a valid exercise of a debtor's fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor's going concern value, which is disproportionate to the amount of the claimant's prepetition claim.

Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id.

36. Continuing and maintaining, and honoring the obligations under, the Customer Programs and satisfying Trump One and Room Account Vendor Claims meets each element of the CoServ court's standard. As described herein, the success and ultimate viability of the Debtors' business is dependent upon, among other things, customer loyalty and customers having access to high-quality restaurants, retail stores and beauty salons to redeem Comp Dollars earned by the customers under Trump One and to conveniently enjoy restaurant, retail and salon services by charging the same to their room accounts. The Debtors therefore believe that they can only meet their fiduciary duties as debtors in possession under sections 1107(a) and 1108 of the Bankruptcy Code by having the authority, but not the direction, of the Court to satisfy outstanding pre-petition obligations arising from or related to the Customer Programs, including Trump One and Room Account Vendor Claims.

IV. Payment of Certain of the Obligations Under the Customer Programs Now Will Not Affect Creditor Recoveries in These Chapter 11 Cases

37. Certain of the claims arising from the Customer Programs arguably constitute priority claims (up to the statutory cap) under section 507(a)(7) of the Bankruptcy Code, which must be paid in full under a plan of reorganization. Section 507(a)(7) provides seventh-level priority treatment for:

[A]llowed unsecured claims of individuals, to the extent of \$2,775 for each such individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase, lease, or rental of property, or the purchase of services, for the personal, family or household use of such individuals, that were not delivered or provided.

11 U.S.C. §507(a)(7). Claims arising on account of certain of the Customer Programs, including the Safekeeping and Front Money Program, the Deposits, and the Gift Certificates, while not specifically mentioned in section 507(a)(7), are arguably customer deposits as defined in the statute. See 4 Alan N. Resnick & Henry J. Sommer, Collier on Bankruptcy ¶ 507.09 (16th ed.).

38. Reflecting the recognition that honoring the terms of customer programs in the ordinary course of business and retaining customer patronage and loyalty is, in fact, both critical to a debtor's ability to preserve and maximize the value of its estate and to maximize creditor recoveries, courts in this District regularly grant relief consistent with that which the Debtors are seeking in this Motion. See, e.g., In re Energy Future Holdings Corp., Case No. 14-10979 (CSS) (June 4, 2014); In re F & H Acquisition Corp., Case No. 13-13220 (KG) (Dec. 17, 2013); In re Gatehouse Media, Inc., Case No. 13-12503 (MFW) (Sept. 30, 2013).

B. The Court Should Authorize the Banks to Honor and Process Payments Related to the Customer Programs

39. The Debtors also request the Court to authorize the Banks, when requested by the Debtors, in their discretion, to honor and process checks or electronic fund transfers drawn on the Debtors' bank accounts to pay prepetition obligations described herein, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make such payments. The Debtors further request that all of the Banks be authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved pursuant to this Motion.

SATISFACTION OF BANKRUPTCY RULE 6003(b)

40. Pursuant to Rule 6003(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), any motion seeking to use property of the estate pursuant to section 363 of the Bankruptcy Code or to satisfy prepetition claims within twenty-one days of the

Petition Date requires the Debtors to demonstrate that such relief “is necessary to avoid immediate and irreparable harm.” There is no question that the Debtors’ failure to honor their Customer Programs would likely result in immediate and irreparable harm to the Debtors’ customer relations. As discussed above and in the First Day Declaration, the Customer Programs are an integral part of the high quality casino entertainment and hospitality experience provided by the Debtors to their customers, and essential to the Debtors’ success in retaining customer satisfaction, sustaining goodwill, and ensuring that the Debtors remain competitive notwithstanding the commencement of these chapter 11 cases. Restricting or canceling the Customer Programs or failing to satisfy Trump One and Room Account Vendor Claims could jeopardize the Debtors’ customer relationships and irreparably harm the Debtors’ reputation and ability to assure that customers continue to patronize their establishments. Thus, if the relief requested herein is not granted, the Debtors’ failure to honor and support the Customer Programs and satisfy the obligations related thereto would cause the Debtors’ estates immediate and irreparable harm by detracting from, and potentially derailing, the Debtors’ chapter 11 efforts.

41. For this reason and those set forth above, the Debtors respectfully submit that Bankruptcy Rule 6003(b) has been satisfied and the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

42. Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As set forth throughout this Motion, any delay in the Debtors’ ability to continue, and pay, honor, or otherwise satisfy their obligations related to the Customer Programs would be detrimental to the

Debtors, their creditors and estates, and would impair the Debtors' ability to optimize their business performance at this critical time as they begin the chapter 11 process.

43. For this reason and those set forth above, the Debtors submit that ample cause exists to justify a waiver of the fourteen day stay imposed by Bankruptcy Rule 6004(h), to the extent applicable to the Proposed Order.

RESERVATION OF RIGHTS

44. Nothing in the Proposed Order or this Motion (i) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors, (ii) shall impair, prejudice, waive or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority or amount of any claim against the Debtors and their estates, or (iii) shall be construed as a promise to pay a claim.

NOTICE

45. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Office of the United States Attorney for the District of Delaware; (iii) the Internal Revenue Service; (iv) the Debtors' thirty (30) largest unsecured creditors; (v) counsel to the First Lien Agent; (vi) the New Jersey Casino Control Commission; and (vii) the New Jersey Division of Gaming Enforcement. Notice of this Motion and any order entered hereon will be served in accordance with Rule 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

NO PRIOR REQUEST

46. The Debtors have not previously sought the relief requested herein from this or any other Court.

CONCLUSION

WHEREFORE, the Debtors respectfully request entry of the Proposed Order, granting the relief requested herein and such other and further relief as is just and proper.

Dated: September 9, 2014
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Robert F. Poppiti, Jr. _____

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EXHIBIT A

Proposed Order

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

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	:	
	:	
In re:	:	Chapter 11
	:	
TRUMP ENTERTAINMENT RESORTS, INC., et al.,¹	:	Case No. 14-12103 (___)
	:	
Debtors.	:	Jointly Administered
	:	
	:	Ref. Docket No. ___
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ORDER, PURSUANT TO SECTIONS 105(a), 363(c), 503(b)(1), 1107(a), AND 1108 OF THE BANKRUPTCY CODE, AUTHORIZING (I) THE DEBTORS TO HONOR PREPETITION OBLIGATIONS RELATED TO CUSTOMER PROGRAMS AND OTHERWISE CONTINUE CUSTOMER PROGRAMS IN THE ORDINARY COURSE OF BUSINESS AND (II) BANKS TO HONOR AND PROCESS CHECK AND ELECTRONIC TRANSFER REQUESTS RELATED THERETO

Upon consideration of the motion (the “**Motion**”)² of Trump Entertainment Resorts, Inc. and its above-captioned affiliated debtors and debtors in possession (collectively, the “**Debtors**”) for the entry of an order, pursuant to sections 105(a), 363(c), 503(b)(1), 1107(a), and 1108 of title 11 of the Bankruptcy Code, (i) authorizing, but not directing, the Debtors, in their discretion, to continue, maintain, implement new, and/or terminate any of the Customer Programs, and to pay, honor, and otherwise satisfy prepetition obligations related to the Customer Programs, including Trump One Vendor Claims, in the ordinary course of business and in a manner consistent with past practice, and (ii) authorizing the Banks to honor and process check and electronic transfer requests related to the foregoing;

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Trump Entertainment Resorts, Inc. (8402), Trump Entertainment Resorts Holdings, L.P. (8407), Trump Plaza Associates, LLC (1643), Trump Marina Associates, LLC (8426), Trump Taj Mahal Associates, LLC (6368), Trump Entertainment Resorts Development Company, LLC (2230), TER Development Co., LLC (0425) and TERH LP Inc. (1184). The mailing address for each of the Debtors is 1000 Boardwalk at Virginia Avenue, Atlantic City, NJ 08401.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

and upon consideration of the Motion and all pleadings related thereto, including the First Day Declaration; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and it appearing that the Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and creditors; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED as set forth herein.
2. The Debtors are authorized, but not directed, in their discretion, to continue, maintain, implement new, and/or terminate the Customer Programs, in the ordinary course of business and in a manner consistent with past practice.
3. The Debtors are authorized, but not directed, in their discretion, to pay, honor, and otherwise satisfy (including, without limitation, through setoffs and recoupments) prepetition obligations relating to the Customer Programs, in the ordinary course of business and in a manner consistent with past practice, including, without limitation, (a) prepetition costs and fees associated with the Customer Programs and (b) Trump One and Room Account Vendor Claims up to an aggregate amount of \$550,000.
4. The Banks are authorized, when requested by the Debtors, in the Debtors' discretion, to honor and process checks or electronic fund transfers drawn on the Debtors' bank accounts to pay prepetition obligations authorized to be paid hereunder,

whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make such payments. The Banks may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Order, and any such Bank shall not have any liability to any party for relying on such representations by the Debtors, as provided for in this Order.

5. Nothing in this Order (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors, (b) shall impair, prejudice, waive or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority or amount of any claim against the Debtors and their estates, or (c) shall be construed as a promise to pay a claim.

6. The Debtors are authorized to take any and all actions necessary to effectuate the relief granted herein.

7. The requirements of Bankruptcy Rule 6003(b) are satisfied.

8. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: September ____, 2014
Wilmington, Delaware

United States Bankruptcy Judge