

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
)	Chapter 11
TRUMP ENTERTAINMENT RESORTS, INC.,)	
<i>et. al.</i> ,)	Case No. 14-12103 (KG)
)	(Jointly Administrated)
Debtors.)	

Re: Docket Nos.: 565
Hearing Date: December 4, 2014 at 12:00 p.m.

OBJECTION AND RESERVATION OF RIGHTS OF LEVINE, STALLER, SKLAR, CHAN & BROWN, P.A. WITH RESPECT TO THE DEBTORS’ MOTION FOR ORDER (I) AUTHORIZING DEBTORS TO OBTAIN POSTPETITION FINANCING PURSUANT TO SECTION 364 OF THE BANKRUPTCY CODE, (II) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES PURSUANT TO SECTIONS 361, 362, 363 AND 364 OF THE BANKRUPTCY CODE, (IV) GRANTING LIENS AND SUPERPRIORITY CLAIMS, AND (V) MODIFYING AUTOMATIC STAY

Levine, Staller, Sklar, Chan & Brown, P.A. (“Levine Staller”), by and through its undersigned counsel, Saul Ewing LLP, hereby files this objection and reservation of rights (the “Reservation of Rights”) with respect to the *Debtors’ Motion for Order (I) Authorizing Debtors to Obtain Postpetition Financing Pursuant to Section 364 of the Bankruptcy Code, (II) Granting Adequate Protection to the Prepetition Secured Parties Pursuant to Sections 361, 362, 363 and 364 of the Bankruptcy Code, (IV) Granting Liens and Superpriority Claims, and (V) Modifying Automatic Stay* (the “DIP Motion” seeking a “DIP Order” for “DIP Financing”).¹ [D.I. 565]

RESERVATION OF RIGHTS

1. As this Court is well aware, Levine Staller has alleged that it holds a \$1.25 million² first-priority, prior-perfected statutory attorney’s charging lien (the “Charging Lien”) on certain judgments in favor of the Debtors and the proceeds thereof in whosoever hands they

¹ Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Motion.

² The actual amount secured by the Charging Lien is the remaining legal fee due and owing to Levine Staller in the amount of \$1.25 million, plus interest and costs and attorneys’ fees for collection and enforcement.

may come that is a fully secured claim in this case, although this is disputed by the Debtors and other parties.

2. On Monday, November 24, 2014, this Court held a hearing on the *Motion of Levine, Staller, Sklar, Chan & Brown, P.A. for Entry of an Order Fixing the Value and Priority of, and Allowing Its Claim as Secured in Full, Pursuant to 11 U.S.C. § 506(A) and Rule 3012 of the Federal Rules Of Bankruptcy Procedure* (the “Charging Lien Motion”), as well as the objections, reply, sur-reply, declarations, and other documents filed in relation thereto. [See D.I. 295, 407, 410, 412, 413, 494, 456, 458, and 225]. The hearing concluded with the Court taking the matter under advisement. [See Minute Entry at D.I. 457].

3. Aside from Levine Staller’s filings made in connection with the Charging Lien Motion, Levine Staller has otherwise protected its rights by objecting to the Debtors’ motions for interim and final orders authorizing use of cash collateral, as well as the initial proposed disclosure statement. [See D.I. 39, 144, and 366]. In each objection, Levine Staller asserted that the Charging Lien is a fully secured claim that should have first priority status until paid in full.

4. To fully preserve and protect its rights with respect to the Charging Lien, for the reasons more fully set forth in the Charging Lien Motion, the documents filed in support thereof, as articulated on the record at the November 24, 2014 hearing, and to allow this Court to adjudicate the Charging Lien Motion currently held under advisement, Levine Staller files this Reservation of Rights. Accordingly, Levine Staller objects to the entry of any DIP Order in connection with the DIP Motion that may grant any relief that may be inconsistent with this Court’s pending decision in connection with the Charging Lien Motion and Levine Staller’s secured claim. Said differently, any DIP Order cannot “trump” the Court’s ruling on the Charging Lien Motion by preemptively granting superior liens that cannot later be undone when

this Court rules. As with any other ordinary DIP financing, a DIP Order in this case should and must carve out pre-existing prior secured liens and claims, and to the extent that this Court grants the Charging Lien Motion in full, Levine Staller's secured claim and Charging Lien should be similarly carved out of liens and adequate protection claims afforded under DIP Financing..

5. The Debtors and Levine Staller previously agreed on language that fully preserved their respective rights in the context of the final cash collateral order. [See D.I. 342 at ¶ 24.] Similar protective language should be included in any DIP Order entered in connection with the DIP Motion, reserving and carving out of any DIP Order the relative perfection, priority and validity of the Levine Staller secured claim and Charging Lien and providing that such secured claim and Charging Lien shall have the relative priority over or in connection with the DIP Financing as determined by this Court in its decision on the Charging Lien Motion. By way of example, if the Court grants the Charging Lien Motion and finds that Levine Staller possesses a first priority perfected Charging Lien and fully secured claim, such secured claim and Charging Lien should therefore have automatic priority over the DIP Financing despite the terms of the DIP Order.

6. Levine Staller reserves its right to make objections and to request adjustments to any proposed DIP Order at the December 4th hearing on the DIP Motion.

Dated: December 3, 2014

Respectfully Submitted

By


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