IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 11
TRUMP ENTERTAINMENT RESORTS, INC., *et. al.*,	)	Case No. 14-12103 (KG)
	)	(Jointly Administrated)
Debtors.	)	
		Re: Docket Nos.: 565, 583, and 681 **Objection Deadline: January 7, 2015 at 4:00 p.m.** **Hearing Date: January 9, 2015 at 10:00 a.m.**

SUPPLEMENTAL OBJECTION OF LEVINE, STALLER, SKLAR, CHAN & BROWN, P.A. WITH RESPECT TO THE DEBTORS' (1) 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 AND (2) THE DIP FACILITY COMMITMENT LETTER

Levine, Staller, Sklar, Chan & Brown, P.A. ("Levine Staller"), by and through its undersigned counsel, Saul Ewing LLP, hereby files this supplemental objection (the "Supplemental Objection")[1] 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, (III) Granting Liens and Superpriority Claims, and (IV) Modifying Automatic Stay,* (the "DIP Motion" seeking a "DIP Order" for "DIP Financing") [D.I. 565]). Through this Supplemental Objection, Levine Staller also objects to the DIP Motion as modified by the subsequently filed *DIP Facility Commitment Letter* (the "DIP Commitment Letter") [D.I. 681-1].[2]

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[1] Levine Staller previously filed an Objection and Reservation of Rights to the DIP Motion. See D.I. 583.

[2] Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Motion and DIP Commitment Letter.

FACTS AND PROCEDURAL BACKGROUND

1. Levine Staller holds a fully secured claim for the entire amount of a $1.25 million[3] perfected statutory attorney's charging lien (the "Charging Lien") on assets of the Debtors and the proceeds thereof in whosesoever hands they may come and has held such fully perfected Charging Lien and accordant secured claim since well before the Petition Date. Nonetheless, the Debtors and other parties have persistently and defiantly disputed Levine Staller's status as a secured creditor requiring Levine Staller to continually and vigorously defend its rights and it continues to do so by objecting to the DIP Financing.[4]

2. The dispute over Levine Staller's secured claim culminated in an evidentiary hearing on November 24, 2014, and this Court took under advisement 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 "Claim Determination 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].

3. Critically, the Claim Determination Motion sought from the Court a determination that Levine Staller holds a fully secured claim under **both** 11 U.S.C. §506(A) **and** Rule 3012 of the Federal Rules of Bankruptcy Procedure, and the title of the pleading-- *Motion of Levine, Staller, Sklar, Chan & Brown, P.A. for Entry of an Order* ***Fixing the Value*** *and*

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[3] 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.

[4] Aside from Levine Staller's filings made in connection with the Charging Lien Motion discussed below, Levine Staller has otherwise protected it rights by objecting to the Debtors' motions for interim and final orders authorizing use of cash collateral, the initial proposed disclosure statement and previously objected to the DIP Motion. [See D.I. 39, 144, 366, and 583]. In each objection, Levine Staller asserted that the Charging Lien is a fully secured claim.

***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*—specifically asked the Court to value Levine Staller's claim as well as allow it as fully secured. Which is exactly what the Court did.[5]

4. In neither their Objections nor Sur-Reply did the Debtors or the Icahn Lenders argue that if the Court found Levine Staller had a secured claim, the value of Debtor's estate was inadequate to satisfy Levine Staller's fully secured claim or reserve the right to make such an argument at a later date.

5. On November 24, 2014, while the Court was still considering the Claim Determination Motion, the Debtors filed the DIP Motion, and Levine Staller filed an Objection and Reservation of Rights with respect thereto, again asserting its fully secured claim and perfected Charging Lien and preserving its right to object to the DIP Motion and the DIP Financing based on the Court's forthcoming ruling on the Claim Determination Motion.

6. On December 5, 2014, this Court issued a memorandum opinion on the Claim Determination Motion (the "Charging Lien Opinion") [D.I. 600], and entered an order deciding

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[5] **Rule 3012. Valuation of Security**
The court may determine the value of a claim secured by a lien on property in which the estate has an interest on motion of any party in interest and after a hearing on notice to the holder of the secured claim and any other entity as the court may direct.

Notes of Advisory Committee on Rules—1983
Pursuant to §506(a) of the Code, secured claims are to be valued and allowed as secured to the extent of the value of the collateral and unsecured, to the extent it is enforceable, for the excess over such value. The valuation of secured claims may become important in different contexts *e.g.*, to determine the issue of adequate protection under §361, impairment under §1124, or treatment of the claim in a plan pursuant to §1129(b) of the Code. This rule permits the issue to be raised on motion by a party in interest. The secured creditor is entitled to notice of the hearing on the motion and the court may direct that others in the case also receive such notice.

F.R.B.P. 3012 and Notes of Advisory Committee on Rules—1983, available in 2 Collier Pamphlet Edition of the Bankruptcy Rules 2014, p. 224 (Alan N. Resnick & Henry J. Sommer eds., Matthew Bender) (underlined emphasis added).

Accordingly, the Court's Charging Lien Order, which was entered under Rule 3012, fixed and determined *for all purposes* in this bankruptcy case that Levine Staller's claim is valued and allowed as a fully secured claim.

the Claim Determination Motion (the "Charging Lien Order") [D.I 601].

7. In the Charging Lien Order, the Court found that "Levine Staller possesses a first-priority, prior-perfected Charging Lien" which the Court allowed as "a **fully secured** claim for the entire amount of the $1.25 million in legal fees that remain due and owing plus interest, costs and attorney's fees for collection and enforcement of the Charging Lien." (emphasis added) The Court concluded that Levine Staller's secured claim and Charging Lien on the Debtors' assets is second in priority only to the pre-existing liens of the Icahn Lenders. See the Charging Lien Order [D.I. 601] and the Charging Lien Opinion [D.I. 600].

8. No party-in-interest appealed or otherwise contested or sought clarification of the Charging Lien Order. Accordingly, the Charging Lien Order and its holding that Levine Staller possesses a fully secured claim became final and nonappealable and remains so today.

OBJECTION

9. Levine Staller renews its objection to the DIP Motion and objects to the DIP Financing and the DIP Commitment Letter because the proposed DIP Financing would impermissibly prime Levine Staller's fully secured claim and perfected Charging Lien without Levine Staller's consent. Of course Levine Staller understands the Debtors' need for DIP Financing in this case and will fully support such DIP Financing, provided that it receives adequate protection. Conversely, however, any DIP Financing that does not afford Levine Staller proper adequate protection as a fully secured creditor is not extended in good faith.

Levine Staller Has A Fully Secured Claim Allowed Under A Final Nonappealable Court Order.

10. Early in this case, Levine Staller and the Debtors agreed to an expedited procedure for determination and allowance of Levine Staller's secured claim and perfected Charging Lien, in order for both Levine Staller *and* the Debtors to understand where Levine

Staller's claims and Charging Lien fit into the statutory priority scheme, both for early matters in the case—such as cash collateral usage—and for later classification and distribution under the Debtors' pending Plan of Reorganization (the "Plan"). Indeed, the parties asked the Court to decide the Claim Determination Motion promptly, so that they could avoid a confirmation fight over where Levine Staller fit into the Plan.

11. Accordingly, Levine Staller filed the Claim Determination Motion, and this Court held in both the Charging Lien Opinion and the Charging Lien Order that Levine Staller possesses a "a *fully secured* claim for the entire amount of the $1.25 million in legal fees that remain due and owing plus interest, costs and attorney's fees for collection and enforcement of the Charging Lien." See Charging Lien Order (emphasis added).

12. In light of the relief expressly sought in the Claim Determination Motion, the words "fully secured" can mean only one thing: This Court evaluated Levine Staller's claim, determined the claim was secured, determined the amount of its secured claim, and recognized that the secured claim was still "fully secured" by assets of the estate notwithstanding its second position behind the Icahn Lenders.

13. This Court was clearly aware of the amount of the prepetition secured debt owed to the Icahn Lenders, as well as being aware of the valuation of the Debtors' assets presented in connection with various motions already filed in the case, including without limitation, the driving force behind this entire Chapter 11 proceeding: the prized NOL carryovers, valued by the Debtors as of December 31, 2013 at approximately $450 million in federal NOL carryovers and approximately $850 million in New Jersey NOL carryovers. To hold that Levine Staller's secured claim was "fully secured" means that the Court took into account valuation when it decided the Claim Determination Motion, in order to grant the parties clarity as to where Levine

Staller fits into the Plan classification scheme.[6]

14. Neither the Debtors nor any other parties in interest appealed or otherwise contested the Court's Charging Lien Order or the Charging Lien Opinion, and both have become final and Levine Staller's fully secured claim is allowed, determined and valued and cannot now be collaterally attacked, under the controlling doctrines of law of the case and claim preclusion[7].

15. Yet, despite the Court doing what the parties asked it to do—deciding the Claim Determination Motion promptly and well before Plan confirmation to provide the parties with

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[6] Levine Staller's "fully secured" claim must be a Class 2, "Other Secured Claims" claim under the Plan. The Debtors, however, refuse to accept this Court's ruling and have instead amended the Plan to specifically define Levine Staller's claims as within the general unsecured class.

[7] The modern interpretation of *res judicata* uses the term "claim preclusion." Claim preclusion generally refers to the effect of a prior judgment in foreclosing successive litigation of the very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit. A related concept is "issue preclusion", which generally refers to the effect of a prior judgment in foreclosing successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment, whether or not the issue arises on the same or a different claim. *See New Hampshire v. Maine,* 532 U.S. 742, 748–49, 121 S.Ct. 1808, 149 L.Ed.2d 968, *rehearing denied* 533 U.S. 968, 122 S.Ct. 10, 150 L.Ed.2d 793 (2001), citing Restatement (Second) of Judgments §§ 17, 27 (1982); D. Shapiro, Civil Procedure: Preclusion in Civil Actions 32, 46 (2001). Both claim and issue preclusion are concerned with whether a judgment in one suit precludes the same parties from litigating in a subsequent and separate suit. Under claim preclusion, a judgment on the merits in a prior suit bars a second suit involving the same parties based on the same cause of action. Under issue preclusion, the second suit is based upon a different cause of action and the judgment in the prior suit precludes relitigation of issues necessary to the outcome of the first action. *Baker v. General Motors Corp.,* 522 U.S. 222, 233, n. 5, 118 S.Ct. 657, 139 L.Ed.2d 580 (1998).

> [...] Under the law of the case doctrine, "when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case .... This rule of practice promotes the finality and efficiency of the judicial process by 'protecting against the agitation of settled issues.' " *Christianson v. Colt Industries Operating Corp.,* 486 U.S. 800, 816, 108 S.Ct. 2166, 100 L.Ed.2d 811 (1988) (citations omitted).

In re AmeriServe Food Distribution, Inc., 315 B.R. 24, 35-36 (Bankr. D. Del. 2004).

> The law of the case doctrine states that "when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." *Arizona v. California,* 460 U.S. 605, 618, 103 S.Ct. 1382, 1391, 75 L.Ed.2d 318 (1983), rehearing denied 462 U.S. 1146, 103 S.Ct. 3131, 77 L.Ed.2d 1381 (1983). The doctrine grew out of the need to "maintain consistency and to avoid reconsideration of matters once decided during the course of a single continuing lawsuit." 18 C. Wright, A. Miller & E. Cooper, Federal Practice & Procedure § 4478, at 788 (West 1981). The doctrine "promotes the finality and efficiency of the judicial process by 'protecting against *112 the agitation of settled issues.' " *Christianson v. Colt Industries Operating Corp.,* 486 U.S. 800, 816, 108 S.Ct. 2166, 2177, 100 L.Ed.2d 811 (1988).

In re Stone & Webster, Inc., 359 B.R. 102, 111-12 (Bankr. D. Del. 2007)

complete clarity about Levine Staller's claims—the Debtors disregard the express words of this Court's Charging Lien Order and bullishly continue to argue that Levine Staller is a mere unsecured creditor.

16. This is exactly what the Debtors did after the New Jersey Tax Court finally determined the perfection of Levine Staller's Charging Lien: They did nothing. They did not appeal or seek clarification, and allowed the Tax Court Orders perfecting the Charging Lien to become final and nonappealable; yet, later they attempted to collaterally attack those orders before this Court as part of the Claim Determination Motion. This tactic failed before, as this Court refused to collaterally attack the final Tax Court orders under the Rooker-Feldman Doctrine (See Charging Lien Opinion).

17. This Court must not allow the Debtors or the Icahn Lenders now to attempt to reclassify Levine Staller's fully secured claim as a mere unsecured claim after this Court has already ruled on it in a final, nonappealable order. The Debtors must learn that "fully secured" means fully secured and nothing else.

Levine Staller's Fully Secured Claim and Perfected Charging Lien Cannot Be Primed.

18. It is well-established law that, absent consent, secured claims and perfected liens cannot be primed by post-petition financing unless the debtor provides adequate protection. "Section 364(d)(1) of the Code provides that the bankruptcy court may authorize post-petition financing supported by a superpriority lien **only** if 'there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.'" In re Swedeland Dev. Grp., Inc., 16 F.3d 552, 564 (3d Cir. 1994) (emphasis added) citing 11 U.S.C. § 364(d)(1).

19. Priming a secured creditor is an extraordinary remedy. "The ability to prime an

existing lien is extraordinary, and in addition to the requirement that the trustee be unable to otherwise obtain the credit, the trustee must provide adequate protection for the interest of the holder of the existing lien." In re Seth Co., Inc., 281 B.R. 150, 153 (Bankr. D. Conn. 2002). "[T]he Bankruptcy Code recognizes the primacy of pre-petition contractual liens and seeks to preserve the financial interests created thereby." In re Stoney Creek Technologies, LLC, 364 B.R. 882, 889-90 (Bankr. E.D. Pa. 2007) (denying DIP financing where secured creditors would not be adequately protected), quoting In re Mosello, 195 B.R. 277, 287 (Bankr. S.D.N.Y.1996). "The important question, in the determination of whether the protection to a creditor's secured interest is adequate, is whether that interest, whatever it is, is being unjustifiably jeopardized." In re Aqua Associates, 123 B.R. 192, 196 (Bankr. E.D.Pa. 1991), citing In re Grant Broadcasting of Philadelphia, Inc., 71 B.R. 376, 386–89 (Bankr.E.D.Pa. 1987), *aff'd,* 75 B.R. 819 (E.D.Pa. 1987).

20. Thus, the policy under § 364(d) permits priming only as "a last resort." Stoney Creek, 364 B.R. at 890, quoting In the Matter of Qualitech Steel Corp., 276 F.3d 245, 248 (7th Cir. 2001). In a previous case, this Court only authorized "priming" financing after finding that secured creditors were adequately protected. See, In re Satcon Tech. Corp., No. 12-12869 KG, 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012). See also, In re Beker Indus., 58 B.R. 725, 736 (Bankr. S.D.N.Y.1986) (adequate protection is to protect the value of a secured creditor's collateral during the reorganization process); In re First South Sav., 820 F.2d 700, 701–11 (5th Cir. 1987) (priming is impermissible unless there is adequate protection to existing lien holders).

21. Today, the Debtors seek to prime Levine Staller's fully secured claim and Charging Lien with the proposed DIP Financing. This Court must not approve the DIP

Financing if it primes Levine Staller's fully secured claim and Charging Lien. Levine Staller's fully secured claim and perfected Charging Lien must be carved out of the DIP Financing or otherwise be adequately protected as provided herein.

Bankruptcy Code Section 507(b) Mandates that Levine Staller Receive an Administrative Claim Because Its Earlier Adequate Protection Failed.

22. Previously in this case, the Debtors provided Levine Staller with replacement liens as adequate protection for use of its cash collateral under the Charging Lien, and such replacement liens were authorized by orders entered by the Court in connection with use of cash collateral. [See D.I. 52 (Levine Staller preserved its rights on the record), 342, and 699].

23. When adequate protection is provided by a debtor to a secured creditor in the beginning of a bankruptcy proceeding, section 507(b) of the Bankruptcy Code provides the secured creditor with further protection by ensuring that if the adequate protection so provided to such secured creditor fails to actually be "adequate", the secured creditor must receive a superpriority administrative expense claim.

24. "Section 507(b) of the Bankruptcy Code 'provides that when adequate protection has been given to a secured creditor and later proves to be inadequate, the creditor becomes entitled to a superpriority administrative expense claim to the extent that the proffered adequate protection was insufficient.'" In re J.F.K. Acquisitions Grp., 166 B.R. 207, 211-12 (Bankr. E.D.N.Y. 1994), quoting Bonapfel v. Nalley Motor Trucks (In re Carpet Ctr. Leasing Co., Inc.), 991 F.2d 682, 685 (11th Cir. 1993), amended, reh'g, en banc, denied, 4 F.3d 940 (11th Cir. 1993).

25. These cases comport with the legislative history of section 507(b), which clarifies that "[s]ubsection (b) provides that to the extent adequate protection of the interest of a holder of a claim proves to be inadequate, then the creditor's claim is given priority over every other

allowable claim entitled to distribution under section 507(a)." 124 Cong. Rec. H. 11.095 (Sept. 28, 1978) as quoted in 1 Collier Pamphlet Edition of the Bankruptcy Code 2014, p. 396 (Alan N. Resnick & Henry J. Sommer eds., Matthew Bender).

26. In this case, Levine Staller received replacement liens in cash collateral as alleged "adequate protection" for its fully secured claim in such cash collateral, with a conditional, "back up" administrative expense claim under Section 507(b). Subsequently, this Court held that Levine Staller's fully secured claim has priority over all other claims in the case, and is junior only to the Icahn Lenders' prepetition secured claims. See Charging Lien Order and Charging Lien Opinion. This Court carefully used the words "fully secured" to describe Levine Staller's claim secured by its perfected Charging Lien, and no one appealed the Charging Lien Order, which is now final and n unappealable.

27. On the Petition Date, the Debtors held cash collateral sufficient to satisfy the fully secured claim of Levine Staller, but now they assert that they have burned through such cash and now need the DIP Financing to survive. If they have burned through the cash they held on the Petition Date, then the adequate protection replacement liens in cash granted Levine Staller did not and do not adequately protect its fully secured claim, and Levine Staller suffered a diminution in value of its collateral during this proceeding.

28. Accordingly, because the replacement liens have proved to be inadequate protection for Levine Staller's fully secured claim, Section 507(b) mandates that Levine Staller must now receive an administrative expense claim in lieu of any other form of adequate protection. While the Final Cash Collateral order contains language granting Levine Staller an administrative expense claim to the extent of any failure of adequate protection, Levine Staller now seeks an affirmative administrative expense claim, without qualification, as adequate

protection for the DIP Financing.

29. Section 507(b) is mandatory, not permissive; it is a directive, not a discretionary remedy. Therefore this Court may approve the DIP Financing if it first grants Levine Staller adequate protection in the form of an administrative claim in the full amount of its fully secured claim.

What Other Protection Would Be Adequate?

30. As asserted herein, Levine Staller is entitled to an administrative claim as adequate protection for the failure of its earlier adequate protection liens to protect its fully secured claim. Section 507(b) mandates this result and Levine Staller urges the Court to grant it an administrative claim if the Court decides to approve the DIP Financing.

31. However, if this Court is not inclined to impose administrative status as mandated by Bankruptcy Code Section 507(b), Levine Staller could be adequately protected by requiring the Debtors and the Icahn Lenders to segregate funds in the amount of Levine Staller's fully secured claim and earmark those funds in a separate account or subaccount, so that cash sufficient to satisfy Levine Staller's fully secured claim is available and will be paid to Levine Staller on the Plan Effective Date.

32. Finally, Levine Staller should also be adequately protected by carving its Charging Lien and fully secured claim out of the DIP Financing, so that the DIP Financing does not prime and dilute Levine Staller's position. Levine Staller understands that the Icahn Lenders are willing to consent to the priming of their first position liens and claims, but that is understandable, given that they are priming themselves. Levine Staller does not consent, and can be easily carved out of the DIP Financing, so that the $20 million in DIP Financing may come in, but only subject to and subordinate to Levine Staller's fully secured claim and perfected

Charging Lien.

The DIP Financing Is Not In Good Faith.

33. Under Bankruptcy Code Sections 363(m) and 364, debtor-in-possession financing must be made in good faith, and the Court must make a good faith finding in any order approving DIP Financing.

34. Under both sections 363 and 364 of the Bankruptcy Code, the Third Circuit requires a finding of good faith. In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143, 150 (3d Cir. 1986) (bankruptcy court is required to make a finding with respect to 'good faith' under § 363); In re Swedeland Dev. Grp., Inc., 16 F.3d 552, 559 (3d Cir. 1994) (§ 364 only protects an entity that extends credit in good faith). See also In re EDC Holding Co., 676 F.2d 945 (7th Cir. 1982; In re Revco D.S., Inc., 901 F.2d 1359, 1366 (6th Cir. 1990).

35. When considering good faith under these sections courts examine the transaction. Matter of EDC Holding Co., 676 F.2d 945, 948 (7th Cir. 1982) ("Where it is evident from the loan agreement itself that the transaction has an intended effect that is improper under the Bankruptcy Code, the lender is not in good faith, and it is irrelevant what the improper purpose is.") In re Foreside Mgmt. Co., LLC, 402 B.R. 446, 452 (B.A.P. 1st Cir. 2009) quoting Burchinal v. Central Wash. Bank (In re Adams Apple, Inc.), 829 F.2d 1484, 1489 (9th Cir.1987) ("we look to the integrity of an actor's conduct during the proceedings. Misconduct defeating good faith includes fraud, collusion, or an attempt to take grossly unfair advantage of others. A creditor fails to act in good faith if it acts for an improper purpose. Knowledge of the illegality of a transaction also defeats good faith."); In re Ellingsen MacLean Oil Co., Inc., 834 F.2d 599, 605 (6th Cir. 1987) ("Good faith means honesty in fact in the conduct or transaction concerned.")

36. In this case, the DIP Financing is not being extended in good faith since despite

this Court's unambiguous and unequivocal ruling that Levine Staller is indeed fully secured and knowing full well that the value of the assets of the estate, inclusive of the prized NOL carryovers, easily covers Levine Staller's claim, the Icahn Lenders and the Debtors dismiss Levine Staller as an unsecured creditor and refuse to provide proper adequate protection in return for DIP Financing.

37. The Icahn Lenders can't have it both ways: they can't have the requisite "good faith" finding that will support their intended advances under the DIP Financing if they do not "pay to play" and provide proper adequate protection for Levine Staller's fully secured claim and Charging Lien, and if they do not abide by clear and unambiguous orders of this Court allowing Levine Staller's fully secured claim. Failure to provide adequate protection for Levine Staller's secured claim and Charging Lien after this Court specifically held that it is "fully secured" is a failure of justice and clearly not in good faith.

38. Levine Staller remains mystified why it has been the brunt of so much controversy and animus in this case, especially after this Court has already ruled on the Claim Determination Motion which Levine Staller hoped would end all controversy in one fell swoop. Instead, both the Debtors and the Icahn Lenders *continue* to be in denial about Levine Staller's fully secured claim, and continue to ignore it as if it doesn't exist. This might be their wish, hope or prayer, but it clearly is not evidence of good faith adherence to bankruptcy law and principles. Without a good faith finding in connection with the DIP Financing it cannot be approved, and without honoring Levine Staller's fully secured claim and adequately protecting it, good faith is lacking.

39. Levine Staller also reserves its right to further object at the hearing on the DIP Motion and to request adjustments to the proposed DIP Order.

Dated: January 13, 2014

Respectfully Submitted

By: _____

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

CERTIFICATE OF SERVICE

I, Teresa K.D. Currier, hereby certify that on January 13, 2015, I caused a copy of the **Supplemental Objection of Levine, Staller, Sklar, Chan & Brown, P.A. with Respect to the Debtors' (1) 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 and (2) The DIP Facility Commitment Letter** to be served on the parties on the attached service list in the manner indicated therein.

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Dated: January 13, 2015

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