



UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY	
<b>Caption in compliance with D.N.J. LBR 9004-2(c)</b>	
In re:	Chapter 11
TCI 2 HOLDINGS, LLC, <u>et al.</u> ,	Case No.: 09-13654 (JHW)
Debtors.	(Jointly Administered)

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING  
SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF  
REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE  
PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR  
SECURED NOTES DUE 2015 AND THE DEBTORS**

The relief set forth on the following pages, numbered two (2) through fifty-seven (57), is hereby **ORDERED**.

**DATED: 5/7/2010**

  


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 Judith H. Wizmur, Chief Judge  
 United States Bankruptcy Court

Page: 2  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
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Upon the filing of (a) the *Supplemental Modified Sixth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors* dated March 9, 2010 (as amended, modified or supplemented, including by the Modifications (defined below), in accordance with section 1127 of the Bankruptcy Code, the “Plan”)<sup>1</sup>, as filed by TCI 2 Holdings, LLC and its affiliated debtors and debtors in possession (collectively, the “Debtors”) and the ad hoc committee of holders of certain of the 8.5% Senior Secured Notes Due 2015 (the “Ad Hoc Committee”), (b) the *Modified Sixth Amended Disclosure Statement for Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors*, dated January 5, 2010 (the “Disclosure Statement”) [D.I. 1076], and (c) the Plan Supplement (defined below);

And the Court having considered the (a) *Fifth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by Beal Bank (f/k/a Beal Bank, S.S.B.) and/or Beal Bank Nevada and Icahn Partners LP, Icahn Partners Master Fund LP, Icahn Partners Master Fund II LP and Icahn Partners Master Fund III LP*, dated February 22, 2010 [D.I. 1251], and (b) the *Fifth Amended Disclosure Statement for Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by Beal Bank and Icahn Partners* dated January 5, 2010 [D.I. 1072];

And the Court, having entered, after due notice and a hearing the *Amended Joint Order Approving (I) Disclosure Statements and Related Notice and Solicitation Procedures and (II) the*

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<sup>1</sup> Each capitalized term that is not defined herein shall have the meaning ascribed to such term in the Plan.

Page: 3  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
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*Notice and Objection Procedures For Confirmation of Plans of Reorganization* on January 8, 2010 (the “Joint Solicitation Procedures Order”) [D.I. 1085]; and the Plan, the Disclosure Statement and the Solicitation Packages (defined below) having been distributed to holders of Claims entitled to vote thereon and the Subscription Forms (as defined in the Joint Solicitation Procedures Order) having been distributed to Eligible Holders (as defined in the Joint Solicitation Procedures Order), in each case pursuant to the Joint Solicitation Procedures Order; and upon the filing of the *Joint Disputed Rights Offering List and Notices Related to Rights Participation Claim Amounts* on January 15, 2010 [D.I. 1108]; and a hearing to consider the confirmation of the Plan having been held before this Court on February 23, 24, 25, 2010 and March 2, 3, 4, 5, 9 and 10, 2010 (the “Confirmation Hearing”); and upon due and sufficient notice to holders of Claims against or Equity Interests in the Debtors and other parties in interest of (i) entry of the Joint Solicitation Procedures Order, (ii) the Confirmation Hearing, (iii) the deadline for voting on, and/or objecting to, the Plan, (iv) the deadline by which Eligible Holders may elect to subscribe to the Rights Offering and remit payment to the Subscription Agent (as defined in the Joint Solicitation Procedures Order), each in accordance with the Joint Solicitation Procedures Order, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Bankruptcy Rules for the District of New Jersey (the “Local Rules”), in each case as established by the affidavits of service, mailing, and/or publication filed with the Court (collectively, the “Notice Affidavits”)<sup>2</sup>;

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<sup>2</sup> The Notice Affidavits include the following: (i) *Affidavit of Service of Ronda Collum of Garden City Group*, filed February 5, 2010 [D.I. 1173]; (ii) *Affidavit of Service of Lisa Marie Bonito of Lowenstein Sandler, P.C.*, filed February 8, 2010 [D.I. 1179]; (iii) *Certification of Publication by Laurie Miller, Principal Clerk of the Publisher of The New York*

Page: 4  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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And upon all proceedings held before the Court, and after the Court's review and consideration of, among other things, the following:

- (i) the *Joint Memorandum of Law in Support of Confirmation of the Modified Sixth Amended Joint Plan of Reorganization Proposed by the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors* on February 19, 2010 [D.I. 1234];
- (ii) the *Joint Post-Confirmation Hearing Memorandum of the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors* (the "AHC/Debtor Post-Trial Brief");
- (iii) the *Objection of Donald J. Trump and Ivanka Trump to Confirmation of Modified Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by Beal Bank and Icahn Partners* [D.I. 1229];
- (iv) each of the responses, objections and reservations filed by certain parties (collectively, the "Objectors") with respect to confirmation of the AHC/Debtor Plan, including (a) the *Objection of Beal Bank and Icahn Partners to Confirmation of the AHC/Debtor Plan* [D.I. 1238], (b) the *Objection of the Acting United States Trustee to Confirmation of the AHC/Debtor Plan* [D.I. 1237], (c) the *Objection of Evan Karathanasis, Anna Maria T. Ciminello, Alan C. Pilla, Daniel A. Amicucci, Dominick D'Apice, Emanuel Ciminello, III, Emanuel Ciminello, Jr., Maryanne Carotenuto, Salvatore Ciminello, Thomas Ciminello, Joel Friedberg, Joel H. Friedman, IME Partnership Plan f.b.o. Joel Friedman, Sebastian Pignatello and Chris Reslock to Confirmation of the AHC/Debtor Plan* [D.I. 1225], (d) the *Oracle Corporation's Limited Objection to the AHC/Debtor Plan* [D.I. 1226], and (e) the *Objection of Creditor Eugene Kahn to Confirmation of the AHC/Debtor Plan* [D.I. 1216] (including any and all formal or informal objections, statements, responses or reservations of rights, collectively, the "Objections");
- (v) the *Post-Hearing Brief of Donald J. Trump and Ivanka Trump (A) In Support of Confirmation of the AHC/Debtor Plan and (B) In Objection to Confirmation of the Icahn/Beal Plan* [D.I. 1384];
- (vi) the *Supplement to Declaration of Ronda K. Collum of the Garden City Group, Inc. Certifying the Methodology For the Tabulation of Votes On and Results With Respect to the Plan of Reorganization Filed by the Ad Hoc Committee of Senior Secured Note Holders and the Debtors and the Plan of Reorganization Filed by*

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*Times*, filed February 24, 2010 [D.I. 1260]; and (iv) *Affidavit of Erin Ostenson, Advertising Clerk of the Publisher of The Wall Street Journal*, filed February 24, 2010 [D.I. 1261].

Page: 5  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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*Beal Bank and Icahn Partners*, dated February 23, 2010, (the “Voting Affidavit”) [D.I. 1252];

- (vii) testimony proffered or presented at the Confirmation Hearing;
- (viii) the declarations and/or affidavits filed with the Court;
- (ix) all other evidence proffered or adduced at, memoranda and objections filed in connection with and arguments of counsel made at, the Confirmation Hearing; and
- (x) the entire record of the above-captioned chapter 11 cases;

And upon the Court’s review and consideration of the Debtors’ *Motion For Entry of An Order (I) Authorizing Borrowing With Priority Over Administrative Expenses and Secured By Liens On Property Of the Estates Pursuant to Sections 364(c) and (d) of the Bankruptcy Code, (II) Continuing Adequate Protection Therefor Pursuant to Sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001, (III) Modifying the Automatic Stay, and (IV) Amending the Cash Collateral Order* (the “DIP Motion”) [D.I. 1276] and exhibits filed contemporaneously therewith, seeking approval for, among other things, \$45 million in debtor-in-possession financing (the “DIP Facilities”) in accordance with the terms and conditions of each of the DIP Agreements (as defined in the DIP Motion); and upon the Court’s review and consideration of the following:

(i) the *Notice of Filing of: (I) Amended and Restated Debtor-In-Possession Financing Commitment Letter; (II) Supplemental Debtor-In-Possession Commitment Letter; (III) Form of Debtor-In-Possession Financing Note Purchase Agreement; and (IV) Form of Supplemental Debtor-In-Possession Note Purchase Agreement*, filed with the Court on March 16, 2010 [D.I. 1371], amending the documents related to the DIP Facilities to provide for, among other things, a \$24,000,000 Secured Debtor-In-Possession Facility and a \$21,000,000 Secured Supplemental Debtor-In-Possession Facility;

(ii) the *Notice of Filing of (I) Modified Amended and Restated Debtor In Possession Financing Commitment Letter; (II) Modified Supplemental*

Page: 6  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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*Debtor In Possession Financing Commitment Letter; (III) Modified Form of Secured Debtor In Possession Financing Note Purchase Agreement; (IV) Modified Form of Supplemental Secured Debtor-In-Possession Financing Note Purchase Agreement; and (V) Modified Form of Proposed Order* filed with the Court on April 8, 2010 [D.I. 1428], further amending the documents related to the DIP Facilities;

(iii) the *Joint Objection of Icahn Partners and Beal Bank to Debtors' Motion For Entry of An Order (I) Authorizing Borrowing With Priority Over Administrative Expenses and Secured By Liens On Property of the Estates Pursuant to Section 364(c) and (d) of the Bankruptcy Code, (II) Continuing Adequate Protection Therefor Pursuant to Sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001, (III) Modifying the Automatic Stay, and (IV) Amending the Cash Collateral Order* [D.I. 1373];

(iv) the *Supplement to the Joint Objection of Icahn Partners and Beal Bank to Debtors' Motion For Entry of An Order (I) Authorizing Borrowing With Priority Over Administrative Expenses and Secured By Liens On Property of the Estates Pursuant to Section 364(c) and (d) of the Bankruptcy Code, (II) Continuing Adequate Protection Therefor Pursuant to Sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001, (III) Modifying the Automatic Stay, and (IV) Amending the Cash Collateral Order* [D.I. 1437]; and

(v) the subsequent submissions of the parties in connection the DIP Motion and the Plan.

And upon the Court's entry of the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 and 507 and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedures (I) Approving Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Modifying Existing Cash Collateral Order and Granting Adequate Protection, and (IV) Modifying the Automatic Stay* on May 7, 2010 (the "DIP Financing Order");

And upon the telephonic hearing before the court held on April 27, 2010 (the "April 27 Hearing") and the hearing before the Court held on May 4, 2010 (as thereafter continued on May 6, 2010, the "May 4 Hearing");

Page: 7  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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And the Court having determined, in accordance with its Opinion on Confirmation dated April 12, 2010 (the “Confirmation Opinion”) [D.I. 1434], which is incorporated by reference herein as if fully set forth herein, and in accordance with the rulings at the April 27 Hearing and May 4 Hearing, that the Plan should be confirmed subject to certain modifications specified therein; and a copy of the Plan as subsequently modified in accordance with the Confirmation Opinion being attached hereto as Exhibit A, and a redline of the Plan reflecting such modifications being attached hereto as Exhibit B; and after due deliberation and sufficient cause appearing therefor;

**IT IS HEREBY DETERMINED, FOUND, ADJUDGED, DECREED THAT:**

**FINDINGS OF FACT**

- A. [Reserved]
- B. Findings. The findings set forth herein, in the Confirmation Opinion and in the record of the Confirmation Hearing constitute the Court’s findings of fact pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such.
- C. Jurisdiction, Venue, Core Proceeding (28 U.S.C. §§ 157(b)(2), 1334(a)). This Court has jurisdiction over the Debtors’ chapter 11 cases (the “Reorganization Cases”), the confirmation of the Plan and the Objections pursuant to 28 U.S.C. § 1334. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b), and this Court has jurisdiction to enter a final order with respect thereto. Venue is proper before this Court pursuant to 28 U.S.C. §§

Page: 8  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
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1408 and 1409. The Debtors are qualified to be Debtors under section 109 of the Bankruptcy Code.

D. Commencement of the Reorganization Cases. On February 17, 2009 (the “Commencement Date”), the Debtors commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code. By Order of this Court, dated February 18, 2009, the Reorganization Cases were consolidated for procedural purposes only and have been jointly administered. The Debtors have operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No official committees have been appointed in these cases. No trustee has been appointed in these cases.

E. Appointment of Examiner. Pursuant to *Order Approving the Appointment of a Chapter 11 Examiner By Acting United States Trustee* dated September 22, 2009 [D.I. 713], Michael St. Patrick Baxter was appointed as examiner in these Reorganization Cases (the “Examiner”) subject to the terms thereof.

F. Judicial Notice. The Court takes judicial notice of the docket of the Reorganization Cases maintained by the Clerk of the Court, including, without limitation, all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered, adduced and/or presented at the hearings held before the Court during the pendency of the Reorganization Cases.

G. Burden of Proof. The Debtors and the Ad Hoc Committee have met their burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence.



Page: 9  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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H. Resolution of Objections. As presented at the Confirmation Hearing and as provided for herein, the consensual resolutions of certain Objections satisfy all applicable requirements of the Bankruptcy Code and the Bankruptcy Rules and are in the best interest of the Debtors and supported by the Record, and are hereby approved. All Objections that were not resolved by agreement at the Confirmation Hearing are hereby overruled.

I. Solicitation and Notice. On January 8, 2010, the Court entered the Joint Solicitation Procedures Order, which, among other things, approved the Disclosure Statement, finding that it contained “adequate information” within the meaning of section 1125 of the Bankruptcy Code, authorized the Rights Offering Procedures (as defined in the Joint Solicitation Procedures Order), approved the distribution of the Subscription Forms, and authorized the solicitation of the Solicitation Packages (as defined therein) and established procedures for the Debtors’ solicitation of votes on the Plan.

J. As evidenced by the Notice Affidavits, the (a) AHC/Debtor Solicitation Packages, including the Disclosure Statement, Joint Solicitation Procedures Order, Plan, and appropriate Ballots, (b) notice of the Confirmation Hearing (including the deadline for filing and serving objections to confirmation of the Plan) and other requirements, deadlines, hearings and matters described in the Joint Solicitation Procedures Order, (c) the Subscription Forms and Rights Offering Procedures, and (d) the Plan Supplement were each properly and timely distributed in compliance with the Bankruptcy Code, the Bankruptcy Rules and the Joint Solicitation Procedures Order and applicable non-bankruptcy law, and such service was adequate and sufficient under the circumstances of these cases. No other or further notice is required.

Page: 10

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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K. All parties not entitled to vote on the Plan were served with notices of non-voting status in accordance with the Joint Solicitation Procedures Order and Bankruptcy Rule 3017(d).

L. Voting. Votes on the Plan were solicited after disclosure of “adequate information” as defined in section 1125 of the Bankruptcy Code. As evidenced by the Voting Affidavit, the Debtors and the Ad Hoc Committee solicited the Plan and the Solicitation Packages and conducted the Rights Offering in good faith for purposes of section 1125(e) and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Joint Solicitation Procedures Order and applicable non-bankruptcy law.

M. Plan Supplement. On February 5, 2010, the Debtors and the Ad Hoc Committee filed the *Plan Supplement For Modified Sixth Amended Joint Plan of Reorganization Proposed By the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors* [D.I. 1174], as amended, modified or supplemented on March 10, 2010 [D.I. 1343] (as may be further amended, supplemented or modified in accordance with the Plan and this Order, the “Plan Supplement”), including drafts of the following documents: (i) Amended and Restated Certificate of Incorporation of Trump Entertainment Resorts, Inc. (“TER”), (ii) Amended and Restated Bylaws of TER, (iii) Certificate of Incorporation of Trump Entertainment Resorts Holdings, L.P., (“TER Holdings”), (iv) By-laws of TER Holdings, (v) Fifth Amended and Restated Agreement of Limited Partnership of TER Holdings, (vi) Registration Rights Agreement, (vii) Warrant to Purchase Common Stock of TER, (viii) Amended and Restated Services Agreement, (ix) Second Amended and Restated Trademark License Agreement, (x) Schedule of Executory Contracts and Unexpired Leases to Be Rejected, and (xi) Summary of

Page: 11  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
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Effective Date Restructuring Transactions for TER. All documents contained in the Plan Supplement comply with the terms of the Plan, and the notice of such documents is good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Joint Solicitation Procedures Order.

N. Standing. The Debtors and the Ad Hoc Committee have satisfied section 1121 of the Bankruptcy Code in that the Ad Hoc Committee, as a result of the entry of an order terminating the Debtors' exclusivity [D.I. 613], and the Debtors each have standing to file and act as co-proponents of the Plan. Furthermore, the Plan reflects the date it was filed with the Court and identifies the entities acting as plan proponents, thereby satisfying Bankruptcy Rule 3016(a).

O. Modifications to the Plan. The following modifications have been made to the Plan: (a) on March 9, 2010, the Ad Hoc Committee and the Debtors filed the *Supplemental Modified Sixth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed By the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors* [D.I. 1333] reflecting certain nonmaterial modifications to the Plan; (b) on March 21, 2010 the Ad Hoc Committee and the Debtors proposed additional modifications to the Plan, as reflected in Exhibit H to the AHC/Debtor Post-Trial Brief; and (c) the Ad Hoc Committee and the Debtors proposed additional modifications to the Plan and the Amended and Restated Credit Agreement, as reflected in the redlines attached hereto as Exhibits B and Exhibit C, respectively, which modifications are consistent with and satisfy the modifications required by the Court pursuant to the Confirmation Opinion (collectively, each of the foregoing modifications

Page: 12  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
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described in clauses (a) through (c), the “Modifications”). The Plan, as modified by the Modifications shall constitute the Plan.

P. The Modifications do not materially or adversely affect the treatment of any Claims against or Equity Interests in the Debtors under the Plan.

Q. In accordance with Bankruptcy Rule 3019, all holders of Claims against the Debtors who voted to accept the Plan as filed with the Court on January 5, 2010 are hereby deemed to have accepted the Plan as amended consistent with the Modifications.

R. No holder of a Claim against the Debtors who has voted to accept the Plan shall be permitted to change its acceptance to a rejection as a consequence of the Modifications.

S. The Debtors’ disclosure of the Modifications, including the disclosure on the record of the Confirmation Hearing and as filed with the Court on March 9, 2010 and March 21, 2010 and as reflected in the form of Amended and Restated Credit Agreement attached hereto as Exhibit D, and as further disclosed in the Confirmation Opinion and at the May 4 Hearing, constitutes due and sufficient notice thereof.

T. The Modifications incorporated in the Plan comply with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019.

U. The Plan Complies with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). Based on the Confirmation Opinion and/or for the reasons set forth therein, the Plan complies with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules and applicable non-bankruptcy law relating to the confirmation of the Plan, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

Page: 13

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

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(i) Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)). Based on the Confirmation Opinion and/or for the reasons set forth therein, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

(ii) Specified Unimpaired Classes (11 U.S.C. § 1123(a)(2)). Section 4 of the Plan specifies that Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), Class 8 (Intercompany Claims) and Class 12 (Subsidiary Equity Interests) are unimpaired under the Plan, thereby satisfying section 1123(a)(2) of the Bankruptcy Code.

(iii) Specified Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). Section 4 of the Plan sets forth the treatment for (a) Claims in Class 3 (First Lien Lender Secured Claims), Class 4 (Second Lien Note Claims), Class 5 (General Unsecured Claims), Class 6 (DJT Claims), Class 7 (Convenience Claims), and Class 9 (Section 510(b) Claims) and, (b) interests in Class 10 (TER Equity Interests) and Class 11 (TER Holdings Equity Interests), each of which constitutes an impaired class, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.

(iv) No Discrimination (11 U.S.C. § 1123(a)(4)). Based on the Confirmation Opinion and/or for the reasons set forth therein, the Plan provides for the same treatment by the Debtors for each Claim or Equity Interest in each respective Class unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.

(v) Implementation of the Plan (11 U.S.C. § 1123(a)(5)). The Plan provides for adequate means for implementation of the Plan with respect to each Debtor, through, among other things, (i) a new \$225 million equity capital contribution in the form of a Rights Offering backstopped by the Backstop Parties (or their affiliates) in accordance with and subject to the Backstop Agreement and the Plan, (ii) the payment of (a) \$125 million of cash proceeds from the Rights Offering and (b) net cash proceeds (if any) from any Marina Sale to the First Lien Lenders, (iii) the entry into the Amended and Restated Credit Agreement and the Loan Documents (as defined below), (iv) the DJT Settlement and the issuance of the DJT Stock and DJT Warrants to the DJT Parties, subject to the terms and conditions stated in the DJT Settlement Agreement and the Plan, (v) the issuance of New Common Stock (including the Equity Distribution, the Rights Offering Shares and the Backstop Stock) to Rights Offering Participants and/or the Backstop Parties, as applicable, (vi) the entry into the Amended Organizational Documents, (vii) the dismissal of the cases of the Dismissed

Page: 14

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

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Debtors, and (viii) the Restructuring Transactions (as defined in the Plan) and the vesting of the property of the Debtors in the Reorganized Debtors. Thus, the Plan satisfies section 1123(a)(5) of the Bankruptcy Code.

(vi) Nonvoting Equity Securities/Allocation of Voting Power (11 U.S.C. § 1123(a)(6)). The Plan does not provide for the issuance of nonvoting equity securities, and the Amended Organizational Documents for each of the Reorganized Debtors contain a provision expressly prohibiting such issuance. The Amended and Restated Certificate of Incorporation of TER, as filed with the Plan Supplement, includes such a provision. Thus, the Plan satisfies section 1123(a)(6) of the Bankruptcy Code.

(vii) Designation of Directors and Officers (11 U.S.C. § 1123(a)(7)). Pursuant to Section 5.12(c) of the Plan, the board of directors of the Reorganized Debtors shall be composed of licensable individuals selected by the Ad Hoc Committee. Prior to the Confirmation Hearing, on February 19, 2010, the Debtors and the Ad Hoc Committee filed with the Court the *List of Names and Biographical Information of the Proposed Board of Directors of the Reorganized Debtors* [D.I. 1242], disclosing that the board of directors of the Reorganized Debtors shall be composed of a total of seven (7) members (thereby modifying Section 5.12(c) of the Plan accordingly), and further disclosing the identity and affiliations of each Person (each, a “New Director”) proposed to serve on the initial board of directors of the Reorganized Debtors (the “Reorganized Board”). On the Effective Date, the board of directors of the Reorganized Debtors shall be reconstituted as provided in the Amended Organization Documents of the Reorganized Debtors, and the New Directors shall be appointed as the directors of the Reorganized Debtors. Pursuant to Section 5.12(d) of the Plan, the officers of TER immediately prior to the Effective Date will serve as the officers of Reorganized Debtors on and after the Effective Date in accordance with any employment and severance agreements authorized by the board of directors of Reorganized TER. The directors and officers of the Reorganized Debtors were selected in a manner consistent with the interests of creditors and with public policy, thereby satisfying section 1123(a)(7) of the Bankruptcy Code. No action required by the Plan, including, but not limited to the appointment of the New Directors, shall be, or deemed to be, a “change of control” under any contract, agreement or other document to which the Debtor is a party or otherwise bound.

(viii) Section 1123(a)(8) Inapplicable. Section 1129(a)(8) does not apply because the Debtors in these Reorganization Cases are not individuals.

Page: 15

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

V. Additional Plan Provisions (11 U.S.C. § 1123(b)). Based on the Confirmation Opinion and/or for the reasons set forth therein, the additional provisions of the Plan are appropriate, in the best interests of the Debtors and their estates, and are consistent with the applicable provisions of the Bankruptcy Code and the Plan satisfies section 1123(b) of the Bankruptcy Code.

W. The Debtors' and the Ad Hoc Committee's Compliance With the Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Debtors and the Ad Hoc Committee, as proponents of the Plan, have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and applicable non-bankruptcy law, including, *inter alia*, sections 1125 and 1126 of the Bankruptcy Code and the Joint Solicitation Procedures Order, governing the transmittal of the Plan, the Disclosure Statement, the Solicitation Packages, the Ballots and related documents and notices, and in soliciting and tabulating the votes on the Plan, as well as in connection with the formulation, preparation, filing and confirmation of the Plan.

X. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). Based on the Confirmation Opinion and/or for the reasons set forth therein, the Debtors and the Ad Hoc Committee have proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Court examined the totality of the circumstances surrounding the formulation, filing and confirmation of the Plan as well as the facts and record of these Reorganization Cases, the Disclosure Statement, and the record of the Confirmation Hearing and other proceedings held in these Reorganization Cases. The Debtors, the Ad Hoc Committee, the

Page: 16  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Backstop Parties, the DIP Agents (as defined in each of the DIP Agreements), the DIP Note Purchasers (as defined in each of the DIP Agreements) (in their capacities as such) the Second Lien Indenture Trustee and Noteholder Collateral Agent and the DJT Parties (and each of their respective representatives) have participated in the formulation and negotiation of the Plan at arm's length and in good faith. The Plan was proposed with the legitimate and honest purpose of maximizing the value of the Debtors' estates and to effectuate a successful reorganization of the Debtors. Further, the Plan's classification, indemnification, exculpation, release and injunction provisions of the Plan have been negotiated in good faith and at arms' length, are each necessary for the Debtors' successful reorganization and are consistent with sections 105, 1122, 1123(b)(3)(A), 1129 and 1142 of the Bankruptcy Code.

Y. Payment for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Based on the Confirmation Opinion and/or for the reasons set forth therein, any payment made or to be made by the Debtors, or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in connection with the Reorganization Cases, or in connection with the Plan and incident to the Reorganization Cases, has been approved by, or is subject to the approval of, this Court as reasonable, thereby satisfying section 1129(a)(4) of the Bankruptcy Code.

Z. Directors, Officers and Insiders (11 U.S.C. § 1129(a)(5)). The Plan complies with section 1129(a)(5) of the Bankruptcy Code. The identity and affiliations of the persons proposed to serve as the initial directors and officers of the Reorganized Debtors after confirmation of the Plan have been disclosed, and the appointment to, or continuance in, such offices of such persons



Page: 17  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

is consistent with the interests of holders of Claims against and Equity Interests in the Debtors and with public policy. To the extent applicable or relevant, the identity of any insider that will be employed or retained by the Reorganized Debtors and the nature of any such insider's compensation have also been disclosed.

AA. No Rate Changes (11 U.S.C. § 1129(a)(6)). The Debtors are not subject to any governmental regulatory commission with jurisdiction, after confirmation of the Plan, over the rates of the Debtors. Thus, section 1129(a)(6) of the Bankruptcy Code is inapplicable to these Reorganization Cases.

BB. Best Interests of Creditors (11 U.S.C. § 1129(a)(7)). The Plan satisfies section 1129(a)(7) of the Bankruptcy Code. The liquidation analyses provided in the Disclosure Statement, as supported by evidence proffered, adduced and/or presented at the Confirmation Hearing, (i) are persuasive and credible, (ii) have not been controverted by other evidence and (iii) establish that each holder of an impaired Claim or Equity Interest either has (a) accepted the Plan or (b) will receive or retain under the Plan, on account of such Claim or Equity Interest, property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

CC. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), Class 8 (Intercompany Claims) and Class 12 (Subsidiary Equity Interests) are Classes of unimpaired Claims and Equity Interests, as applicable, that are conclusively presumed to have accepted the Plan, in accordance with section

Page: 18  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

1126(f) of the Bankruptcy Code. Claims in Class 4 (Second Lien Note Claims) and Class 6 (DJT Claims) are impaired and have voted to accept the Plan in accordance with sections 1126(b) and (c) of the Bankruptcy Code. Class 9 (Section 510(b) Claims), Class 10 (TER Equity Interests) and Class 11 (TER Holdings Equity Interests) are impaired by the Plan and are not entitled to receive or retain any property under the AHC/Debtor and, therefore, are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Class 3 (First Lien Lender Secured Claims), Class 5 (General Unsecured Claims), and Class 7 (Convenience Claims) against certain of the Debtors each voted to reject the Plan. Although section 1129(a)(8) of the Bankruptcy Code is not satisfied as a result of the rejecting classes identified above, the Plan may nevertheless be confirmed because the Plan satisfies section 1129(b) of the Bankruptcy Code with respect to such classes.

DD. Treatment of Administrative Expense Claims, Tax Claims and Other Priority Claims (11 U.S.C. § 1129(a)(9)). The treatment of Allowed Administrative Expense Claims pursuant to Section 2.1 of the Plan, Compensation and Reimbursement Claims pursuant to Section 2.2 of the Plan, Priority Tax Claims pursuant to Section 2.3 of the Plan, and Other Priority Claims pursuant to Section 4.1 of the Plan, respectively, satisfies the requirements of sections 1129(a)(9)(A), (B), (C) and (D) of the Bankruptcy Code, as applicable.

EE. Acceptance By Impaired Class of Claims (11 U.S.C. § 1129(a)(10)). At least one Class of impaired Claims against each of the Debtors (other than the Dismissed Debtors), respectively, has accepted the Plan by the requisite majorities mandated under section 1126 of

Page: 19  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

the Bankruptcy Code, determined without including any acceptance of the Plan by any insider, thereby satisfying the requirements of section 1129(a)(10) of the Bankruptcy Code.

FF. Feasibility (11 U.S.C. § 1129(a)(11)). As more fully set forth in the Confirmation Opinion, the evidence proffered, adduced and/or presented at the Confirmation Hearing, the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

GG. Payment of Fees (11 U.S.C. § 1129(a)(12)). Pursuant to the Plan, on the Effective Date and thereafter as may be required, the Debtors shall pay all fees payable, to the extent not previously paid, pursuant to section 1930, chapter 123, of title 28 of the United States Code, thereby satisfying the requirements of section 1129(a)(12) of the Bankruptcy Code.

HH. Continuation of Retiree Benefits (11 U.S.C. § 1129(a)(13)). Pursuant to 12.5 of the Plan, the Reorganized Debtors shall continue to pay all retiree benefits, if any, in accordance with section 1114 of the Bankruptcy Code, at any time prior to the Confirmation Date, for the duration of the period for which the Debtor had obligated itself to provide such benefits and subject to the right of the Reorganized Debtors to modify or terminate such retiree benefits in accordance with the terms thereof. Accordingly, the Plan satisfies the requirements of section 1129(a)(13) of the Bankruptcy Code.

II. Sections 1129(a)(14), (15) and (16) Do Not Apply. The Debtors are not subject to any domestic support obligations, and as such, section 1129(a)(14) does not apply. The Debtors are not “individuals,” and, accordingly, section 1129(a)(15) does not apply. Each of the Debtors is a moneyed, business, or commercial corporation, and, accordingly, section 1129(a)(16) does not apply.

Page: 20

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

JJ. No Unfair Discrimination; Fair and Equitable (11 U.S.C. § 1129(b)). Claims in Class 3 (First Lien Lender Secured Claims), Claims in Class 5 (General Unsecured Claims), and Claims in Class 7 (Convenience Claims) against certain of the Debtors have each voted to reject the Plan and Class 9 (Section 510(b) Claims), Class 10 (TER Equity Interests) and Class 11 (TER Holdings Equity Interests) are deemed to reject the Plan (collectively, the “Rejecting Classes”). Based upon the evidence proffered, adduced and/or presented at the Confirmation Hearing, and as set forth in more detail in the Confirmation Opinion, the Plan does not discriminate unfairly and is fair and equitable with respect to Class 3, as required by sections 1129(b)(1) and (b)(2) of the Bankruptcy Code, and the treatment of each holder of Class 3 (First Lien Lender Secured Claims) under the Plan satisfies sections 1129(b)(2)(A)(i)(I), 1129(b)(2)(A)(i)(II), 1129(b)(2)(A)(ii), and 1129(b)(2)(A)(iii) of the Bankruptcy Code. Furthermore, based upon the evidence proffered, adduced and/or presented at the Confirmation Hearing, and as set forth in more detail in the Confirmation Opinion, the Plan does not discriminate unfairly and is fair and equitable with respect to the remaining Rejecting Classes, as required by sections 1129(b)(1) and (b)(2) of the Bankruptcy Code.

KK. Application of Section 1129(c) (11 U.S.C. § 1129(c)). Based on the evidence admitted at the Confirmation Hearing and the Confirmation Opinion, and pursuant section 1129(c) of the Bankruptcy Code, following due consideration of the preferences of creditors and equity security holders, and other factors the Court deems relevant, the Plan should be confirmed.

Page: 21

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

LL. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933, as amended, thereby satisfying the requirements of section 1129(d) of the Bankruptcy Code.

MM. Good Faith Solicitation (11 U.S.C. § 1125(e)). Based on the record before the Court in these Reorganization Cases, (i) the Debtors, the Ad Hoc Committee and the Backstop Parties have solicited acceptances or rejections of the Plan and subscriptions to the Rights Offering in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including without limitation, sections 1125 and 1126 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation and (ii) participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code and any applicable non-bankruptcy law, rule or regulation in the offer and issuance of any securities under the Plan. Accordingly, the Debtors, the Ad Hoc Committee and the Backstop Parties and each of their respective affiliates, agents, directors, officers, employees, advisors and attorneys is entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the exculpation, release and indemnification provisions and protections set forth in the Plan and shall not be liable under any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer, issuance, sale or purchase of any securities under the Plan.

NN. Assumption of Executory Contracts and Unexpired Leases. The Debtors and the Ad Hoc Committee have satisfied the provisions of section 365 of the Bankruptcy Code with

Page: 22

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

respect to the assumption and/or the assumption and assignment of executory contracts and unexpired leases pursuant to the Plan.

OO. Transfers by Debtors. The revesting, on the Effective Date, of the property of the Debtors' estates: (a) vests the appropriate Reorganized Debtors or their successors or assigns, as the case may be, with good title to such property, free and clear of all Claims and Equity Interests, except as expressly provided in the Plan or this Order; and (b) does not constitute a voidable transfer under the Bankruptcy Code or applicable non-bankruptcy law.

PP. Rights Offering. The Debtors, the Ad Hoc Committee and the Backstop Parties have properly conducted the Rights Offering and distributed the Subscription Rights and the Subscription Forms in accordance with the Joint Solicitation Procedures Order, the Bankruptcy Code, the Bankruptcy Rules and applicable non-bankruptcy law. In accordance with the Joint Solicitation Procedures Order and the Rights Offering Procedures, the Subscription Rights and Rights Offering Shares issued in the Rights Offering and pursuant to the Backstop Agreement have been offered and sold exclusively to persons or entities reasonably believed by the Debtors and the Ad Hoc Committee to be "accredited investors" as defined under Regulation D promulgated under the Securities Act.

QQ. Findings Regarding Releases and Related Provisions. The release, exculpation and injunction provisions contained in the Plan, including, without limitation, those contained in Section 10 of the Plan, (i) have been negotiated in good faith and at arm's length, (ii) are consistent with sections 105, 1123(b)(6), 1129, and 1142 of the Bankruptcy Code and applicable case law, and (iii) are each necessary for the Debtors' successful reorganization and are integral

Page: 23

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

to the structure of the Plan and formed part of the agreement among all relevant parties in interest embodied therein.

RR. Satisfaction of Confirmation Requirements Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

### **CONCLUSIONS OF LAW**

1. Conclusions of Law. The conclusions of law set forth herein and by the Court in its Confirmation Opinion constitute the Court's conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. Confirmation. The Plan and each of its provisions are approved and CONFIRMED pursuant to section 1129 of the Bankruptcy Code. In the event of any conflict between the Confirmation Opinion and this Order, the Confirmation Opinion shall govern. The Plan complies with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules. The following are hereby incorporated by reference into and are an integral part of this Order: (a) the Plan, (b) the exhibits and schedules to the Plan, (c) the exhibits and schedules to the Disclosure Statement, and (d) the Plan Supplement (collectively, as may be further amended, supplemented or modified in accordance with the Plan and this Order, the "Plan Documents"), and all such documents are hereby approved. Copies of any amendments, supplements or modifications (including any deletions) (if any) to the Plan, the Plan Supplement or the Plan Documents shall be provided to the First Lien Lenders reasonably in advance of the

Page: 24

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Effective Date and the First Lien Lenders shall have an opportunity to object thereto within six (6) business days following receipt of such documents and be heard by the Court, on an expedited basis, if necessary. The failure to reference any Plan Document or any provision of a Plan Document or the Plan in this Order will have no effect on the Court's approval and authorization of, or the validity, binding effect or enforceability of, the Plan and the Plan Documents in their entirety. The Plan, as modified by the Modifications, is deemed accepted by all creditors who have previously voted to accept the Plan, and such acceptances cannot be withdrawn, and the Debtors are not required to prepare or distribute a new disclosure statement with respect to the Modifications. Each of the terms and provisions of the Plan are valid and enforceable pursuant to its terms, and, notwithstanding anything contained in the Plan to the contrary, (a) are integral to the Plan and may not be deleted or modified without the consent of the Debtors and the Ad Hoc Committee, and (b) are nonseverable and mutually dependent.

3. Solicitation and Notice. The solicitation of votes to accept or reject the Plan, notice of the Confirmation Hearing and notice of the Plan Supplement and all related documents complied with the terms of the Joint Solicitation Procedures Order, was appropriate and satisfactory based upon the circumstances of the Debtors' Reorganization Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

4. Objections. All Objections to confirmation of the Plan that have not been withdrawn, waived or settled and all reservation of rights included therein, are overruled on the



Page: 25

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

merits, for the reasons set forth on the record at the Confirmation Hearing and in the Confirmation Opinion. All withdrawn objections are deemed withdrawn with prejudice.

5. Binding Effect. Pursuant to section 1141 of the Bankruptcy Code, upon entry of this Confirmation Order and effective as of the Effective Date, the provisions of the Plan (including the Plan Documents and all documents and agreements executed pursuant to or in connection with the Plan and the Plan Documents) shall bind (i) all holders of a Claim against, or Equity Interest in, the Debtors and their respective successors and assigns, whether or not such Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan, (ii) any and all non-Debtor parties to assumed executory contracts and unexpired leases with any of the Debtors, (iii) the Objectors, (iv) every other party in interest in the Reorganization Cases, (v) all parties receiving property under the Plan and/or any Plan Document, and (vi) with respect to the each of the foregoing, each of their respective direct or indirect subsidiaries, current and former officers and directors, members, employees, agents, representatives, financial advisors, professionals, accountants and attorneys and all of their respective successors, assigns, heirs and personal representatives.

6. Classification and Treatment. The classification of Claims and Equity Interests for purposes of distributions to be made under the Plan shall be governed solely by the Plan. The Plan's classification scheme is hereby approved. The treatment of all Claims and Equity Interests as provided in the Plan is hereby approved.

7. Claims Arising Under the DIP Facilities. On the Effective Date, all Claims arising under the DIP Facilities (the "DIP Facilities Claims") shall be paid in full in cash

Page: 26  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

(in accordance with any applicable provisions of the DIP Financing Order) in full satisfaction, settlement, discharge and release of, and in exchange for, such DIP Facilities Claims, and all liens and security interests granted to secure the DIP Facilities Claims shall be immediately terminated, extinguished and released, in each case without further notice to, or order of, this Court, act or action under applicable law, and the respective administrative agent and collateral agent under the DIP Facilities shall promptly execute and deliver to the Reorganized Debtors such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Reorganized Debtors. Notwithstanding the above, any indemnity provisions contained in the DIP Facilities shall survive such termination, release and satisfaction in the manner and to the extent set forth herein.

8. Notwithstanding anything contained herein to the contrary and subject to the entry of the DIP Financing Order, on the Effective Date, for good and valuable consideration provided by each of the DIP Note Purchasers and the DIP Agents (together with each of their respective direct or indirect subsidiaries, current and former officers and directors, members, employees, agents, representatives, financial advisors, professionals, accountants and attorneys and all of their predecessors, successors and assigns, the “DIP Lender Released Parties”), the adequacy of which is hereby confirmed, the Released Parties (as defined in the Plan) shall be deemed to and hereby unconditionally and irrevocably release each of the DIP Lender Released Parties (solely in their capacities as such) (i.e. relating to the formulation, preparation, negotiation, filing, execution and delivery of the DIP Documents and the DIP Facilities) from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies, and

Page: 27

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing on the Effective Date or hereafter arising, in law, equity or otherwise, that such entity or person would have been legally entitled to assert (whether individually or collectively), relating to any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Reorganization Cases, the DIP Facilities or formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement, the Marina Sale Agreement (to the extent applicable) or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, except that (i) the DIP Lender Released Parties shall not be released from any act or omission that constitutes gross negligence, willful misconduct or fraud as determined by Final Order of a court of competent jurisdiction, and (ii) the foregoing release shall not apply to any right or obligation arising under or that is part of the Plan or an agreement entered into pursuant to, in connection with or contemplated by, the Plan.

9. Settlement of Certain Claims. (a) Pursuant to Bankruptcy Rule 9019 and section 1123(b)(3)(A) of the Bankruptcy Code, and in consideration for the classification, distribution, releases and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims or controversies resolved pursuant to the Plan. Without limiting the foregoing, pursuant to Bankruptcy Rule 9019 and section 1123(b)(3)(A) of the Bankruptcy Code, and in consideration for the classification, distribution, releases and other benefits provided under the Plan, upon the Effective Date (and subject to the terms and conditions of the DJT Settlement Agreement), the

Page: 28

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

provisions of the Plan shall constitute a good faith compromise and settlement of all DJT Claims or controversies resolved pursuant to the Plan. Accordingly, the DJT Settlement Agreement is hereby approved and the Debtors and the Reorganized Debtors (as the case may be) are the parties to the DJT Settlement Agreement are hereby authorized upon the Effective Date to perform the obligations under the DJT Settlement Agreement and implement the transactions contemplated by the DJT Settlement Agreement, without further notice to or order of the Bankruptcy Court, subject to the terms and conditions stated therein and in the Plan. Notwithstanding anything contained in the Plan to the contrary, all Plan distributions made to creditors holding Allowed Claims in any Class take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code or otherwise, and are intended to be and shall be final, and no distribution to the holder of a Claim in one Class shall be subject to being shared with or reallocated to the holders of any Claim in another Class by virtue of any prepetition collateral trust agreement, shared collateral agreement, subordination agreement or other similar inter-creditor arrangement. As of the Effective Date, any and all contractual, legal and equitable subordination rights, whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code or otherwise, relating to the allowance, classification and treatment of all Allowed Claims and their respective distributions and treatments hereunder are settled, compromised, terminated and released pursuant hereto; *provided, however*, that nothing contained in the Plan shall preclude any person or entity from

Page: 29

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

exercising their rights pursuant to and consistent with the terms of the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan. Notwithstanding anything contained in this Order or the Plan to the contrary, nothing contained in this Order (including without limitation, paragraph 40 hereof (“Releases and Exculpations”)) or the Plan shall constitute a release of the Second Lien Indenture Trustee, the collateral agent therefor, the holders of Second Lien Note Claims, the Backstop Parties, the members of the Ad Hoc Committee, or any of their respective direct or indirect subsidiaries, current and former directors, officers, employees, affiliates, agents, financial advisors, investment bankers, professionals, accountants and attorneys and their respective partners, owners and members and all of their predecessors, successors and assigns, from any liability to the First Lien Lenders or the First Lien Collateral Agent(s) in connection with any breaches and/or violations of under the Intercreditor Agreement (as defined in the Final Cash Collateral Order).

(b) Notwithstanding the foregoing, neither section 10.5 of the Plan nor any other provision of the Plan shall release the Personal Trump Guaranty as provided, and to the extent provided, in the Confirmation Opinion.

10. Corporate Existence. Except as otherwise provided in the Plan or this Order, each of the Debtors (other than the Dismissed Debtors) shall continue to exist as a Reorganized Debtor after the Effective Date as a separate entity, with all powers available to such legal entity, in accordance with applicable law and pursuant to their constituent documents, in accordance with the Plan and the Plan Documents.

Page: 30

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

11. Authorization of New Securities. Pursuant to the Plan, the Reorganized Debtors are authorized without further act or action under applicable law, regulation, order, or rule, to issue the (a) New Common Stock (including the Equity Distribution, the Rights Offering Shares, the Backstop Stock and the DJT Stock), (b) Partnership Interests, (c) DJT Warrants, and (d) any and all other securities, notes, stock, instruments, certificates and other documents or agreements required to be issued, executed or delivered pursuant to the Plan (collectively, with the Subscription Rights, the “New Securities and Documents”), in each case in accordance with and subject to the terms of the Plan and the Plan Documents.

12. Following the Effective Date, Reorganized TER shall, as soon as reasonably practicable but in any event no later than thirty (30) calendar days after the Effective Date, file with the United States Securities and Exchange Commission a registration statement for the New Common Stock on Form 8-A or Form 10 (as determined in the Reorganized Debtors’ reasonable discretion) under the Securities Exchange Act of 1934 (the “Exchange Act”), unless the Securities and Exchange Commission advises Reorganized TER that the New Common Stock will be registered under the Exchange Act in the absence of such filing. Following the Effective Date, Reorganized TER shall use reasonable best efforts to list the New Common Stock on the NASDAQ or The New York Stock Exchange as soon as reasonably practicable.

13. Securities Laws Exemption. The issuance of the New Securities and Documents and the distribution thereof under the Plan, and the distribution and exercise of the Subscription Rights and the Rights Offering Shares, shall be exempt from registration under

Page: 31  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

applicable securities laws pursuant to section 1145(a) of the Bankruptcy Code and/or section 4(2) of the Securities Act of 1933, as amended, and/or any other applicable exemptions.

14. Without limiting the effect of section 1145 of the Bankruptcy Code (to the extent applicable), all Plan Documents, other documents, agreements, and instruments entered into and delivered on or as of the Effective Date contemplated by or in furtherance of the Plan, including, without limitation, the Amended and Restated Credit Agreement, the Amended and Restated Trademark License Agreement, the Amended and Restated Services Agreement, the DJT Warrant Agreement, any of the Amended Organizational Documents, any Marina Sale Agreement or any other agreement or document related to or entered into in connection with any of the foregoing, shall become, and the Backstop Agreement shall remain, effective and binding in accordance with their respective terms and conditions upon the parties thereto, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any entity (other than as expressly required by such applicable agreement).

15. Upon the Effective Date, after giving effect to the transactions contemplated by the Plan, the authorized capital stock or other equity securities of the Reorganized Debtors shall be that number of shares of New Common Stock as may be designated in the Plan and the Amended Organizational Documents.

16. On the Effective Date, Reorganized TER will enter into the Registration Rights Agreement with each of the Backstop Parties and each of the Rights Offering Participants

Page: 32

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

that validly exercised its Subscription Rights, in each case, that elects, prior to or promptly after the Effective Date, to enter into the Registration Rights Agreement.

17. Compliance with Gaming Laws and Regulations.

(a) Reorganized TER shall not distribute New Common Stock to any person or entity in violation of the gaming laws and regulations in the states in which the Debtors or the Reorganized Debtors, as applicable, operate (in the reasonable determination of the Debtors or the Reorganized Debtors, as applicable). Consequently, no holder shall be entitled to receive New Common Stock unless and until such holder's acquisition of New Common Stock (in the reasonable determination of the Debtors or the Reorganized Debtors, as applicable) does not require compliance with such license, qualification or suitability requirements or such holder has been licensed, qualified, found suitable, or has obtained a waiver or exemption from such license, qualification, or suitability requirements (in the reasonable determination of the Debtors or the Reorganized Debtors, as applicable).

(b) To the extent a holder is not entitled to receive New Common Stock on the Effective Date as a result of applicable gaming laws and regulations (in the reasonable determination of the Debtors or the Reorganized Debtors, as applicable), Reorganized TER shall be authorized to withhold any distribution of New Common Stock to such holder, unless and until such holder complies with applicable gaming laws and regulations. Until such holder has complied with applicable gaming laws and regulations, such holder shall not be a shareholder of Reorganized TER and shall have no voting rights or other rights of a stockholder of Reorganized TER.



Page: 33

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

(c) If a holder is entitled to receive New Common Stock under the Plan and is required, under applicable gaming laws to undergo a suitability investigation and determination and such holder either (i) refuses to undergo the necessary application process for such suitability approval or (ii) after submitting to such process, is determined to be unsuitable to hold the New Common Stock or withdraws from the suitability determination prior to its completion, then, in that event, Reorganized TER shall hold the New Common Stock, and (x) such holder shall only receive such distributions from Reorganized TER as are permitted by the applicable gaming authorities, (y) the balance of the New Common Stock to which such holder would otherwise be entitled will be marketed for sale by Reorganized TER, as agent for such holder, subject to compliance with any applicable legal requirements, and (z) the proceeds of any such sale shall be distributed to such holder as soon as such sale can be facilitated and subject to regulatory approval. In addition, in the event that the applicable gaming authorities object to the possible suitability of any holder, the New Common Stock shall be distributed only to such holder upon a formal finding of suitability. If a gaming authority subsequently issues a formal finding that a holder lacks suitability, or such holder withdraws from or does not fully cooperate with the suitability investigation, then the process for the sale of that holder's New Common Stock shall be as set forth in clauses (x), (y), and (z) above.

18. Rights Offering. The Debtors, the Ad Hoc Committee and the Backstop Parties have properly conducted the Rights Offering and distributed the Subscription Rights and the Subscription Forms in accordance with the Joint Solicitation Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, Local Rules and applicable non-bankruptcy law. The

Page: 34

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Rights Offering was conducted in good faith and was appropriate based on the circumstances. The Backstop Stock is fair and reasonable under the circumstances, is necessary to the reorganization of the Debtors, and the issuance of the Backstop Stock is hereby approved.

19. Amended and Restated Credit Agreement. (a) The Amended and Restated Credit Agreement, substantially in the form attached hereto as Exhibit D, is hereby approved. On the Effective Date, the Reorganized Debtors are authorized to execute and deliver the Amended and Restated Credit Agreement, including the New Term Loan and any instruments, agreements or documents in connection therewith as reasonably requested and/or approved (which approval shall not be unreasonably withheld) by the First Lien Agent(s) and the First Lien Lenders (the "Loan Documents") and grant the liens and security interests specified therein to and in favor of the First Lien Collateral Agent(s) for the benefit of the First Lien Lenders as well as execute, deliver, file, record and issue any notes, documents (including UCC financing statements), or agreements in connection therewith, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization, resolution or approval of any person or entity (other than as expressly required by the Amended and Restated Credit Agreement), and to perform all of their obligations thereunder. The Amended and Restated Credit Agreement and the Loan Documents shall, subject to the occurrence of the Effective Date, be automatically binding and effective upon the First Lien Lenders, without the need for any further act, notice or approval of the Court, immediately upon the execution of the Amended and Restated Credit Agreement and the Loan Documents by the Reorganized Debtors. The Debtors shall provide copies of all Loan

Page: 35  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Documents to the First Lien Lenders reasonably in advance of the Effective Date and the First Lien Lenders shall have a reasonable opportunity to object (and be heard by the Bankruptcy Court if necessary).

(b) Notwithstanding anything to the contrary in the Plan, the Plan Documents, or this Order, on the Effective Date, the First Lien Agent(s) and/or Lenders shall continue to have valid, perfected and first priority liens on, and pledges and security interests in, all of the Debtors' and Reorganized Debtors' assets (of every kind and nature whatsoever), including, for the avoidance of doubt, cage cash, and all proceeds of any and all of the foregoing and this Order shall be sufficient and conclusive evidence of the first priority, perfection and validity of such liens, pledges and security interests without the need for any further action including, without limitation, the filing or recording any financing statements or other documents that may otherwise be required under federal or state law in any jurisdiction.

20. Marina Sale. In accordance with and subject to the terms of the Plan, the Debtors are authorized to enter into a Marina Sale Agreement between the date of this Order and the Effective Date and to seek approval of a Marina Sale by separate order of the Court subject to the rights of all parties to object thereof. To the extent such a Marina Sale is consummated on or prior to the Effective Date, all Marina Sale Proceeds (if any) shall be distributed immediately to the First Lien Collateral Agent(s) in accordance with the Plan or the Amended and Restated Credit Agreement (as applicable) and such sale will be deemed to have occurred under the Plan and pursuant to this Order.

Page: 36

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

21. Restructuring Transactions. The Restructuring Transactions are hereby approved. The Debtors and the Reorganized Debtors, as applicable, are authorized to consummate the Restructuring Transactions described in the Plan and the Plan Documents including, without limitation, the formation of the New Limited Partner and the issuance of the New Partnership Interests pursuant to Section 5.12 of the Plan, subject to the terms and conditions set forth therein and in this Order. Any such transactions may be effective as of the Effective Date pursuant to this Order without further notice to or order of the Bankruptcy Court and without any further action by the stockholders, members, general or limited partners, or directors of any of the Debtors, Reorganized Debtors (as applicable), or Reorganized TER. Without limiting the foregoing, (x) the Debtors are authorized and directed (unless otherwise instructed by the Ad Hoc Committee) to form the New Limited Partner proximately prior to the Effective Date, which New Limited Partner shall be a wholly-owned corporate subsidiary of TER incorporated in Delaware, following which TER shall be authorized and directed (unless otherwise instructed by the Ad Hoc Committee and upon notice to the First Lien Lenders), prior to the Effective Date, to transfer a portion of its equity interest in TER Holdings that represents a 0.01% interest in TER Holdings to the New Limited Partner, such that the New Limited Partner shall hold a 0.01% equity interest in TER Holdings immediately prior to the Effective Date (the “Pre-Effective Date Partnership Interest”), and (y) Reorganized TER Holdings shall be authorized to issue, and shall issue, on the Effective Date, (1) a general partnership interest in Reorganized TER Holdings to Reorganized TER, representing a 99% equity interest in Reorganized TER Holdings, and (2) a limited partnership interest in Reorganized TER Holdings

Page: 37

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

to the New Limited Partner, representing a 1% equity interest in Reorganized TER Holdings, in each case in consideration for the contribution of cash to Reorganized TER Holdings pursuant to Section 5.12(b) of the Plan and the terms of the Fifth Amended and Restated Agreement of Limited Partnership of Reorganized TER Holdings to be entered into as of the Effective Date, and (z) immediately thereafter, the Pre-Effective Date Partnership Interest and the other equity interests in TER Holdings outstanding prior to the Effective Date shall be canceled in accordance with the Plan. For the avoidance of doubt, TER Holdings and Reorganized TER Holdings shall be treated as the same partnership for federal income tax purposes, and at all times there shall be at least two (2) partners of TER Holdings or Reorganized TER Holdings, as applicable.

22. Other Transactions. On the Effective Date or as soon as reasonably practicable thereafter, the Debtors or the Reorganized Debtors (as applicable) may, with the prior consent of the Ad Hoc Committee, (i) cause any or all of the Reorganized Debtor Subsidiaries to be liquidated or merged into one or more of the other Reorganized Debtor Subsidiaries or any other subsidiaries of the Debtors or dissolved, (ii) cause the transfer of assets between or among the Reorganized Debtor Subsidiaries, (iii) cause any or all of the Amended Organizational Documents of any Reorganized Debtor Subsidiaries to be implemented, effected or executed and/or (iv) appoint a stock transfer agent (that is satisfactory to the Debtors and the Ad Hoc Committee) to facilitate distributions under the Plan. Any such transactions may be effective as of the Effective Date pursuant to this Order without further notice to or order of the Bankruptcy Court and without any further action by the stockholders, members, general or limited partners, or directors of any of the Debtors, Reorganized Debtors (as applicable), or Reorganized TER.

Page: 38

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

23. Dismissed Debtors. The chapter 11 cases of each of the Dismissed Debtors (as defined in the Plan) are hereby dismissed, effective as of the date of this Order. The First Lien Lenders shall provide written notice to the Debtors and the Ad Hoc Committee within thirty (30) days of entry of this Order indicating whether they have elected not to accept the equity interests in TCI 2 (as defined in the Plan) in accordance with Section 4.3(4) of the Plan. The Debtors and the Reorganized Debtors shall reasonably cooperate with the First Lien Collateral Agent(s) and the First Lien Lenders in providing information regarding TCI 2 reasonably requested by the First Lien Collateral Agent(s) or the First Lien Lenders. On or prior to the Effective Date, the Debtors and the Reorganized Debtors (as applicable) are authorized to take all necessary and appropriate actions to liquidate and/or dissolve each of the Dismissed Debtors, including TCI 2 (to the extent that the First Lien Lenders have timely submitted written notice of their election not to accept the equity interests in TCI 2) in accordance with applicable non-bankruptcy law, and the Debtors and Reorganized Debtors (as applicable) are authorized to execute and deliver any and all applications, notices, agreements or documents in connection therewith.

24. Corporate Action. Each of the Debtors and the Reorganized Debtors, as applicable, may take any and all actions to execute, deliver, file, or record such contracts, instruments, notes, releases and other agreements or documents, and take such actions as may be necessary or appropriate, to effectuate and implement the provisions of the Plan and the Plan Documents. On the Effective Date, all matters provided for in the Plan that would otherwise require approval of the stockholders, directors, general or limited partners, or members of one or

Page: 39

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

more of the Debtors or Reorganized Debtors, including without limitation, the authorization (i) to issue or cause to be issued the New Common Stock, New Partnership Interests, DJT Stock, Backstop Stock, Rights Offering Shares and DJT Warrants, and (ii) for documents and agreements to be effectuated pursuant to the Plan, including the DJT Settlement Agreement, the election or appointment as the case may be, of directors and officers of the Reorganized Debtors (and the designation of the general partner of Reorganized TER Holdings) pursuant to the Plan and the Amended Organizational Documents, and the qualification of each of the Reorganized Debtors as a foreign corporation or entity wherever the conduct of business by such entity requires such qualification, shall be deemed to have been so approved and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the applicable general corporation, limited partnership or limited liability company law of the states in which the Debtors or the Reorganized Debtors are organized, without any requirement of further action by the respective officers, directors, stockholders, directors, general or limited partners, or members of the Debtors or the Reorganized Debtors or the need for any approvals, authorizations, actions or consents of any person.

25. Authority to Act. The Debtors, the Reorganized Debtors, and their respective officers and directors, are authorized and empowered pursuant to section 303 of the Delaware General Corporation Law and other applicable corporation, limited liability company and limited partnership laws, to take any and all actions necessary or desirable to implement the transactions contemplated by the Plan, Plan Documents and this Order, in each case without any requirement of further vote, consent, approval, authorization or other action by the stockholders,

Page: 40  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

security holders, officers, directors, partners, managers, members or other applicable owners or notice to, order of, or hearing before this Court. Each federal, state, and local governmental agency or department is hereby authorized and directed to accept any and all documents and instruments necessary and appropriate to consummate the Plan and the transactions contemplated thereby.

26. Cancellation of Existing Securities and Agreements. Except (i) for purposes of evidencing a right to distributions under the Plan, (ii) with respect to executory contracts or unexpired leases that have been assumed by the Debtors, or (iii) as otherwise expressly provided in the Plan, on the Effective Date, (a) the Claims or rights of any holder of a Claim against the Debtors, including all indentures and notes evidencing such Claims, and (b) any Equity Interest in TER and TER Holdings, in each case, shall be cancelled and of no force or effect. The Second Lien Indenture Trustee shall maintain any charging lien such Second Lien Indenture Trustee may have for any fees, costs and expenses under the Second Lien Indenture or other agreements executed in connection therewith to the extent the foregoing are approved by the Court until all such fees, costs and expenses are paid pursuant to the Plan or otherwise.

27. Release of Liens, Claims and Equity Interests. Except as otherwise provided in the Plan, in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or this Order, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Debtors' estates shall be fully released, terminated, extinguished and discharged, in each case



Page: 41  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any entity. Any entity holding such Liens or interests shall, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Reorganized Debtors such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Reorganized Debtors.

28. Resolution of Disputed Claims. Except as otherwise ordered by this Court, any Claim that is not an Allowed Claim shall be determined, resolved or adjudicated in accordance with the terms of this Order and the Plan, including without limitation, Section 7 of the Plan, which terms are hereby approved.

29. Second Lien Note Claims Deemed Allowed. The Second Lien Note Claims against each of the Debtors (other than TER Management Co., LLC and TER Development Co. LLC) are hereby Allowed in the aggregate principal amount of approximately \$1,248,968,669 as of the Commencement Date plus accrued and unpaid interest of approximately \$76,866,692.55 as of the Commencement Date.

30. Assumption or Rejection of Executory Contracts and Unexpired Leases.

(a) General Treatment. As of, and subject to the occurrence of the Effective Date, and subject to Section 8.2 of the Plan, all executory contracts and unexpired leases (including, in each case, any related amendments, supplements, consents, estoppels, or ancillary agreements) to which any of the Debtors are parties are hereby assumed except for an executory contract or unexpired lease that (i) previously has been assumed or rejected pursuant to Final

Page: 42

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Order of the Bankruptcy Court, (ii) is specifically designated by the Ad Hoc Committee or the Debtors (with the consent of the Ad Hoc Committee), as a contract or lease to be rejected on the Schedule of Rejected Contracts in the Plan Supplement, or (iii) is the subject of a separate (a) assumption motion filed by the Debtors, with the Ad Hoc Committee's consent, or (b) rejection motion filed by the Debtors, with the Ad Hoc Committee's consent, under section 365 of the Bankruptcy Code prior to the Confirmation Date.

(b) Cure of Defaults. Except to the extent that different treatment has been agreed to by the non-debtor party or parties to any executory contract or unexpired lease to be assumed pursuant to the Plan, the Ad Hoc Committee or the Debtors (with the consent of the Ad Hoc Committee) have, pursuant to the provisions of sections 1123(a)(5)(G) and 1123(b)(2) of the Bankruptcy Code and consistent with the requirements of section 365 of the Bankruptcy Code, filed and served the Schedule of Rejected Contracts attached as Exhibit J the Plan Supplement and the *Notice of Filing of Schedule of Executory Contracts and Unexpired Leases To Be Assumed Under the Modified Sixth Amended Joint Plan of Reorganization Proposed By the Ad Hoc Committee of Holders of 8.5% Senior Secured Notes Due 2015 and the Debtors* [D.I. 1335] listing the cure amounts of all executory contracts or unexpired leases to be assumed. Such notice was adequate and proper and consistent with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules. No objections to such cure amounts were timely filed and all parties shall be forever barred, estopped and enjoined from disputing the cure amount and/or from asserting any Claim against the applicable Debtor or Reorganized Debtor arising under section 365(b)(1) of the Bankruptcy Code except as set forth in the schedule of cure amounts. The Ad Hoc

Page: 43

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Committee or the Reorganized Debtors shall retain their right to reject any of their executory contracts or unexpired leases that are subject to a dispute, including contracts or leases that are subject to a dispute concerning amounts necessary to cure any defaults, until the entry of a Final Order resolving such dispute.

(c) Assignment and Effect of Assumption and/or Assignment. The Debtors' assumption of executory contracts and unexpired leases as of the Effective Date, as set forth in the Plan, is hereby approved. Any executory contract or unexpired lease assumed or assigned and assigned shall remain in full force and effect for the benefit of the Reorganized Debtors or assignee in accordance with its terms, notwithstanding any provision in such executory contract or unexpired lease (including those of the type described in sections 365(b)(2) of the Bankruptcy Code) that prohibits, restricts or conditions such assumption, transfer or assignment. Any provision that prohibits, restricts or conditions the assignment or transfer of any such executory contract or unexpired lease or that terminates or modifies such executory contract or unexpired lease or allows the counterparty to such executory contract or unexpired lease to terminate, modify, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon any such transfer and assignment constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

(d) Oracle Agreements. Notwithstanding any provision to the contrary in the Plan, this Order, and any implementing Plan Documents (including, but not limited to, Section 8.4 of the Plan), on and after the Effective Date, (a) nothing shall prevent any exercise by Oracle America, Inc. and/or its affiliates ("Oracle") of an otherwise valid and enforceable anti-

Page: 44

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

assignment provision, consent right or any other right under applicable law in any executory agreement between the Reorganized Debtors and Oracle, and (b) all rights of the Reorganized Debtors and Oracle under such executory agreements with respect to any assignment of any such executory agreements are specifically reserved.

(e) Survival of the Debtors' Indemnification Obligations. Any obligations of the Debtors pursuant to their corporate charters and bylaws or other organizational documents to indemnify current and former officers and directors of the Debtors with respect to all present and future actions, suits and proceedings against the Debtors or such directors and/or officers, based upon any act or omission for or on behalf of the Debtors shall be deemed and treated as executory contracts to be assumed by the Debtors hereunder.

(f) Insurance Policies. All insurance policies pursuant to which the Debtors have any obligations in effect as of the date of this Order shall be deemed and treated as executory contracts pursuant to the Plan and shall revert in the Reorganized Debtors.

(g) Casino Property Leases. All Casino Property Leases (as defined in the Plan) shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed as of the Effective Date by the respective Debtors and Reorganized Debtors and shall continue in full force and effect.

Page: 45

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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31. Payment of Statutory Fees. All fees due and payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Court shall be paid on the Effective Date, and thereafter as may be required.

32. Exemption From Transfer Taxes. Pursuant to section 1146(a) of the Bankruptcy Code, any transfer from a Debtor to a Reorganized Debtor or to any entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, distribution, transfer, or exchange of the New Term Loan, any debt, securities, or other interest in the Debtors or the Reorganized Debtors; (2) the creation, modification, consolidation, or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means; (3) the making, assignment, or recording of any lease or sublease; (4) the Marina Sale Agreement; or (5) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

Page: 46

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

33. Administrative Expense Claims Bar Date. Except as otherwise provided in the Plan, unless previously filed or paid, requests for payment of Administrative Expense Claims must be filed and served on the Reorganized Debtors no later than thirty (30) calendar days following the Effective Date or such other date as may be set by the Court (the “Administrative Expense Claims Bar Date”). *Holders of Administrative Expense Claims that are required to file and serve a request for payment of such Administrative Expense Claims that do not file and serve such a request by the Administrative Expense Claims Bar Date shall be forever barred, estopped and enjoined from asserting such Administrative Expense Claims against the Debtor or the Reorganized Debtor and property and such Administrative Expense Claims shall be deemed discharged as of the Effective Date.* All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Section 10 of the Plan. Objections to such requests must be filed and served on the Reorganized Debtors and the requesting party by the later of (a) one-hundred twenty (120) calendar days after the Effective Date and (b) sixty (60) calendar days after the filing of the applicable request for payment of Administrative Expense Claims, if applicable, as the same may be modified or extended from time to time by order of the Court.

34. Compensation and Reimbursement Claims. All entities seeking a final award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date pursuant to Sections 327, 328, 330, 331, 503(b) and 1103 of the Bankruptcy Code, (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses

Page: 47

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

incurred by the date that is forty-five (45) calendar days after the Effective Date, (ii) shall be paid in full, subject to the terms of the Final Cash Collateral Order and the DIP Financing Order, from the Debtors' or Reorganized Debtors' Cash on hand in such amounts as are allowed by the Bankruptcy Court (A) upon the later of (i) the Effective Date and (ii) the date upon which the order relating to any such Allowed Administrative Expense Claim is entered, or (B) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Administrative Expense Claim and the Debtors or, on and after the Effective Date, the Reorganized Debtors (in each case, with the consent of the Ad Hoc Committee). Such final fee applications shall also be served on each of the following parties no later than forty-five (45) days after the Effective Date: (i) McCarter & English, LLP, Four Gateway Center, Newark, NJ 07102, counsel for the Debtors (attn: Jeffrey T. Testa and Lisa S. Bonsall), (ii) Weil, Gotshal & Manges LLP, co-counsel for the Debtors (attn: Michael F. Walsh and Ted S. Waksman), (iii) Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038, co-counsel for the Ad Hoc Committee (attn: Kristopher M. Hansen and Erez E. Gilad), (iv) Lowenstein Sandler PC, 65 Livingston Avenue, Roseland, NJ 07068, co-counsel for the Ad Hoc Committee (attn: Kenneth A. Rosen and Jeffrey D. Prol), (v) Brown Rudnick LLP, Seven Times Square, New York, NY 10036, counsel for Icahn Partners (attn: Edward S. Weisfelner and Jeffrey L. Jonas), and (vi) the Office of the United States Trustee for the District of New Jersey (the "U.S. Trustee"), One Newark Center, Suite 2100, Newark, NY 07102 (attn: Jeffrey M. Sponder).

Page: 48

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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35. The Reorganized Debtors are authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Confirmation Date and until the Effective Date in the ordinary course and without the need for this Court's approval.

36. Examiner. The Examiner and the professionals retained by the Examiner pursuant to an order of this Court (the "Examiner Professionals") shall be released and discharged from their respective obligations in respect of these Reorganization Cases effective as of the Effective Date. The Examiner and the Examiner Professionals shall have no liability to any person or entity for any Claims for any acts taken or omitted to be taken in connection with, or related to, these Reorganization Cases. The Examiner and the Examiner Professionals are authorized to dispose of or destroy documents produced or acquired in connection with these Reorganization Cases.

37. Vesting of Assets in the Reorganized Debtors. On and after the Effective Date, all property and assets of the Debtors and their estates (including, without limitation, Causes of Action) and any property and assets acquired by the Debtors pursuant to the Plan or during the Reorganization Cases shall vest in each of the Reorganized Debtors free and clear of any and all Claims, liens, encumbrances, charges, Equity Interests and other interests other than the liens, pledges and security interests benefiting the First Lien Collateral Agent(s) and First Lien Lenders as described in and/or arising under this Order, the Amended and Restated Credit Agreement and the Loan Documents. Except as otherwise provided in the Plan or this Order, on and after the Effective Date, the Reorganized Debtors may (a) operate their businesses, (b) use, acquire, transfer and dispose of property, and (c) compromise or settle any Claims or Causes of



Page: 49  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

Action, in each case, without notice to, hearing before, supervision of or approval by this Court and free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules or Local Rules, in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code, including any and all actions to be taken to effectuate the Restructuring Transactions.

38. Discharge of Debtors. Except as otherwise expressly provided in the Plan or this Order, the rights afforded in the Plan and the payments and distributions to be made thereunder shall (i) be in exchange for and in complete satisfaction, settlement, discharge and release of all existing debts and Claims against and Equity Interests in the Debtors (other than the Dismissed Debtors) of any kind or nature whatsoever against the Debtors or any of its assets or properties, and regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests, and (ii) terminate all Equity Interests of any kind, nature or description whatsoever in TER, TER Holdings and the Debtor Subsidiaries, in each case to the fullest extent permitted by section 1141 and other applicable provisions of the Bankruptcy Code. Except as otherwise provided by the Plan or in this Order, upon the Effective Date, the Debtors and their estates shall be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all claims of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

39. Except as otherwise expressly provided in the Plan or in this Order, all persons or entities who have held, now hold, or may hold Claims against any of the Debtors

Page: 50

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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(other than the Dismissed Debtors) or Equity Interests in TER or TER Holdings, and all other parties in interest, along with their respective present and former employees, agents, officers, directors, principals and affiliates, are permanently enjoined from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to such Claim against the Debtors (other than the Dismissed Debtors) or the Reorganized Debtors or Equity Interest in TER or TER Holdings, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors or the Reorganized Debtors, (iii) creating, perfecting or enforcing any encumbrance of any kind against the Debtors (other than the Dismissed Debtors) or the Reorganized Debtors or against the property or interests in property of the Debtors (other than the Dismissed Debtors) or the Reorganized Debtors, or (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtors (other than the Dismissed Debtors) or the Reorganized Debtors, with respect to such Claim against any of the Debtors (other than the Dismissed Debtors) or Equity Interest in TER or TER Holdings. Such injunction shall extend to any successors of the Debtors (other than the Dismissed Debtors) and Reorganized Debtors and their respective properties and interest in properties.

40. Releases and Exculpations. Based on the Confirmation Opinion and the record of these Reorganization Cases, the release and exculpation provisions set forth in the Plan, including but not limited to those set forth in Sections 10.5 and 10.6 of the Plan, are fair and equitable and given for valuable consideration and are in the best interests of the Debtors and all parties-in-interest, and, accordingly, are hereby authorized, approved and shall be effective

Page: 51  
In re: TCI 2 HOLDINGS, LLC, *et al.*  
Case No: 09-13654 (JHW)  
Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

without further notice, approval of this Court or any other action upon the occurrence of the Effective Date.

41. Injunctions. Based on the Confirmation Opinion and the record of these Reorganization Cases, the injunctions contained in the Plan, including but not limited to those set forth in Sections 10.4 and 10.7 of the Plan, are hereby authorized, approved and shall be effective without further notice, approval of this Court or any other action. Except as otherwise expressly provided in the Plan or this Order, upon the Effective Date, all persons or entities who have held, hold or may hold Claims or Equity Interests and all other parties in interest, along with their respective present and former employees, agents, officers, directors, principals and affiliates, are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Equity Interest against the Debtors or Reorganized Debtors, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors or Reorganized Debtors, (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors or Reorganized Debtors or against the property or interests in property of the Debtors or Reorganized Debtors, or (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtors or Reorganized Debtors or against the property or interests in property of the Debtors or Reorganized Debtors, with respect to any such Claim or Equity Interest. The terms of such injunction shall extend to any successors of the Debtors and Reorganized Debtors and their respective properties and interest in properties.

Page: 52

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

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42. In addition, upon entry of this Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

43. Terms of Injunctions or Stays. Unless otherwise expressly provided in the Plan or this Order to the contrary, all injunctions or stays arising under or entered during the Reorganization Cases under section 105 or 362 of the Bankruptcy Code or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

44. Nothing in this Order, (including, without limitation, paragraphs 41 through 43 hereof) shall constitute a waiver of or impair any of the First Lien Collateral Agent(s)' and First Lien Lenders' rights and remedies as a secured creditor including, without limitation, under the Final Cash Collateral Order, the DIP Financing Order the Bankruptcy Code or applicable law, and all such rights and remedies shall be expressly preserved.

45. Retention of Causes of Action/Reservation of Rights. In accordance with Section 10.8 of the Plan, nothing contained in the Plan or this Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or the Reorganized Debtors may have or which the Reorganized Debtors may choose to assert on behalf of their respective estates under any provision of the Bankruptcy Code or any applicable non-bankruptcy law or rule, common law equitable principle or other source of right or obligation, including, without limitation, (i) any and all Claims or Causes of Action against any

Page: 53

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

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person or entity, to the extent such person or entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, the Reorganized Debtors, their officers, directors, or representatives and (ii) any and all Claims for the turnover of any property of the Debtors' estates provided that this paragraph shall not apply to Claims released in Sections 10.5 and 10.6 of the Plan; *provided, however*, that Section 10.8 of the Plan shall not apply to any claims released in Sections 10.5 and 10.6 in the Plan; *provided further, however*, that to the extent that any avoidance actions arising under Chapter 5 of the Bankruptcy Code are pursued by the Debtors or the Reorganized Debtors (as applicable) and result in any net proceeds, such net proceeds shall be distributed to holders of Second Lien Note Claims and General Unsecured Claims based on their Pro Rata Share in accordance with the Plan.

46. Nothing contained in the Plan or this Order shall be deemed to be a waiver or relinquishment of any claim, Cause of Action, right of setoff, or other legal or equitable defense that the Debtors had immediately prior to the Commencement Date, against or with respect to any Claim left unimpaired by the Plan. Notwithstanding the occurrence of the Effective Date, the Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such Claims, Causes of Action, rights of setoff, and other legal or equitable defenses which the Debtors had immediately prior to the Commencement Date fully as if the Reorganization Cases had not been commenced, and all of the Reorganized Debtors' legal and equitable rights respecting any Claim left unimpaired by the Plan may be asserted after the Confirmation Date to the same extent as if the Reorganization Cases had not been commenced. Paragraphs 45 and 46

Page: 54

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

---

hereof are, in all respects, subject to the terms and conditions of the Final Cash Collateral Order and the DIP Financing Order.

47. No person may rely on the absence of a specific reference in the Plan, Plan Documents, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Ad Hoc Committee will not pursue any and all available Causes of Action against them.

48. Notice of Entry of Confirmation Order. On or before the date that is ten (10) days after entry of this Confirmation Order, the Debtors shall serve by first class mail a notice of the entry of this Confirmation Order (the "Confirmation Notice"), to each of the following at their respective addresses last known to the Debtors: (i) the U.S. Trustee, (ii) the attorneys for the Ad Hoc Committee, (iii) the attorneys for Beal Bank, (iv) the attorneys for Icahn Partners, (v) the attorneys for the DJT Parties, (vi) all parties entitled to notice pursuant to this Court's *Order Establishing Notice Procedures*, dated February 18, 2009 [D.I. 39], establishing notice procedures in these chapter 11 cases, (vii) the Securities and Exchange Commission and the District Director of the Internal Revenue Service, (viii) all persons or entities listed in the Debtors' schedules of assets and liabilities, or any amendments thereto, (ix) all counterparties to executory contracts and unexpired leases to be assumed pursuant to the Plan and (x) any other known holders of Claims against or Equity Interests in the Debtors. Such service shall constitute good and sufficient notice pursuant to Bankruptcy Rule 2002 and 3020(c) of the confirmation of the Plan and entry of this Confirmation Order.

Page: 55

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

Caption: FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING SUPPLEMENTAL MODIFIED SIXTH AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE AD HOC COMMITTEE OF HOLDERS OF 8.5% SENIOR SECURED NOTES DUE 2015 AND THE DEBTORS

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49. Reversal or Modification of Order. Notwithstanding anything contained in the Plan to the contrary, and except as otherwise provided in this Order, if any or all of the provisions of this Order are hereafter reversed, modified, vacated or stayed by subsequent order of this Court, or any other Court of competent jurisdiction, such reversal, stay, modification, vacatur shall not affect the validity or enforceability of any act, obligation, indebtedness, liability, priority, or lien incurred or undertaken by the Debtors or the Reorganized Debtors, as applicable, prior to the date that the Debtors received actual written notice of the effective date of such reversal, stay, modification or vacatur. Notwithstanding any reversal, stay, modification or vacatur of this Order, any such act or obligation incurred or undertaken pursuant to, or in reliance on, this Order prior to the date that the Debtors received actual written notice of the effective date of such reversal, stay, modification or vacatur shall be governed in all respects by the provisions of this Order and the Plan, or any amendments or modifications thereto, in effect prior to the date that the Debtors received such actual written notice.

50. Final Order. This Order is a final order.

51. Effect of Failure of Conditions to Effective Date. Notwithstanding anything in the Plan or this Order to the contrary, the First Lien Lenders shall be entitled to receive, prior to the Effective Date, prior notice of the waiver or modification of any of the conditions precedent to the Effective Date contained in the AHC/Debtor Plan, and the First Lien Lenders shall have a reasonable opportunity to the extent practicable to object and be heard by the Court on an expedited basis, if necessary. Notwithstanding anything contained in the Plan to the contrary, if the Effective Date does not occur on or before the date that is one hundred eighty

Page: 56

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

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(180) days after the Confirmation Date (or such later date as may be determined by the Ad Hoc Committee and the Debtors), (i) no distributions under the Plan shall be made, (ii) the Debtors and all holders of Claims and Equity Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred and (iii) all of the Debtors' obligations with respect to the Claims and Equity Interests shall remain unchanged and nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtors or any other entity or to prejudice in any manner the rights of the Debtors, the Ad Hoc Committee, or any other entity in any further proceedings involving the Debtors or otherwise, except that the First Lien Agent(s) and the First Lien Lenders shall continue to have the rights, remedies and benefits as set forth in the Final Cash Collateral Order and the DIP Financing Order.

52. Substantial Consummation. On the Effective Date, the Plan shall be deemed to be substantially consummated pursuant to sections 1101 and 1127 of the Bankruptcy Code.

53. Severability. Each term and provision of the Plan, as it may have been altered or interpreted by this Court, is valid and enforceable pursuant to its terms. The failure to specifically include any particular provision of the Plan or the Plan Documents in this Order will not diminish the efficacy or effectiveness of such provision, it being the intent of this Court that the Plan is confirmed in its entirety, and it and the Plan Documents are incorporated herein by this reference. Each of the provisions of this Order are non-severable and mutually dependent.



Page: 57

In re: TCI 2 HOLDINGS, LLC, *et al.*

Case No: 09-13654 (JHW)

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54. Conflicts Between the Confirmation Opinion, the Confirmation Order and Plan. As set forth above, in the event of any conflict between the Confirmation Opinion and this Order, the Confirmation Opinion shall govern. To the extent of any conflict between the Plan and the Confirmation Opinion, the Confirmation Opinion shall govern. To the extent of any inconsistency between the provisions of the Plan or the Plan Documents and this Order, the terms and conditions contained in this Order shall govern. The provisions of this Order and the Plan are integrated with each other and are nonseverable and mutually dependent unless expressly stated by further order of this Court.

55. Retention of Jurisdiction. This Court may properly, and upon the Effective Date shall, to the extent authorized by law, retain jurisdiction over the matters arising in and under, and related to, the Reorganization Cases, as set forth in Section 11 of the Plan and section 1142 of the Bankruptcy Code.

**Exhibit A**

**Plan**

**Exhibit B**

**Redline of Plan**

**Exhibit C**

**Redline of Form of Amended and Restated Credit Agreement**

**Exhibit D**

**Form of Amended and Restated Credit Agreement**

**Clean Version**

## General Information

<b>Court</b>	United States Bankruptcy Court for the District of New Jersey; United States Bankruptcy Court for the District of New Jersey
<b>Docket Number</b>	1:09-bk-13654
<b>Status</b>	CLOSED