IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	**: Chapter 11**
TRUMP ENTERTAINMENT RESORTS, INC., et al.,[1]	**: Case No. 14–12103 (KG)**
	: Jointly Administered
Debtors.	**: Ref. Docket Nos. 111 and 112**

DEBTORS' OBJECTION TO TRUMP AC CASINO MARKS, LLC'S MOTION FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY RULE 9006(c) AND LOCAL RULE 9006-1(e) SHORTENING THE TIME FOR NOTICE OF THE HEARING TO CONSIDER ITS MOTION FOR AN ORDER MODIFYING THE AUTOMATIC STAY PURSUANT TO 11 § U.S.C. 362(d) TO ALLOW TERMINATION OF A LICENSE AGREEMENT WITH THE DEBTORS

Trump Entertainment Resorts, Inc. ("**TER**") and its above-captioned affiliated debtors and debtors in possession (each, a "**Debtor**," and collectively, the "**Debtors**") hereby submit this objection (this "**Objection**") to *Trump AC Casino Marks, LLC's Motion for Entry of an Order Pursuant to Bankruptcy Rule 9006(c) and Local Rule 9006-1(e) Shortening the Time for Notice of the Hearing to Consider Its Motion for an Order Modifying the Automatic Stay Pursuant to 11 § U.S.C. 362(d) to Allow Termination of a License Agreement with the Debtors* [Docket No. 112] (the "**Motion to Shorten**"). In opposition to the Motion to Shorten, the Debtors respectfully state as follows:

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

PRELIMINARY STATEMENT

1. There is simply no basis to warrant shortening the applicable notice periods such that the *Motion for an Order Modifying the Automatic Stay Pursuant to 11 § U.S.C. 362(d) to Allow Termination of a License Agreement with the Debtors* [Docket No. 111] (the "**Stay Relief Motion**")[2] of Trump AC Casino Marks, LLC ("**Trump AC**") should be heard on shortened notice, and as such, the Motion to Shorten should be denied. Trump AC has run to the Court with a purported emergency that it claims justifies shortening a twenty-one day notice period to twelve days before the requested hearing date of October 6, 2014 (*i.e.*, a mere seven business days between now and the hearing, two of which are intervening Jewish holidays) for a motion that seeks relief from the automatic stay to terminate an executory contract with the Debtors—an extraordinary tactic under any circumstance, and most certainly here since, as of the filing of the Motion to Shorten, these chapter 11 cases had been pending for only fifteen days.

2. In doing so, Trump AC has blatantly disregarded Rule 4001-1(b) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), which requires Trump AC to obtain a hearing date from the Court for the Stay Relief Motion since the first omnibus hearing date subsequent to the filing of the Stay Relief Motion that provides sufficient notice in accordance with Local Rule 9006-1(c) (*i.e.*, the November 5, 2014 omnibus hearing) is not within thirty days of the filing of the Stay Relief Motion. Rather than obtaining or requesting a hearing date that satisfies the notice requirements of the Local Rules (and is within thirty days of the filing of the Stay Relief Motion), Trump AC instead filed the Motion to Shorten, forcing the Debtors to file this

[2] The Debtors and their estates reserve any and all rights with respect to the relief requested in the Stay Relief Motion, and nothing herein is intended or shall be deemed to impair, prejudice, waive or otherwise affect such rights.

Objection on an expedited basis, at a time when the Debtors' resources are surely best spent attending to numerous other tasks and deadlines in these chapter 11 cases.

3. Indeed, within approximately two hours after the Motion to Shorten was filed, the Debtors advised counsel for Trump AC that the Court had granted another party seeking relief from the automatic stay permission to schedule its stay relief motion for a hearing on October 17, 2014, which would afford sufficient notice to the Debtors and other parties in interest in these chapter 11 cases, including the Creditors' Committee, which was appointed only one day prior to the filing of the Motion to Shorten. Unfortunately, Trump AC declined the Debtors' request and remains committed to ploughing forward with its misguided effort to have the Stay Relief Motion needlessly heard on an expedited basis.

4. Moreover, Trump AC's justification for shortened notice is the alleged irreparable harm that Trump AC has suffered, and will continue to suffer, each day that the Debtors' are permitted to continue to use certain trademarks, service marks, names, domain names and related intellectual property licensed to the Debtors under the Trademark License Agreement (as defined below). Trump AC, however, has not demonstrated, and cannot demonstrate, that it has suffered any harm as a result of the Debtors' alleged defaults under the Trademark License Agreement, that justifies expedited consideration of the Stay Relief Motion, particularly at this critical stage of these chapter 11 cases. As support for its assertion that it has been, and will continue to be, irreparably harmed in a manner sufficient to demonstrate cause for expedited consideration of the Stay Relief Motion, Trump AC points to the Debtors' closure of the Plaza—which was announced well before the Petition Date—and the Debtors' motion to establish procedures for the Debtors to sell certain miscellaneous assets as damaging the goodwill allegedly associated with the Trademark License Agreement. These arguments in

support of shortening notice simply miss the mark, and do not even come close to constituting "cause" under Local Rule 9006-1.

5. The Debtors and other parties in interest in these chapter 11 cases, including the Creditors' Committee and the First Lien Agent, should be afforded a reasonable period of time to fully respond to the arguments raised in the Stay Relief Motion, particularly because there is absolutely no need for an emergency hearing on the relief requested therein. Therefore, the Debtors respectfully request that the Court enter an order denying the Motion to Shorten.

BACKGROUND

A. General Background

6. On September 9, 2014 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "**Bankruptcy Code**").

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

8. No request has been made for the appointment of a trustee or examiner, and on September 23, 2014, the Office of the United States Trustee for the District of Delaware appointed the Committee of Unsecured Creditors (the "**Creditors' Committee**") in these chapter 11 cases.

9. Additional information about the Debtors' business and the events leading up to the Petition Date can be found in the *Declaration of Robert Griffin In Support of Debtors'*

Chapter 11 Petitions and First-Day Motions and Applications [Docket No. 2] (the "**First Day Declaration**"), which is incorporated herein by reference.

B. Relevant Background

10. In connection with the Debtors' emergence from the 2009 Cases, on July 16, 2010, each of TER, Trump Entertainment Resorts Holdings, L.P. ("**TER Holdings**") and certain of its subsidiaries (collectively, the "**Licensee Entities**") entered into the Second Amended and Restated Trademark License Agreement (the "**Trademark License Agreement**") with Donald J. Trump and Ivanka Trump (the "**Trump Parties**"), which amended and restated the previous trademark license agreement that the Debtors had entered into with Mr. Trump in 2005. Pursuant to the Trademark License Agreement, the Trump Parties granted, subject to certain terms and conditions, the Licensee Entities a perpetual royalty-free license to use certain trademarks, service marks, names, domain names and related intellectual property associated with the name "Trump" and the Trump Parties in connection with TER Holdings' casino and gaming activities related to the Company's three then-existing casino properties in Atlantic City, New Jersey. On July 1, 2011, the Licensee Entities entered into the First Amendment to the Trademark License Agreement, pursuant to which, among other things, the Trump Parties were replaced as "Licensors" with Trump AC. Upon information and belief, Trump AC is controlled by one or more of the Trump Parties.

11. On August 5, 2014, Trump AC commenced a lawsuit in state Superior Court in Atlantic County, New Jersey (Case No. C00005014), against the Debtors and the First Lien Agent (the "**DJT Action**") alleging various breaches of the Trademark License Agreement. Trump AC also seeks the imposition of a mandatory injunction to compel the Licensee Entities to cure the alleged breaches under the Trademark License Agreement or, in the alternative, a

declaratory judgment that the Trademark License Agreement has already terminated by reason of the alleged breaches.

12. The Debtors dispute the assertions made in the DJT Action and in the Stay Relief Motion. The termination of the Trademark License Agreement, or the entry of an injunction or similar order against any of the Licensee Entities, could cause irreparable harm to the Debtors by depriving them of the use of the Trump name and other intellectual property essential to their continuing operation. Termination of the Trademark License Agreement would also constitute an event of default under the First Lien Credit Agreement and might otherwise have an adverse impact on the Debtors' business and their chapter 11 efforts.

ARGUMENT

13. Trump AC contends that there are "exigent circumstances" warranting a shortened notice period with respect to the Stay Relief Motion. Motion to Shorten at ¶ 2. However, the Motion to Shorten does not articulate any exigency at all, and there is nothing unique about the DJT Action or the ongoing disputes between the Debtors and Trump AC that justifies Trump AC's last-minute rush to the Courthouse, on the eve of the Debtors' second-day hearing, to have its Stay Relief Motion heard on shortened notice at such hearing. Trump AC's actions represent nothing more than a litigation tactic and an attempt to bully the Debtors during a critical stage of these chapter 11 cases, a tactic which the automatic stay is intended to protect the Debtors from.

14. Absent the commencement of these chapter 11 cases and the automatic stay, a hearing on the Order to Show Cause in the DJT Action would have been held September 26, 2014. Any hearing on the Stay Relief Motion in accordance with the notice requirements of the Local Rules (as opposed to on shortened notice at the October 6th hearing) would be less than

thirty days after the hearing date for the Order to Show Cause. Given the importance to the Debtors of the automatic stay and the provisions of section 365 of the Bankruptcy Code pertaining to the Debtors' assumption and rejection of executory contracts, including the deadline to assume or reject such contracts, it is hard to understand how Trump AC will incur prejudice (to the extent that it is prejudiced at all) greater than the prejudice incurred by the Debtors when, less than thirty days after the Petition Date, the Debtors will be forced to respond, on an expedited basis, to a request to strip them of two of their significant and fundamental rights under the Bankruptcy Code. Furthermore, as the Stay Relief Motion readily acknowledges, the disputes between the parties regarding the Trademark License Agreement have been going on since at least early 2013 and do not represent a new development. Trump AC will have its day before the Court, but that day should come on appropriate notice to all parties, and in a manner that ensures that the Debtors' chapter 11 efforts are not jeopardized.

15. As set forth in the First Day Declaration, the Debtors intend to utilize these chapter 11 cases in order to, among other things, (i) protect the Debtors' estates from the potential adverse impact to the Debtors' business resulting from certain third-party litigation, (ii) restructure outstanding indebtedness and claims, (iii) seek to preserve the value of certain executory contracts that the Debtors may elect to assume, (iv) attempt to address their cost structure by, among other things, reducing their labor costs, and (v) maximize value for the benefit of the Debtors' estates. The automatic stay is essential to this process; without it, the Debtors' management and professionals would be tied up in litigation with individual creditors such as Trump AC, rather than focusing on maximizing and preserving the value of their estates. *See In re W.R. Grace & Co.*, Case No. 01-01139 (JKF), 2007 Bankr. LEXIS 1214, *10 (Bankr. D. Del. Apr. 13, 2007) (denying relief from stay to pursue litigation that would be "a distraction

from the reorganization process"). Accordingly, any hearing on a request for relief from the automatic stay should not be taken lightly, particularly at this stage of these chapter 11 cases, and certainly should not happen in the expedited manner requested by Trump AC.

16. As stated above, the only justification offered by Trump AC for the expedited relief is that the Trump Parties allegedly have suffered harm, and will continue to allegedly suffer harm, to their reputation and goodwill each day that the Debtors are permitted to continue to use the license associated with the Trademark License Agreement. The problem is, Trump AC has been aware of the Debtors' chapter 11 cases for fifteen days now, and by all accounts, the possibility that the Debtors would be filing for chapter 11 protection was well publicized prior to the Petition Date. Nevertheless, Trump AC chose to wait until the eve of the second-day hearing to allege this sudden emergency, which is of its own making.

17. Such contrived "emergency" comes at a time when the Debtors are working diligently to, among other things: (i) continue negotiations with their largest union, Local 54, in an effort to achieve necessary expense reductions; (ii) comply with the milestones in the interim cash collateral order to ensure, among other things, that the Debtors have access to the cash necessary to fund these chapter 11 cases; (iii) get the Creditors' Committee up to speed on the Debtors' efforts since the Petition Date and their strategy for the prosecution of these chapter 11 cases; (iv) stabilize the Debtors' vendor base; (v) evaluate and resolve requests for additional adequate assurance of future payment from the Debtors' utility companies; (vi) resolve multiple informal objections received to date to entry of a final order approving the Debtors' use of cash collateral (as well as any other informal or formal objections that the Debtors might receive to the entry of final orders on certain of the Debtors' other first day pleadings, as well as the various second-day pleadings also scheduled for the October 6th second-

day hearing); (vii) prepare their schedules of assets and liabilities and statements of financial affairs; and (viii) address the myriad of administrative issues attendant to the commencement of these chapter 11 cases.

18. Among the most curious statements in the Motion to Shorten is the assertion that the Debtors will suffer no prejudice if the Motion to Shorten is granted. Motion to Shorten at ¶ 7. It is difficult to understand how Trump AC can say this with a straight face when, as set forth above, the Debtors are presently focused on numerous tasks that are critical to the success of these chapter 11 cases and the Debtors' efforts to preserve and maximize the value of their estates, for the benefit of *all* creditors. As will be further set forth in the Debtors' objection to the Stay Relief Motion, granting relief from the automatic stay to terminate the Trademark License Agreement would prove detrimental to the Debtors' estates and creditors, and benefit no one other than Trump AC (to the extent that it benefits Trump AC at all).

19. Finally, prior to the filing of this Objection, the Debtors have consulted with counsel for the Creditors' Committee and the First Lien Agent regarding the Motion to Shorten, and both parties support this Objection.

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CONCLUSION

Any hearing on the Stay Relief Motion should be on appropriate notice, having given the Debtors (and all parties in interest) the opportunity to develop the factual record and present their case to the Court. Based upon the failure of Trump AC to demonstrate cause to shorten notice, and the substantial prejudice to be suffered by the Debtors and their estates if the Debtors are forced to respond to the contentions in the Stay Relief Motion on shortened notice, the Debtors respectfully request that that the Motion to Shorten be denied.

Dated: September 25, 2014
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Robert F. Poppiti, Jr.
Matthew B. Lunn (No. 4119)
Robert F. Poppiti, Jr. (No. 5052)
Ian J. Bambrick (No. 5455)
Ashley E. Markow (No. 5635)
Rodney Square
1000 N. King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

-and-

STROOCK & STROOCK & LAVAN LLP
Kristopher M. Hansen
Curtis C. Mechling
180 Maiden Lane
New York, New York 10038-4982
Telephone: (212) 806–5400
Facsimile: (212) 806-6006

Counsel for the Debtors and Debtors in Possession