

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

-----X		
In re:)	Chapter 11
)	
SPORTS AUTHORITY HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 16-10527 (MFW)
)	
Debtors.)	(Jointly Administered)
)	
)	Hearing Date: April 26, 2016, at 11:30 a.m.
)	Obj. Deadline: April 19, 2016, at 12:00 p.m.
-----X		

**MOTION OF KIMCO REALTY CORPORATION
FOR ENTRY OF AN ORDER COMPELLING DEBTORS TO PAY MARCH 2016
STUB RENT FOR CLOSING STORES AS ADEQUATE PROTECTION FOR
DEBTORS' POSTPETITION USE OF KIMCO'S PROPERTIES**

Kimco Realty Corporation and certain of its affiliates (collectively, "Kimco"), by its attorneys, hereby submits this *Motion for Entry of an Order Compelling the Debtors to Pay March 2016 Stub Rent for Closing Stores as Adequate Protection for the Postpetition Use of Kimco's Properties* (the "Motion"), and respectfully states as follows:

1. Kimco is landlord to the Debtors pursuant to certain leases for non-residential real property (the "Kimco Leases").² With over twenty leases, Kimco is one of the Debtors' largest landlords.
2. On March 2, 2016 (the "Petition Date"), the Debtors each filed voluntary petitions for relief under chapter 11, title 11 of the United States Code (the "Bankruptcy Code").
3. The Debtors' first day motions included a motion for approval of post-petition financing (ECF No. 20) (the "DIP Motion"), as well as a procedures and sale motion (ECF No.

¹ The above-captioned debtors in these proceedings (collectively, the "Debtors") and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings, Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The Debtors' headquarters is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.

² The Kimco Leases and related documentation are voluminous and, therefore, have not been attached to this Joinder. Kimco will provide copies of the Kimco Leases and related documentation to this Court and parties in interest upon request.

106) (the “Sale Motion”), and a store closing (“GOB”) sales motion (ECF No. 15) (the “GOB Motion”).

4. On March 22, 2016, certain landlords of the Debtors filed a joint motion requesting adequate protection for the Debtors’ continued use of the landlords’ property outside of the ordinary course of business as the Debtors conduct GOB sales at certain locations (the “GOB Stores”), and liquidate their secured lenders’ collateral (ECF No. 709).

5. On March 23, 2016, the Debtors filed an Objection to the landlords’ motion, declaring that the Debtors do “not intend to pay stub rent on a current basis, and to the extent such parties have valid administrative expense claims they will be addressed through the assumption and assignment process, or plan confirmation.” (ECF No. 721, at 3.)

6. To date, the Debtors have not assumed or rejected any of the Kimco Leases. Moreover, the Debtors have continued to use and occupy properties subject to the Kimco Leases since the Petition Date, but have failed to make the payments owed to Kimco under the Kimco Leases.

7. Accordingly, by this Motion, Kimco is requesting that the Debtors immediately pay the prorated March 2016 rent (the “Stub Rent”) owed to Kimco for the Debtors’ use and occupancy of the GOB Stores that are subject to the Kimco Leases from March 2 through March 31, 2016, in the amounts reflected on Exhibit 1 attached hereto.

8. Section 363(e) of the Bankruptcy Code provides as follows:

Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest.

11 U.S.C. § 363(e). “Section 363(e) reserves for bankruptcy courts the discretion to condition the time, place and manner of GOB sales, thereby providing adequate safeguards to protect

shopping center landlords and their other tenants, while allowing the Trustee to fulfill its fiduciary obligations.” *In re Ames Dep’t Stores, Inc.*, 136 B.R. 357, 359 (Bankr. S.D.N.Y. 1992).

9. Pursuant to Section 361 of the Bankruptcy Code, adequate protection may be provided by (1) requiring the Debtors to make an upfront cash payment or periodic cash payments, (2) granting additional or replacement liens, or (3) granting alternative relief, other than an administrative claim under Section 503(b)(1) of the Bankruptcy Code, “as will result in the realization by such entity of the indubitable equivalent of such entity’s interest in such property.” 11 U.S.C. § 361 (1)-(3). Adequate protection, therefore, may not take the form of a deferred administrative claim, as the Debtors have purported to provide to Kimco and other landlords.

10. As a result, this Court should order the Debtors to pay immediately the Stub Rent owed to Kimco for the Debtors’ use and occupancy of the GOB Stores that are subject to the Kimco Leases as adequate protection for the Debtors’ postpetition use of the properties under 11 U.S.C. §§ 363(e) and 361.

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WHEREFORE, Kimco respectfully requests that this Court enter an order (i) granting this Motion, (ii) directing the Debtors to immediately pay to Kimco the Stub Rent shown on Exhibit 1 hereto, and (iii) granting such other and further relief as the Court deems just and proper.

Dated: April 1, 2016

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

/s/ Jody C. Barillare _____

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Attorneys for Kimco Realty Corporation

EXHIBIT 1**STUB RENT FOR KIMCO LEASES**

Store No.	Kimco Entity & Store Location	Stub Rent
455	Brandywine Commons LLC 1100 Rocky Run Pkwy Wilmington, DE 19803	\$40,913.24
462	PL Wayne, LLC 81 Willowbrook Blvd Wayne, NJ 07470	\$82,699.97
492	Smithtown Venture Limited Liability Company 124 Veterans Memorial Highway Commack, NY 11725	\$69,106.62
514	Talisman Towson Limited Partnership 1238 Putty Hill Ave. Towson, MD 21286	\$53,023.26 ³
752	Cave Springs Center 840, LLC 4025 Veterans Memorial Pkwy St. Peters, MO 63376	\$36,665.71
792	Kimco Riverview, LLC 1812 W. Rio Saldo Pkwy Mesa, AZ 85201	\$61,391.75 ⁴

³ The Debtors also owe Kimco for CAM Reconciliation billed subsequent to the Petition Date in the amount of \$14,585.79.

⁴ The Debtors also owe Kimco for RET Reconciliation and related Sales Tax billed subsequent to the Petition Date in the amount of \$58,612.00.

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**NOTICE OF MOTION OF KIMCO REALTY CORPORATION
FOR ENTRY OF AN ORDER COMPELLING DEBTORS TO PAY MARCH 2016
STUB RENT FOR CLOSING STORES AS ADEQUATE PROTECTION FOR
DEBTORS' POSTPETITION USE OF KIMCO'S PROPERTIES**

PLEASE TAKE NOTICE that a hearing will be held before the Honorable Mary F. Walrath, United States Bankruptcy Judge, on April 26, 2016 at 11:30 a.m. (the "Hearing") in Courtroom 4 of the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), 824 N. Market Street, 5th Floor, Wilmington, DE 19801, or as soon thereafter as counsel can be heard, to consider the Motion of Kimco Realty Corporation (the "Movant") for *Entry of an Order Compelling the Debtors to Pay March 2016 Stub Rent for Closing Stores as Adequate Protection for the Postpetition Use of Kimco's Properties* (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be made in writing, stating in detail the reasons therefore, and must be filed with the Clerk of the Bankruptcy Court, with a paper copy delivered to the chambers of the Honorable Mary F. Walrath and served upon: (i) Movant's counsel, Morgan, Lewis & Bockius LLP, 101 Park

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Avenue, New York, NY 10178, Attn: Neil E. Herman, Esq., and (ii) all parties listed on Exhibit A hereto so as to be actually received by such party no later than 12:00 p.m. on April 19, 2016 (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that if no objections to the Motion are timely filed and served on or before the Objection Deadline, the Court may then grant the relief sought therein without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that the Hearing to consider the Motion may be adjourned from time to time, without further written notice to any party.

Dated: April 1, 2016

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

/s/ Jody C. Barillare _____

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Attorneys for Kimco Realty Corporation

EXHIBIT A

The Honorable Mary F. Walrath
United States Bankruptcy Judge
United States Bankruptcy Court
824 North Market Street, 5th Floor
New York, NY 19801

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Counsel to Bank of America, N.A.

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Benjamin W. Keenan, Esq.
Counsel to Bank of America N.A.

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FSB and certain Term Lenders*

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Counsel to Wells Fargo

O'Melveny & Myers LLP

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Attn: John J. Rapisardi, Esq.
Counsel to Certain Noteholders

KELLEY DRYE & WARREN LLP

101 Park Avenue
New York, NY 10178
Attn: Robert L. LeHane, Esq.;
Gilbert R. Saydah Jr., Esq.;
Scott L. Fleischer, Esq.
Counsel for DDR Corp, et al.

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**ORDER GRANTING MOTION OF KIMCO REALTY CORPORATION
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Upon consideration of the *Motion for Entry of an Order Compelling the Debtors to Pay March 2016 Stub Rent for Closing Stores as Adequate Protection for the Postpetition Use of Kimco's Properties* (the "Motion") filed by Kimco Realty Corporation and certain of its affiliates (collectively, "Kimco"), and this Court having found that it has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of Debtors' estates, their creditors, and other parties in interest; and notice of the Motion and the opportunity for a hearing on the Motion was proper and appropriate under the particular circumstances; and this Court having reviewed the Motion and having considered the statements in support of the relief requested therein; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein,

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IT IS HEREBY ORDERED THAT:

1. The Motion and its related request for adequate protection is GRANTED; and
2. Pursuant to 11 U.S.C. §§ 361 and 363(e), the Debtors are directed to pay immediately (in no case later than one business day following entry of this Order) to Kimco the Stub Rent (as defined in the Motion) shown on Exhibit 1 hereto. The Debtors shall not make any payments of any type to their secured creditors (or any affiliates), or make any payments on account of any secured debt, until they have paid all of the Stub Rent to Kimco (via wire transfer or by check with such funds having cleared their bank); and
3. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: April ___, 2016
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1**Stub Rent for Kimco Leases**

Store No.	Kimco Entity & Store Location	Stub Rent
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