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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: RANDALL'S ISLAND FAMILY GOLF CENTERS, INC., et al., Debtors.	Chapter 11 Case Nos. 00 B 41065 (SMB) through 00 B 41196 (SMB) (Jointly Administered)

OBJECTION OF DEBTORS AND DEBTORS-IN-POSSESSION TO MOTION OF SYDNEY SALPIETRO FOR AN ORDER LIFTING THE AUTOMATIC STAY

TO THE HONORABLE STUART M. BERNSTEIN,
UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), for their objection (the "Objection") to the Motion (the "Motion") of Sydney Salpietro ("Salpietro") requesting an order lifting the automatic stay of section 362 of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), respectfully represent as follows:

Introduction

1. By her Motion, Salpietro is seeking relief from the stay in order to pursue personal injury claims against the Debtors in state court. Salpietro, however, has not shown that

cause exists to lift the stay. The state court action is in the early stages and, thus, Salpietro will not be prejudiced by a delay in pursuing that action. Granting the requested relief, on the other hand, would prejudice the Debtors by requiring them to address and analyze the legal and factual issues relating to this personal injury suit. To undertake this review and consider these issues in the early and most active stages of these chapter 11 cases, while so many other chapter 11 related activities are pending and the Debtors' businesses have yet to become stabilized, would be unduly burdensome to the Debtors, their estates and their employees. As a result, the Court should not grant Salpietro relief from the automatic stay.

Background

2. On or about January 5, 2000, Salpietro commenced an action against one of the Debtors, Family Golf Centers, Inc., in the Supreme Court of the State of New York, County of Suffolk. The case is titled Salpietro v. Family Golf Centers, Inc. (the "State Court Action") and arises out of an alleged personal injury suffered at the Sports Plus Lake Grove, owned by Lake Grove Family Golf Centers, Inc., one of the above-captioned Debtors.

3. On or about June 26, 2000, Salpietro filed the Motion seeking relief from the automatic stay so as to allow the State Court Action to proceed.

Argument

4. The importance of the automatic stay cannot be understated. "The Purpose of the automatic stay is to preserve

what remains of the Debtor's insolvent estate and to provide a systemic equitable liquidation procedure for all creditors . . . ." In re Holtkamp, 669 F.2d 505, 508 (7th Cir. 1982). As the Supreme Court has explained: "The automatic stay provision of the Bankruptcy Code, § 362(a), has been described as one of the most fundamental debtor protections provided by the bankruptcy laws." Midlantic Nat'l Bank v. New Jersey Dep't of Envtl. Protection, 474 U.S. 494, 503 (1986) (footnote and internal citations omitted).

5. Moreover, under section 362(d) of the Bankruptcy Code, the Court may only grant relief from the stay for "cause". In re Sonnax Indus., Inc., 907 F.2d 1280, 1287 (2nd Cir. 1990); In re Mazzeo, 167 F.3d 139, 142 (2nd Cir. 1999). Salpietro has not shown that cause exists for relief from the stay.

6. The Debtors operate over 100 different golf centers, ice skating facilities and family entertainment facilities. Predictably, the Debtors are defendants in numerous personal injury suits across the nation. The automatic stay is thus invaluable to the Debtors in allowing them to review the merits of theses various lawsuits, to estimate the amount of potential claims against the estate that may arise from such suits and to analyze the amount and extent of insurance coverage with respect to each claim. In order for the Debtors to administer these chapter 11 cases and their estates in an organized manner and to be certain that their estates are not overwhelmed by the pendency and prosecution of litigations taking place throughout the country, the Court should not permit

plaintiffs to obtain relief from the automatic stay so early in these cases.

7. Moreover, although Salpietro's motion suggests that she will seek to recover solely from the Debtors' insurance policies, that suggestion misses the point. First, there can be no dispute that the Debtors' insurance policies (and the proceeds thereof) are property of the estate. See In re Granite Partners, L.P., 194 B.R. 318, 336 (Bankr. S.D.N.Y 1996) (proceeds of insurance policies are property of the estate); In re Frenstrom Storage & Van Co., 938 F.2d 731, 735 (7th Cir. 1991) (same). Numerous lawsuits have already been filed against the Debtors and it is likely that others will seek to file suits. As such, if the stay is lifted and Salpietro prevails in the State Court Action, the amount of insurance proceeds available to other plaintiffs will be reduced. Ultimately, if other plaintiffs receive relief from the stay, the pool of insurance funds may be exhausted. This could result in the Debtors' estate being overwhelmed by personal injury claims.

8. Denying the Motion will not result in any significant prejudice to Salpietro. Salpietro's claims would not be extinguished; rather, Salpietro would simply have to wait until the Debtors are able to focus their attention on litigation matters and determine whether there is sufficient insurance coverage to satisfy all of the claims.[1]

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[1] This is not like the Sang-Ho Lee matter -- in which the Debtors consented to relief from stay –- where all pretrial activity was complete and a trial date was already set at the time of the commencement of the Debtors' chapter 11 cases. The State Court Action

Conclusion

Salpietro has not shown the existence of cause justifying relief from the stay, and has not shown that she will be prejudiced by the denial of her motion. On the other hand, the Debtors should not be required to distract their attention from their efforts to stabilize and restructure their businesses by defending such personal injury claims at this time.

For the reasons set forth above, the Debtors request that the Court deny the relief requested in the Motion.

Dated: New York, New York
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involved here is a relatively new matter, with an answer only recently having been filed.