

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

IN RE:)
) Case No. 21-13328-MER
SUMMIT FAMILY RESTAURANTS)
INC.)
) Chapter 11
) Subchapter V
Debtor.)

STATUS REPORT

The Debtor, Summit Family Restaurants Inc., by and through its attorneys, Kutner Brinen Dickey Riley, P.C., hereby submits its Status Report and states as follows:

BACKGROUND

1. The Debtor filed its Voluntary Petition pursuant to Subchapter V of Chapter 11 of the Bankruptcy Code on April 6, 2021 in the Bankruptcy Court for the District of Arizona under Case Number 21-02477-BKM. On June 23, 2021, venue of the case was transferred to the Bankruptcy Court for the District of Colorado.

2. Debtor operates the famous Casa Bonita restaurant, located at 6715 W. Colfax Avenue, Lakewood, Colorado 80214. Casa Bonita provides a unique dining and entertainment experience that features a Mexican-themed menu, cliff divers, stage shows, magicians, live music, three amusement arcades and a large gift shop. Casa Bonita has historically served as many as one million guests annually in one of the nation’s largest restaurants in terms of size (50,837 sq. ft.) and seating capacity (1,200 patrons). Depending on the season, Casa Bonita employees between 150 to 300 individuals.

3. Casa Bonita has been a Colorado landmark since 1974 and Debtor has operated Casa Bonita since 1997. Casa Bonita has consistently generated revenues in excess of 6 million dollars and has been profitable on annual basis through 2019. The COVID-19 pandemic forced Casa Bonita to close its doors in 2020. As Colorado worked its way through various restrictions on capacity, Casa Bonita remained closed for over one year. Simply put, until Casa Bonita could provide the total dining and entertainment experience, Casa Bonita could not viably reopen.

4. Since the State’s COVID restrictions have eased, the Debtor has been working to reopen Casa Bonita. In early May 2021, the arcade and gift shop were reopened. In late May 2021,

Casa Bonita's entertainment staff started providing free "backstage" tours on a daily basis during its normal business hours (Sundays through Thursdays 11AM to 9PM and on Fridays and Saturdays 11AM to 10PM). Menu service remains temporarily unavailable while its boiler system is repaired and requisite permits are obtained.

5. In late 2020, Debtor commenced work on Casa Bonita's boiler system that was damaged while Casa Bonita was closed. The boiler system drives Casa Bonita's power grid. Without an operational boiler system, Casa Bonita cannot provide power to its kitchen or hot water for its sanitary requirements.

6. Repair of the boiler system requires specialized assistance and components and was delayed by supply chain issues stemming from COVID. The boiler system repairs are expected to be finalized this week. After the boiler system repairs are complete, the boiler system must pass inspection. Then, Casa Bonita must pass final health and fire inspections to provide menu service. Casa Bonita expects to provide menu service in late July or early August, after all inspections are complete.

7. Debtor's bankruptcy case was caused by the state-mandated closure of the restaurant from COVID and due to a dispute with Casa Bonita's landlord, BSV Lamont JCRS LLC (the "Landlord"). When the Landlord moved to evict Casa Bonita, Debtor filed its case under Subchapter V in the Bankruptcy Court for the District of Arizona. As noted, the case was recently transferred to this Court.

OUTSTANDING ISSUES

Subchapter V Eligibility

8. On June 10, 2021, the Landlord filed its objection to the Debtor proceeding as a debtor under Subchapter V. Prior to the Debtor's deadline to file a response brief, the Arizona Court transferred venue to Colorado. In its Order for Transfer of Venue of Bankruptcy Case, the Arizona Court vacated all filing deadlines, subject to them being reset by this Court.

9. Because the case was initially pending in the District of Arizona, the Landlord's brief relies on some 9th Circuit case law. The Debtor asks the Court to set a deadline for the Landlord to file a supplemental brief to its objection within seven (7) days of the Court's Order and then give the Debtor seven (7) days thereafter to respond.

The Landlord's Motion for Administrative Claim

10. On April 28, 2021, the Landlord filed its Motion seeking an Administrative Expense claim. Debtor timely filed its response, and the Landlord timely replied. While the matter was fully briefed, the Arizona Court did not rule on the issue at the time it transferred venue.

11. As with the Subchapter V eligibility issue, the matter was briefed while the case was pending in the 9th Circuit. The Debtor, therefore, asks that the Court give both the Landlord and the Debtor fourteen (14) days to file supplemental briefs in this matter.

12. Additionally, the Debtor intends to move to assume its lease with the Landlord. Because the assumption issue is directly related to the Landlord's Motion for Administrative Claim, the Debtor asks the Court to set lease assumption and the administrative claim issue on the same track.

Cash Collateral

13. At the time the Petition was filed, the Debtor was not aware of any secured creditors. Since the Petition Date, Debtor discovered the Internal Revenue Service, the United States Small Business Administration and the Jefferson County Treasurer assert secured claims against the Debtor. While the Debtor's operations were funded exclusively by PPP funds, the Debtor did not believe it was using cash collateral of any of the secured creditors.

14. As the Debtor moves to reopen Casa Bonita, it will need authority to use any cash received from that operation. L.B.R. 2081-1 and 4001-2(b) are operational for the first twenty-one (21) days of the case. It is Debtor's position (a) L.B.R. 2081-1 and 4001-2(b) should apply here because venue in the case was transferred; and (b) because of the language of the Arizona Court's transfer order, the deadlines under L.B.R. 2081-1 and 4001-2(b) will not commence without further order from this Court. The Debtor seeks clarification on this point.

Subchapter V Plan

15. The Debtor filed its Subchapter V Plan of Reorganization on June 21, 2021 (the "Plan"). The Plan calls for scheduled repayment, in full, of all undisputed obligations.

16. The Plan's projections indicate Casa Bonita will commence menu service in late July. Given the delays in the boiler system repairs menu service may be unavailable until August. Accordingly, the Plan projections may need to be updated to reflect the change. However, any delays in menu service will have no material impact on the viability of the Plan. Debtor asks the

Court to set a deadline to amend the Plan with updated projections within 30-days of the status conference.

Administrative Matters

17. The Section 341 meeting of the Debtor was held on May 11, 2021. The Debtor has conferred with counsel for the United States Trustee's Office who agrees there is no need to set a new Section 341 meeting.

DATED: July 15, 2021

Respectfully submitted,

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CERTIFICATE OF MAILING

I do hereby certify that on the 15th day of July, 2021, a true and correct copy of the foregoing **STATUS REPORT** was deposited in the United States mail, proper postage prepaid, addressed to the following:

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