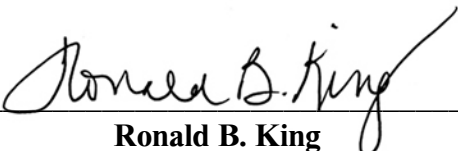




The relief described hereinbelow is SO ORDERED.

Signed February 24, 2017.

  
Ronald B. King  
Chief United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

In re: § Chapter 11  
BUFFETS, LLC, *et al.*<sup>1</sup> § Case No. 16-50557-rbk  
Debtors. § (Jointly Administered)

**ORDER (I) APPROVING THE AMENDED DISCLOSURE STATEMENT; (II) ESTABLISHING PROCEDURES FOR SOLICITATION AND TABULATION OF VOTES TO ACCEPT OR REJECT THE PLAN, INCLUDING (A) APPROVING FORM AND MANNER OF SOLICITATION PROCEDURES, (B) APPROVING THE FORM AND NOTICE OF THE CONFIRMATION HEARING, (C) ESTABLISHING RECORD DATE AND APPROVING PROCEDURES FOR DISTRIBUTION OF SOLICITATION PACKAGES, (D) APPROVING FORMS OF BALLOTS, (E) ESTABLISHING DEADLINE FOR RECEIPT OF BALLOTS, AND (F) APPROVING PROCEDURES FOR VOTE TABULATIONS; (III) ESTABLISHING DEADLINE AND PROCEDURES FOR FILING OBJECTIONS TO (A) CONFIRMATION OF THE PLAN, AND (B) PROPOSED ASSUMPTION OF CONTRACTS AND LEASES ASSUMED UNDER THE PLAN; AND (IV) GRANTING RELATED RELIEF**

Upon the Motion<sup>2</sup> of Buffets, LLC and its affiliated debtors and debtors-in-possession in the above-captioned cases (each a "Debtor," and collectively, the "Debtors") requesting entry of

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Buffets, LLC (2294); Hometown Buffet, Inc. (3002); OCB Restaurant Company, LLC (7607); OCB Purchasing, Co. (7610); Ryan's Restaurant Group, LLC (7895); Fire Mountain Restaurants, LLC (8003); and Tahoe Joe's, Inc. (7129). The address for all of the Debtors is 120 Chula Vista Drive, Hollywood Park, Texas 78232.

an Order pursuant to sections 1125 and 1126 of title 11 of the United States Code (the "Bankruptcy Code") Rules 2002, 3016, 3017 and 3020 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 3017 and 3018 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Western District of Texas (the "Local Rules") (i) approving the Disclosure Statement as amended; (ii) establishing procedures for solicitation and tabulation of votes to accept or reject the Plan, including (a) approving the form of the solicitation packages, (b) approving the form and manner of notice of the Confirmation Hearing, (c) establishing a record date and approving procedures for distributing solicitation packages, (d) approving the forms of ballots, (e) establishing the deadline for the receipt of ballots, and (f) approving procedures for tabulating acceptances and rejections of the Plan; (iii) establishing the deadline and procedures for filing objections to (a) confirmation of the Plan, and (b) proposed assumption of executory contracts and unexpired leases that may be assumed as part of the Plan; and (iv) granting related relief; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and that the legal and factual bases set forth in the Motion establish just

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<sup>2</sup> All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.

cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is:

ORDERED that the Motion is granted; and it is further

ORDERED that the Disclosure Statement, as amended, is approved as containing adequate information within the meaning of section 1125 of the Bankruptcy Code, and any objections to the adequacy of the information contained in the Disclosure Statement, as amended, not otherwise consensually resolved are overruled; and it is further

ORDERED that the Debtors shall mail or caused to be mailed to holders of Claims entitled to vote on the Plan no later than **March 2, 2017**, a solicitation package containing: (a) the Confirmation Hearing Notice; (b) the Plan; (c) the Disclosure Statement, as amended; (d) the appropriate ballot and ballot return envelope; and (e) such other information as the Court may direct or approve (collectively, the "Solicitation Package"). The Solicitation Package and the manner of service of the Solicitation Package satisfies the requirements of Bankruptcy Rule 3017(d); and it is further

ORDERED that the Debtors shall mail or cause to be mailed to each of the known counterparties to the Contracts and Leases a Confirmation Hearing Notice and the Disclosure Statement and Plan, as amended; and it is further

ORDERED that pursuant to Bankruptcy Rule 3017(d), the Debtors are not required to transmit a Solicitation Package to the Non-Voting Parties. By **March 2, 2017**, the Debtors shall mail or cause to be mailed to each Non-Voting Party the Non-Voting Creditor Notice; and it is further

ORDERED that **February 23, 2017** is established as the record date (the "Record Date") for the purposes of determining the creditors and interest holders entitled to receive the Solicitation Package or the Non-Voting Creditor Notice and to vote on the Plan; and it is further

ORDERED that Donlin, Recano & Company ("Donlin" or the "Balloting Agent") shall tabulate the ballots and certify to the Court the results of the balloting; and it is further

ORDERED that the Debtors are permitted to dispense with the mailing of Solicitation Packages or Non-Voting Creditor Notices to addresses and entities to which the notice of the Disclosure Statement Hearing was returned by the United States Postal Service as undeliverable, unless the Debtors are provided with an accurate address; and it is further

ORDERED that the form of Ballots are hereby approved; and it is further

ORDERED that all Ballots must be properly executed, completed and delivered to the Balloting Agent at Donlin, Recano & Company, Inc., Re: Buffets Balloting ATTN: Voting Department, PO Box 192016 Blythebourne Station, Brooklyn, NY 11219 or via overnight courier or hand delivery to Donlin, Recano & Company, Inc., Re: Buffets Balloting ATTN: Voting Department, 6201 15<sup>th</sup> Ave., Brooklyn, NY 11219, so that the Ballots are received on or before **Monday, March 27, 2017 at 5:00 p.m.** (prevailing Central Time) (the "Voting Deadline") unless extended by the Debtors. Ballots cast by facsimile, email or other electronic transmission will not be counted unless approved in advance by the Debtors in writing; and it is further

ORDERED that for purposes of voting on the Plan, the amount of a claim held by a creditor shall be determined pursuant to the following guidelines:

- a. The claim listed in a Debtor's schedule of liabilities, provided that (i) such claim is not scheduled as contingent, unliquidated or disputed, and (ii) no proof of claim has

been timely filed (or otherwise deemed timely filed by the Court under applicable law).

- b. The noncontingent and liquidated amount specified in a proof of claim timely filed with the Court or Donlin (or otherwise deemed timely filed by the Court under applicable law) to the extent the proof of claim is not the subject of an objection, or an objection by the Debtors to a claim amount solely for voting purposes, filed no later than **5:00 p.m.** (prevailing Central Time) on **Wednesday, March 15, 2017** as to those claims filed as of the date of this order and by **5:00 p.m.** (prevailing Central Time) on **Wednesday, March 29, 2017** as to those claims filed after the date of entry of this order (collectively the "Vote Objection Deadline") (or, if such claim has been resolved pursuant to a stipulation or order entered by the Court, or otherwise resolved by the Court, the amount set forth in such stipulation or order).
- c. The amount temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), provided that a motion is brought, notice is provided and a hearing is held prior to the Confirmation Hearing, in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.
- d. Claims filed for zero dollars (\$0.00) be disallowed for voting purposes
- e. Claims that are filed in wholly contingent, unliquidated or unknown amounts that are not the subject of an objection filed by the Claims Objection Deadline be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, in the amount of \$1.00 each.

and it is further

ORDERED that creditors seeking to have a claim temporarily allowed for purposes of voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a) must file and serve notice of hearing on a motion (the "Claims Estimation Motion") for such relief no later than 5:00 p.m. (prevailing Central Time) on **Wednesday, March 22, 2017** for any claim objected to on or before **Wednesday, March 15, 2017** and no later than 5:00 p.m. (prevailing Central Time) on

**Friday, March 31, 2017** as to any claim objected to after **Wednesday, March 15, 2017**. The Court will schedule a hearing on such motion to be heard at or prior to the Confirmation Hearing; and it is further

ORDERED that the following voting procedures and standard assumptions shall be used in tabulating the Ballots:

- a. For purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate claims held by a single creditor in a particular class will be aggregated as if such creditor held one claim against the Debtors in such class, and the votes related to such claims will be treated as a single vote to accept or reject the Plan.
- b. The Plan proposes the substantive consolidation of the Debtors' estates for purposes of the Plan and distributions thereunder. Accordingly, creditors who filed proofs of claim against multiple Debtors on account of the same liability shall be permitted to submit a single ballot on account of a single claim against the consolidated estate.
- c. Creditors must vote all of their claims within a particular class either to accept or reject the Plan and may not split their vote. Accordingly, a ballot (or multiple ballots with respect to multiple claims within a single class) that partially rejects and partially accepts the Plan will not be counted.
- d. Ballots that fail to indicate an acceptance or rejection of the Plan or that indicate both acceptance and rejection of the Plan, but which are otherwise properly executed and received prior to the Voting Deadline, will not be counted.
- e. Only ballots that are timely received with original signatures will be counted. Unsigned ballots will not be counted.
- f. Any Ballot received after the Voting Deadline will not be counted.
- g. Ballots that are illegible, or contain insufficient information to permit the identification of the creditor, will not be counted.

- h. Whenever a creditor casts more than one ballot voting the same claim prior to the Voting Deadline, the last executed, properly completed ballot received prior to the Voting Deadline shall be deemed to reflect the voter's intent and supersede any prior ballots.
- i. If a creditor simultaneously casts inconsistent duplicate ballots, with respect to the same claim, such ballots shall not be counted.
- j. Each creditor shall be deemed to have voted the full amount of its claim. Unless otherwise ordered by the Court, questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots shall be determined by the Balloting Agent and the Debtors, which determination shall be final and binding.
- k. Notwithstanding anything to the contrary contained herein, any claimant/creditor who has filed a claim that is duplicative of another claim(s) within the same Voting Class, as determined by the Debtor or its agent, shall be provided with only one Solicitation Package and one ballot for voting a single claim in such class, regardless of whether the Debtor has objected to such duplicate claim(s).
- l. The Debtors in their discretion, subject to contrary order of the Court, may waive any defect in any ballot at any time, either before or after the close of voting and without notice. Except as provided below, unless the ballot being furnished is timely submitted on or prior to the Voting Deadline, the Debtors may, in their discretion, reject such ballot as invalid, and therefore, decline to utilize it in connection with confirmation of the Plan by the Court; provided, however, that such invalid ballots shall be documented in the voting results filed with this Court
- m. Subject to contrary order of the Court, the Debtor reserves the absolute right to reject any and all ballots not proper in form, the acceptance of which would, in the opinion of the Debtor, not be in accordance with the provisions of the Bankruptcy Code; provided, however, that such invalid ballots shall be documented in the voting results filed with this Court;
- n. Any ballot transmitted to the Voting Agent by facsimile or other electronic means, except in the Debtor's sole discretion, will not be counted; and

- o. Unless waived, any defects or irregularities in connection with deliveries of ballots must be cured within such time as the Debtor or the Court determine. Neither the Debtor nor any other person or entity will be under any duty to provide notification of defects or irregularities with respect to deliveries of ballots, nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Court, delivery of such ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted.

and it is further

ORDERED that with respect to any transferred Claim, the transferee shall be entitled to receive a Solicitation Package and, if the Holder of such Claim is entitled to vote with respect to the Plan, cast a Ballot on account of such Claim **only if**: (a) all actions necessary to effectuate the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Voting Record Date; or (b) the transferee files by the Voting Record Date (i) the documentation required by Bankruptcy Rule 3001(e) to evidence the transfer and (ii) a sworn statement of the transferor supporting the validity of the transfer. In the event a Claim is transferred after the Voting Record Date, the transferee of such Claim shall be bound by any vote on the Plan made by the Holder of such Claim as of the Voting Record Date.

ORDERED that any objection, comment or response to confirmation of the Plan (including any supporting memoranda) must be in writing, served on the parties identified below, and filed with the Court, together with proof of service, such that the foregoing are received by such parties and the Court on or before **Monday, March 27, 2017 at 5:00 p.m. (prevailing Central Time)**. The Court shall consider only timely filed written objections. All objections not timely filed and served in accordance with the provisions of this Motion are hereby deemed



waived. Objections to confirmation of the Plan should provide proposed language to remedy such objections and shall be served on the following parties:

To the Debtors: Buffets, LLC, ATTN: Peter Donbavand, 120 Chula Vista Drive, Hollywood Park, Texas 78232 with a copy to David W. Parham, Esq. and John E. Mitchell, Esq., Akerman LLP, 2001 Ross Avenue, Suite 2550, Dallas, Texas 75201 Telephone: (214) 720-4300, Facsimile: (214) 981-9339.

To the Creditors Committee: In care of David B. Kurzweil, Esq. and Kyle Woods, Esq., Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Telephone: 678-553-2100, Facsimile: 678-553-2269 and Shari L. Heyen, Esq., 1000 Louisiana, Suite 1700, Houston, Texas 77002, Telephone: 713-374-3564, Facsimile: 713-374-3505.

The Office of the United States Trustee: Office of The United States Trustee, Attn: James W. Rose, Jr. Esq., 615 E. Houston Street, Suite 533, San Antonio, TX 78005.

and it is further

ORDERED that any party supporting the Plan shall be afforded an opportunity to file a response to any objection to confirmation of the Plan, prior to the Confirmation Hearing; and it is further

ORDERED that a hearing shall be held before this Court on **April 4, 2017 at 9:30 a.m.** (prevailing Central Time), at the Hipolito F. Garcia Federal Building and United States Courthouse, 615 E. Houston St., Courtroom 1, San Antonio, Texas 78205, or as soon thereafter as counsel can be heard, to consider confirmation of the Plan (the "Confirmation Hearing"); and it is further

ORDERED that the Confirmation Hearing may be adjourned from time to time without further notice to creditors and other parties-in-interest other than an announcement of the adjourned date at the Confirmation Hearing; and it is further

ORDERED that following the Debtors are authorized to transmit to all voting parties a copy of a solicitation letter provided by the Official Committee of Unsecured Creditors; and it is further

ORDERED that the following procedures are approved for assumption of the executory contracts and leases to be assumed pursuant to the Plan:

(i) the Debtors will cause the *Notice of (I) Proposed Assumption of Contracts and Leases, (II) Fixing of Cure Amounts, and (III) Deadline to Object Thereto* (the "Assumption Notice"), to be served on the non-debtor parties to all executory contracts and unexpired leases to be assumed as part of the Plan (the "Assumed Contracts and Leases") by **Wednesday, March 8, 2017**. Among other things, the Assumption Notice shall set forth the amount that the Debtors believe must be paid in order to cure all monetary defaults under each of the Assumed Contracts and Leases;

(ii) the non-debtor parties to the Assumed Contracts and Leases shall have until the Contract Assumption Objection Deadline (defined below) which deadline may be extended in the sole discretion of the Debtors, to object (an "Assumption Objection") to the (a) Cure Amounts listed by the Debtors and to propose alternative cure amounts, and/or (b) proposed assumption of the Assumed Contracts and Leases under the Plan; provided, however, that if the Debtors amend the Contract Notice or any related pleading that lists the Assumed Contracts and Leases to add a contract or lease or to adjust the cure amount thereof, except where such reduction was based upon the mutual agreement of the parties, the non-debtor party thereto shall have at least ten (10) calendar days after service of such amendment to object thereto or to propose an alternative cure amount(s);

(iii) any party objecting to the Cure Amount(s), whether or not such party previously has filed a proof of claim with respect to amounts due under the applicable Assumed Contract or Lease, or objecting to the potential assumption of such Assumed Contract or Lease, shall be required to file and serve a Assumption Objection, in writing, setting forth with specificity any and all cure obligations that the objecting party asserts must be cured or satisfied in respect of the Assumed Contract or Lease and/or any and all objections to the potential assumption of such Assumed Contract or Lease, together with all documentation supporting such cure claim or objection, upon each of the Notice Parties so that the Assumption Objection is actually received by them no later than

**5:00 p.m. prevailing Central Time on Monday, March 20, 2017**

(the "Contract Assumption Objection Deadline"). If a Assumption Objection is timely filed and the parties are unable to settle such Assumption Objection, the Bankruptcy Court shall determine the amount of any disputed Cure Amount(s) or objection to assumption at the Confirmation Hearing or such other hearing date to which the parties may mutually agree. The Debtors may, in their sole discretion, extend the Contract Assumption Objection Deadline without further notice, but are not obligated to do so; and

(iv) in the event that no Assumption Objection is timely filed with respect to an Assumed Contract or Lease, the counterparty to such Assumed Contract or Lease shall be deemed to have consented to the assumption of the Assumed Contract or Lease and the Cure Amount proposed by the Debtors and shall be forever enjoined and barred from seeking any additional amount(s) on account of the Debtors' cure obligations under section 365 of the Bankruptcy Code or otherwise from the Debtors, their estates or the Reorganized Debtors. In addition, if no timely Assumption Objection is filed with respect to an Assumed Contract or Lease, upon the Effective Date of the Plan, the Reorganized Debtors and the counterparty to such Assumed Contract or Lease shall enjoy all of the rights and benefits under the Assumed Contract or Lease without the necessity of obtaining any party's written consent to the Debtors' assumption of the Assumed Contract or Lease, and such counterparty shall be deemed to have waived any right to object, consent, condition or otherwise restrict the Debtors' assumption of the Assumed Contract or Lease.

and it is further

ORDERED that the inclusion of a Contract or Lease in the Cure Notice is without prejudice to the Debtors' right to modify their election to assume or to reject such Contract or Lease prior to the entry of a final, non-appealable order (which order may be the order confirming the Plan) deeming any such Contract or Lease assumed or rejected, and inclusion in the Cure Notice is not a final determination that any Contract or Lease will, in fact, be assumed;

and it is further

ORDERED that prior to mailing the Disclosure Statement, Solicitation Packages, Non-Voting Creditor Notices, or the Cure Notice, the Debtors may fill in any missing dates and other

information, correct any typographical errors and make such other non-material, non-substantive changes as they deem appropriate; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

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