

1 BRIAN L. DAVIDOFF (SBN 102654)
BDavidoff@GreenbergGlusker.com
2 KEITH PATRICK BANNER (SBN 259502)
KBanner@GreenbergGlusker.com
3 GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
4 1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590
5 Telephone: 310.553.3610
6 Fax: 310.553.0687

7 General Bankruptcy Counsel for
Debtor and Debtor in Possession

8
9 UNITED STATES BANKRUPTCY COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 LOS ANGELES DIVISION

12 In re:
13 B&B Liquidating, LLC,
14
15 Debtor and Debtor in Possession.

Case No. 2:18-bk-11744-NB
Chapter 11

**DEBTOR’S RESPONSE TO MOTION FOR
RELIEF FROM THE AUTOMATIC STAY
FILED BY SIENA LENDING GROUP, LLC**

Hearing Date

Date: September 4, 2018
Time: 10:00 a.m.
Place: Courtroom 1545
255 E. Temple Street
Los Angeles, CA 90012

16
17
18
19
20
21 **TO THE HONORABLE NEIL W. BASON, UNITED STATES BANKRUPTCY
22 JUDGE, THE UNITED STATES TRUSTEE, ALL PARTIES-IN-INTEREST HEREIN,
23 AND THEIR RESPECTIVE COUNSEL:**

24 Debtor and Debtor-in-Possession B&B Liquidating, LLC, f/k/a B&B Bachrach, LLC, (the
25 “Debtor”) hereby submits its response (the “Response”) to the *Notice of Motion and Motion for*
26 *Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property)* [Docket No. 205] (the
27 “RFS Motion”) and the pleadings filed in support thereof by Siena Lending Group, LLC
28

GREENBERG GLUSKER FIELDS CLAMAN &
MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

1 (“Siena”).¹

2 **I. Status of the Company’s Liquidation**

3 The filing of the RFS Motion by Siena comes at the tail end of the Debtor’s liquidation
4 efforts. As of the filing of this Response, the Debtor is conducting inventory liquidation sales at
5 only two locations (i) Twelve Oaks Mall (Store No. 8); (ii) Somerset Collection (Store No. 64).
6 In addition, the Debtor has concurrently filed and served its *Seventh Notice of Rejection of*
7 *Unexpired Leases* [Docket No. 213], pursuant to which the Debtor will reject the lease for
8 Somerset Collection (Store No. 64) and vacate the property no later than August 29, 2018.
9 Therefore, at the time of the hearing on the RFS Motion, the Debtor will be conducting its
10 liquidation sales out of only a single location, Twelve Oaks Mall (Store No. 8).

11 **II. Response to Relief Requested**

12 The Debtor files this Response recognizing its relatively small stake in the liquidation
13 proceeds. If relief is granted, Siena will foreclose on the remaining collateral of the estate by way
14 of an article 9 foreclosure and collect the proceeds from any sale thereafter. If denied, the Debtor
15 will wrap up its inventory sales, with all proceeds going to Siena.

16 Nevertheless, the Debtor is sympathetic to the concerns raised by the Committee in its
17 opposition [Docket No. 212] (the “Committee Response”) and in the response filed by the GGP
18 and Taubman Landlords [Docket No. 214] (the “GGP/Taubman Response”) as to Siena satisfying
19 its burden under section 362(d)(2) of title 11 of the United States Code (the “Bankruptcy Code”).
20 The Debtor concedes that the value of any remaining inventory is likely far less than the
21 outstanding balance of Siena’s secured claim. However, Siena has not established the value of
22 the Debtor’s intellectual property and the Debtor understands that there are potential claims
23 against the Debtor’s former liquidation consultant, Great American Group, LLC and Tiger
24 Capital Group, some of which may be claims of Siena, but others of which may held by the estate
25 and/or covered by the Debtor’s insurance policies. As raised by the Committee Response and the
26 GGP/Taubman Response, the RFS Motion does not address the value of these potential claims.

27 _____
28 ¹ Counsel for Siena has agreed to extend the Debtor’s opportunity file any timely response to the RFS Motion by and
additional two (2) days and, therefore the debtor submits this Response is timely for all purposes under LBR 9013-1.

1 In this regard, Siena has failed to meet the standard required under section 362(g) of the
2 Bankruptcy Code.

3 **III. Unpaid Administrative Rent Payments**

4 As reflected in the Committee Response and the response filed by landlord, the Forbes
5 Company [Docket No. 211], the Debtor understands that there are certain administrative rent
6 claims that remain unpaid in this chapter 11 case. The Debtor further understands that certain of
7 the unpaid administrative rent claims appear to be undisputed. To the extent that undisputed
8 administrative rent claims remain outstanding, Siena should be obligated to continue to honor its
9 commitment to directly pay all post-petition rents pursuant to the *Emergency Motion for Interim
10 and Final Orders Approving Stipulation with Siena Lending Group LLC; (1) Authorizing Post-
11 Petition Financing; (2) Authorizing Debtor's Use of Cash Collateral; and (3) Related Relief*
12 [Docket No. 21] and the orders thereon (*See* Docket Nos. 6 & 162).

13 **IV. Direction of Bankruptcy Case**

14 Though the Debtor acknowledges that the ultimate direction of this chapter 11 bankruptcy
15 case is not immediately before the Court, the effect of the RFS Motion on the bankruptcy case, as
16 whole is the big picture that must be considered. Regardless of whether relief is granted or not, a
17 decision will forthwith need to be made as to the direction of the case—whether through
18 dismissal, conversion, or a chapter 11 liquidation plan. The Debtor requests that this issue be
19 considered in conjunction with the RFS Motion and addressed at the continued status conference
20 to be held on September 18, 2018 at 2:00 p.m.

21
22 August 23, 2018

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

By: /s/ Brian L. Davidoff

BRIAN L. DAVIDOFF
KEITH PATRICK BANNER
General Bankruptcy Counsel for Debtor
and Debtor in Possession

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
1900 Avenue of the Stars, 21st Fl. Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled (*specify*):

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) August 23, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) August 23, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) August 23, 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

August 23, 2018
Date

Julie King
Printed Name

/s/ Julie King
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

- Charla L Brown charla.brown@cpa.texas.gov
- Shirley Cho scho@pszjlaw.com
- Brian L Davidoff bdavidoff@greenbergglusker.com,
calendar@greenbergglusker.com;jking@greenbergglusker.com
- John P Dillman houston_bankruptcy@publicans.com
- Jeffrey W Dulberg jdulberg@pszjlaw.com
- Brian D Huben hubenb@ballardspahr.com, carolod@ballardspahr.com
- Courtney J Hull bk-chull@oag.texas.gov, sherri.simpson@oag.texas.gov
- Lillian Jordan ENOTICES@DONLINRECANO.COM, RMAPA@DONLINRECANO.COM
- Dare Law dare.law@usdoj.gov
- Leo D Plotkin lplotkin@lsl-la.com, hpetrilli@lsl-la.com;dsmall@lsl-la.com
- Hamid R Rafatjoo hrafatjoo@raineslaw.com, bclark@raineslaw.com;cwilliams@raineslaw.com
- Martin W Taylor martin.taylor@troutman.com, anabel.pineda@troutman.com
- Ronald M Tucker rtucker@simon.com, cmartin@simon.com;psummers@simon.com;Bankruptcy@simon.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Elizabeth Weller dallas.bankruptcy@publicans.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.