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3 A Partnership Including Professional Corporations
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10 Siena Lending Group, LLC

11 UNITED STATES BANKRUPTCY COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 LOS ANGELES DIVISION

14 In re:

15 B&B LIQUIDATING, LLC,

16 Debtor and Debtor in Possession.

17 Case No. 2:18-bk-11744- NB

18 Chapter 11

19 **EVIDENTIARY OBJECTIONS BY**
20 **SECURED LENDER SIENA**
21 **LENDING GROUP, LLC TO**
22 **DECLARATIONS OF SUE**
23 **PARTACZ AND CYNTHIA**
24 **LAPENSEE IN SUPPORT OF**
25 **MOTION OF STARWOOD RETAIL**
26 **PARTNERS LLC AND THE FORBES**
27 **COMPANY FOR AN ORDER (1)**
28 **ALLOWING AS AN**
ADMINISTRATIVE EXPENSE
POST-PETITION RENT AND LEASE
CHARGES UNDER 11 U.S.C. §§
365(d)(3) AND 503(b) AND (2)
COMPELLING IMMEDIATE
PAYMENT

Date: November 6, 2018

Time: 2:00 p.m.

Ctrm: 1545

1 Secured lender Siena Lending Group, LLC hereby objects to, and moves to strike, the
2 following portions of the Declarations of Sue Partacz and Cynthia Lapensee submitted in support
3 of the Motion of Starwood Retail Partners LLC and The Forbes Company for an Order (1)
4 Allowing as an Administrative Expense Post-petition Rent and Lease Charges under 11 U.S.C.
5 §§ 365(d)(3) and 503(b) and (2) Compelling Immediate Payment:
6

7 **DECLARATION OF SUE PARTACZ**

| <u>Obj. No.</u> | <u>Testimony Objected To</u> | <u>Grounds for Objection</u> | <u>Ruling on Objection</u> |
|------------------------|---|--|-----------------------------------|
| 1. | P. 9, ¶5, Ins. 26-27: “As of the date of this declaration, the Debtor has failed to pay all post-petition rent due under the Lease in the following amount: \$51,868.93” | Hearsay (FRE 802); lack of foundation/ personal knowledge (FRE 602) | Sustained____ Overruled____ |
| 2. | P. 10, ¶6, Ins. 1-2: “A breakdown of the outstanding post-petition amount of \$51,868.93 is further outlined in Exhibit B, attached hereto.” | Hearsay (FRE 802); lack of foundation/ personal knowledge (FRE 602); lack of authentication (FRE 901) | Sustained____ Overruled____ |
| 3. | Exhibit B to Declaration of Sue Partacz | Hearsay (FRE 802); lack of authentication (FRE 901); lack of foundation/personal knowledge (FRE 602) | Sustained____ Overruled____ |


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DECLARATION OF CYNTHIA LAPENSEE

| <u>Obj. No.</u> | <u>Testimony Objected To</u> | <u>Grounds for Objection</u> | <u>Ruling on Objection</u> |
|------------------------|---|--|-----------------------------------|
| 1. | P. 11, ¶5, lns. 25-26: “As of the date of this declaration, the Debtor has failed to pay all post-petition rent due under the Lease in the following amount: \$6,112.28” | Hearsay (FRE 802); lack of foundation/ personal knowledge (FRE 602) | Sustained____ Overruled____ |
| 2. | P. 11, ¶6, lns. 27-28: “A breakdown of the outstanding post-petition amount of \$6,112.28 is further outlined in Exhibit B attached hereto.” | Hearsay (FRE 802); lack of foundation/ personal knowledge (FRE 602); lack of authentication (FRE 901) | Sustained____ Overruled____ |
| 4. | Exhibit B to Declaration of Cynthia Lapensee | Hearsay (FRE 802); lack of authentication (FRE 901); lack of foundation/personal knowledge (FRE 602) | Sustained____ Overruled____ |

DATED: October 23, 2018

LEO D. PLOTKIN
LEVY, SMALL & LALLAS
A Partnership Including Professional Corporations

By: 
Leo D. Plotkin
Attorneys for Secured Lender
Siena Lending Group, LLC

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:
815 Moraga Drive, Los Angeles, California 90049

A true and correct copy of the foregoing document entitled (*specify*): **EVIDENTIARY OBJECTIONS BY SECURED LENDER SIENA LENDING GROUP, LLC TO DECLARATIONS OF SUE PARTACZ AND CYNTHIA LAPENSEE IN SUPPORT OF MOTION OF STARWOOD RETAIL PARTNERS LLC AND THE FORBES COMPANY FOR AN ORDER (1) ALLOWING AS AN ADMINISTRATIVE EXPENSE POST-PETITION RENT AND LEASE CHARGES UNDER 11 U.S.C. §§ 365(d)(3) AND 503(b) AND (2) COMPELLING IMMEDIATE PAYMENT** will be served or was served 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 **10/23/2018**. 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:

Brian L Davidoff on behalf of Debtor B&B Liquidating, LLC - b davidoff@greenbergglusker.com,
calendar@greenbergglusker.com; jking@greenbergglusker.com

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **10/23/2018**, 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.

Rommel Mapa, Donlin, Recano & Company, Inc., 6201 15th Avenue, Brooklyn, NY 11219
TN Dept. of Revenue, c/o TN Atty. General's Office, BK Division, PO Box 20207, Nashville, TN 37202-0207

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) _____, 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

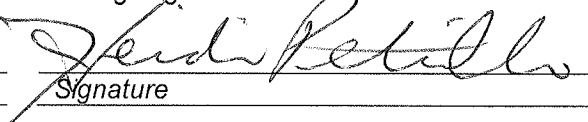
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

10/23/2018

Heidi Petrilli

Date

Printed Name


Signature

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

Charla L Brown on behalf of Creditor Texas Comptroller of Public Accounts
charla.brown@cpa.texas.gov

Shirley Cho on behalf of Creditor Committee Official Committee Of Unsecured Creditors
scho@pszjlaw.com

John P Dillman on behalf of Creditor Harris County
houston_bankruptcy@publicans.com

Jeffrey W Dulberg on behalf of Creditor Committee Official Committee Of Unsecured Creditors
jdulberg@pszjlaw.com

Jonathon J. Herzog on behalf of Creditor Simon Property Group, Inc.
jherzog@westzog.com, pkwan@westzog.com

Brian D Huben on behalf of Creditor Centennial Real Estate Company
hubenb@ballardspahr.com, carolod@ballardspahr.com

Brian D Huben on behalf of Creditors Starwood Retail Partners LLC and The Forbes Company
hubenb@ballardspahr.com, carolod@ballardspahr.com

William W Huckins on behalf of Creditor General Growth Landlords
whuckins@allenmatkins.com, clynch@allenmatkins.com

William W Huckins on behalf of Creditor Taubman Landlords
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Courtney J Hull on behalf of Creditor Texas Comptroller of Public Accounts
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Lillian Jordan on behalf of Interested Party Courtesy NEF
ENOTICES@DONLINRECANO.COM, RMAPA@DONLINRECANO.COM

Dare Law on behalf of U.S. Trustee United States Trustee (LA)
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Hamid R Rafatjoo on behalf of Interested Party Modern HR
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Martin W Taylor on behalf of Creditor Israel Discount Bank of New York
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Ronald M Tucker, Esq on behalf of Creditor Simon Property Group, Inc.
rtucker@simon.com, cmartin@simon.com; psummers@simon.com; Bankruptcy@simon.com

United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

Elizabeth Weller on behalf of Creditor Dallas County

Elizabeth Weller on behalf of Creditor c/o Elizabeth Weller City of Frisco
dallas.bankruptcy@publicans.com