

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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<b>In Re:</b>	)	
	)	<b>CHAPTER 11</b>
<b>BCBG MAX AZRIA GLOBAL</b>	)	
<b>HOLDINGS, LLC, et al<sup>1</sup></b>	)	<b>Case No. 17-10466 (SCC)</b>
	)	<b>Jointly Administered</b>
	)	
<b>Debtors.</b>	)	
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**LIMITED OBJECTION OF SIMON PROPERTY GROUP, INC.  
TO DEBTOR’S NOTICE OF FILING OF PLAN SUPPLEMENT [D.E. 523]**

Simon Property Group, Inc., on behalf of itself and its affiliated or managed entities, (“Simon” or “Landlord”), by and through its counsel, Ronald M. Tucker hereby files its Limited Objection to Debtor’s *Notice of Filing of Plan Supplement* (“Notice”) (D.E. 523).

**BACKGROUND**

1. This is a contested matter pursuant to Bankruptcy Rules 6006(b) and 9014.
2. Jurisdiction is based upon 28 U.S.C. §1334.
3. This is a core proceeding within the meaning of 28 U.S.C. §157(b).
4. On February 28, 2017 (“Petition Date”), the above-captioned debtors (the “Debtors”) filed their petition for relief under Chapter 11 of the United States Bankruptcy Code.
5. As of the Petition Date, the Debtors were the lessees under certain leases of non-residential real property with Simon (individually, “Lease” or collectively, “Leases”) as set forth in Exhibit “A” (attached hereto and incorporated by reference herein).

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: BCBG Max Azria Global Holdings, LLC (6857); BCBG Max Azria Group, LLC (5942); BCBG Max Azria Intermediate Holdings, LLC (3673); Max Rave, LLC (9200); and MLA Multibrand Holdings, LLC (3854). The location of the Debtors’ service address is: 2761 Fruitland Avenue, Vernon, California 90058.

6. On July 12, 2017, the Debtors filed the Notice, which lists the Debtors' proposed cure amounts for the Leases.

7. Simon objects to the Debtors' proposed cure amounts for the Leases in the Notice as they are inaccurate. Simon hereby asserts that the correct amounts required to cure the Leases are those amounts set forth on Exhibit "A". Simon and Debtors have attempted to resolve Simon's objection in good faith but have been unable, as of the date of filing this Objection, to reach an agreement.

### **OBJECTION**

8. Section 365(b) of the Bankruptcy Code provides in pertinent part:

(1)(A) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease the trustee (a) cures, or provides adequate assurance that the trustee will promptly cure, such default....

11 U.S.C. § 365(b)(1)(A)

9. The Notice asserts the amounts required to cure each Lease. Simon is not in agreement with the proposed amounts asserted as the Debtors are either (i) in default of its monetary obligations under the Lease(s); (ii) the Notice fails to compensate Landlord for any actual pecuniary loss resulting from the default and/or bankruptcy filing; or (iii) both.

10. Further, Section 365(b)(1)(B) includes compensation to Simon for sums incurred for attorneys' fees in connection with the bankruptcy case.<sup>2</sup> Simon requests \$1,000 per lease as reasonable attorneys' fees associated with the bankruptcy and possible assumption of each Lease. The cure amounts are listed in Exhibit "A".

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<sup>2</sup> See *In re: F&N Acquisition Corp.*, 152 B.R. 304 (W.D. Wash. 1993); *In re: Westworld Community Healthcare, Inc.*, 95 B.R. 730 (C.D. Cal. 1989); *In re: Ryan's Suns, Inc.*, 25 Bankr. Ct. Dec. 649 (W.D.Md. 1994); and *In re: Child World, Inc.*, 161 B.R. 349 (S.D.N.Y. 1993) (Section 365(b)(1)(B) allows for recovery of attorneys' fees based upon the language of the lease.)

11. Simon also objects, in part, to the assumption of any of the Leases as Debtors must take these Leases subject to any charges accrued, but not yet billed, including, but not limited to, real estate taxes, utilities, overage rent or percent rent. Simon further reserves the right to supplement this Limited Objection prior to any final determination by the Court regarding assumption of the Leases, including the amount and payment required for purposes of cure under Section 365, as rent, attorneys' fees and other charges continue to accrue.

12. In addition to the foregoing, Simon further joins in the objections filed by Debtors' other landlords to the extent that such objections are not inconsistent with the relief requested in this Limited Objection.

Wherefore, Simon request that the debtor be required to cure all outstanding defaults and that Simon be awarded their costs and reasonable attorneys' fees incurred in connection with this Limited Objection.

Dated: July 17, 2017

By: /s/ Ronand M. Tucker  
Ronald M. Tucker, Esq.  
225 West Washington Street  
Indianapolis, IN 46204  
(317) 263-2346 / (317) 263-7901 Fax  
rtucker@simon.com

**Exhibit A**

<b>Store #</b>	<b>Mall</b>	<b>Address</b>	<b>Landlord Name</b>	<b>Cure Amount</b>
624	Fashion Valley	7007 Friars Road, San Diego, CA 92108	Fashion Valley Mall, LLC	\$ 55,375.80
628	Houston Galleria	5085 Westheimer, Houston, TX 77056	HG Galleria, LLC	\$ 109,414.78
616	Lenox Square	3393 Peachtree Road NE, Atlanta, GA 30326	The Retail Property Trust	\$ 37,237.49
415	Woodbury Commons	498 Red Apple Court, Central Valley, NY 10917	Premium Outlet Partners, L.P. f/k/a CPG Partners, L.P.	\$ 52,679.54
Total				<b>\$ 254,707.61</b>

\*Current cure amounts may be subject to modification for any additional billings as stated in the Leases, including but not limited to charges accrued, but not yet billed, for common area maintenance, real estate taxes, utilities, overage rent or percent rent.