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

In re:

**BCBG MAX AZRIA GLOBAL HOLDINGS,
LLC, et al.,**

Debtors.

Chapter 11

**Case No. 17-10466-SCC
Jointly Administered**

Re: Docket No. 523

**OBJECTION OF GGP LIMITED PARTNERSHIP AND
TURNBERRY ASSOCIATES TO PROPOSED CURE AMOUNTS AND
ASSUMPTION AND ASSIGNMENT OF UNEXPIRED NON-RESIDENTIAL
REAL PROPERTY LEASES, AND DEMAND FOR SECURITY**

GGP Limited Partnership and Turnberry Associates (collectively, the “Landlords”), hereby object (the “Objection”) to the above-captioned debtors’ (the “Debtors”) proposed cure amounts (the “Proposed Cure Amounts”) and proposed assumption and assignment (the “Proposed Assignments”) of the leases set forth on Exhibit A hereto (the “Leases”) to GBG USA, Inc. (“GBG USA”), and hereby demand security pursuant to section 365(l) of the Bankruptcy Code. In support of the Objection, the Landlords respectfully state as follows:

PRELIMINARY STATEMENT

1. The Landlords are not conceptually opposed to assignments of their Leases to an entity capable of providing adequate assurance of future performance, curing all defaults, providing security, and complying with all provisions of the Leases on a go-forward

basis; however, the Proposed Assignments do not cure all defaults or provide security as required by Section 365(l) of the Bankruptcy Code. Against this backdrop, the Landlords submit this Objection.

OBJECTION

I. THE DEBTORS' PROPOSED CURE AMOUNTS ARE INCORRECT

2. The Landlords are the owners or managing agents for the owners of numerous shopping centers located throughout the United States, including the shopping centers listed on Exhibit A hereto where the Debtors lease retail space (the "Leased Premises") pursuant to the Leases. The Leased Premises are located in shopping centers as that term is used in section 365(b)(3) of the Bankruptcy Code. *See In re Joshua Slocum, Ltd.*, 922 F.2d 1081 (3d Cir. 1990).

3. On July 12, 2017, the Debtors filed their plan supplement (D.I. 523), which sets forth the Debtors' Proposed Cure Amounts for the Leases.

4. The Proposed Cure Amounts are incorrect and fail to account for all amounts required to cure all outstanding defaults under the Leases pursuant to section 365(b)(1) of the Bankruptcy Code. The correct cure amounts for the Leases are set forth on Exhibit A hereto in the column Landlord Cure Amount, which includes an estimate of attorneys' fees due under the Leases which have been incurred and are expected to be incurred during the Debtors' bankruptcy cases.¹

5. Prior to assumption and assignment, the Debtors are required to cure all outstanding defaults under the Leases pursuant to section 365(b)(1) of the Bankruptcy Code.

¹ Some of the Landlord Cure Amounts may constitute post-petition administrative obligations due under sections 365(d)(3), 503(b)(1) and/or other provisions of the Bankruptcy Code. Documentation supporting the Landlord Cure Amounts, including the Leases, is or should be in the possession of the Debtors, or may be in the process of being finalized, and is or will be available upon reasonable request by parties in interest.

Pursuant to the Leases, the Debtors are obligated to pay regular installments of fixed monthly rent, as well as additional amounts for operating expenses, common area maintenance, real estate taxes, insurance, attorney fees, and other obligations enumerated in the Leases. Moreover, prior to assumption and assignment, the Debtors must compensate the Landlords for any actual pecuniary losses under the Leases. *See* 11 U.S.C. § 365(b)(1)(B). As part of its pecuniary losses, the Landlords are entitled to payment of their attorneys' fees in connection with both the Debtors' defaults under the Leases, and the proposed assignment of the Leases. *See LJC Corp. v. Boyle*, 768 F.2d 1489, 1494-96 (D.C. Cir. 1985); *In re Bullock*, 17 B.R. 438, 439 (B.A.P. 9th Cir. 1982); *In re BAB Enterprises, Inc.*, 100 B.R. 982, 984 (Bankr. W.D. Tenn. 1989); *In re Westview 74th St. Drug Corp.*, 59 B.R. 747, 757 (Bankr. S.D.N.Y. 1986); *In re Ribs of Greenwich Vill., Inc.*, 57 B.R. 319, 322 (Bankr. S.D.N.Y. 1986).

6. To the extent that rent, attorneys' fees, interest or other charges continue to accrue, and/or the Landlords suffer other pecuniary losses with respect to the Leases, the Landlords hereby reserve their rights to amend the Landlord Cure Amounts to reflect such additional amounts or to account for year-end adjustments and reconciliations, including, without limitation, adjustments for common area maintenance, taxes, insurance and similar charges for the calendar years 2016 and 2017 (the "Adjustment Amounts"), which may have not yet been billed or may have not yet become due under the terms of the Leases. Additionally, any proposed assignee, including GBG USA, must be responsible for (and would receive the benefit of) any Adjustment Amounts due or payable under the Leases.

7. Moreover, any proposed assignee, including GBG USA, must be required to comply with all contractual obligations in the Leases to defend, indemnify and hold harmless the Landlords, including with respect to events which may have occurred prior to the

assignment but which are raised or manifest themselves post-assignment, including without limitation claims for personal injury that occurred at the Leased Premises, damage and destruction to the Leased Premises or property by the Debtors or its agents, and environmental damage or environmental clean-up.

II. THE DEBTORS HAVE FAILED TO PROVIDE EVIDENCE OF ADEQUATE ASSURANCE OF FUTURE PERFORMANCE UNDER THE LEASES

8. Pursuant to 11 U.S.C. § 365(b)(3), it is the Debtors' burden to provide adequate assurance information prior to the assumption and assignment of the Leases.

9. With respect to demonstrating adequate assurance of future performance, the Debtors' disclosure statement and plan say little or nothing about the ability of GBG USA to provide adequate assurance of future performance, and the Landlords are unaware of service of any such information and evidence.

10. Once received, the Landlords must have sufficient time to evaluate that information, and if necessary, conduct discovery and draft an objection or supplemental objection to the Proposed Assignments prior to a contested sale hearing.

III. DEMAND FOR SECURITY

11. In the ordinary course of its business, the Landlords require security deposits, letters of credit, or guaranties when leasing (or assessing an assignment of a lease) to certain companies based on their financial information and history.

12. Section 365(l) of the Bankruptcy Code provides, in pertinent part:

If an unexpired lease under which the debtor is lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

11 U.S.C. § 365(l).

13. In connection with the Proposed Assignments of the Leases to GBG USA, the Landlords hereby demand such security in one of those forms as required by section 365(l) of the Bankruptcy Code. Until additional information about GBG USA and its financials (and those of its parent/affiliate entities) are known, the Landlords reserve their rights to specify the exact form and amount of such security.

RESERVATION OF RIGHTS

14. The Landlords reserve the right to amend and/or supplement this Objection, including, without limitation, adding and supplementing objections to proposed cure amounts, adequate assurance information, the proposed assignee's ability to perform under the Leases, and the Landlords' demands for security. The Landlords further reserve their rights to seek an adjournment of the sale/confirmation hearing with respect to the Proposed Assignments of the Leases if the Landlords lack sufficient time to evaluate any adequate assurance information received from the Debtors or GBG USA.

JOINDER IN OBJECTIONS OF SIMILARLY SITUATED PARTIES

15. To the extent not inconsistent with this Objection, the Landlords join in the objections to the Debtors' proposed assumption and assignment of leases and other contracts asserted by other landlords, contract counterparties, and other similarly-situated parties, creditors and/or committees.

CONCLUSION

WHEREFORE, Landlords respectfully request that any order approving the assumption and assignment of the Leases (i) require the Debtors and assignee to pay the Landlord Cure Amounts (and any other cure obligations due at the time of assignment), (ii) require GBG USA to comply with all provisions of the Leases including without limitation those regarding indemnification, (iii) require GBG USA (or its parent entities, as applicable) to provide security as required by Section 365(l) of the Bankruptcy Code, and (iv) grant such other and further relief as this Court deems just and proper.

Dated: July 17, 2017
New York, New York

KELLEY DRYE & WARREN LLP

/s/ Gilbert R. Saydah Jr. _____

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EXHIBIT A

REVISED CURE AMOUNTS

GGP Limited Partnership

Store No.	Mall Name	Location	Debtors Cure Amount	Landlord Cure Amount
627	Beachwood Place (Retail Store)	Beachwood, OH	\$334*	\$13,342.54
627	Beachwood Place (Storage)	Beachwood, OH	N/A	\$334

* Please note that the Debtors rent two spaces from GGP for Beachwood Place, a retail store and a storage area. The Debtors' plan supplement lists only one lease for Beachwood Place, and that cure amounts appears to match GGP's records for the amount due for just the storage space. Any assignment order should clarify that both leases are to be assumed, and the cure amounts for each lease.

Turnberry Associates

Store No.	Mall Name	Location	Debtors Cure Amount	Landlord Cure Amount
707	Aventura Mall	Aventura, FL	\$76,820	\$81,820

CERTIFICATE OF SERVICE

I hereby certify I am not less than 18 years of age, and that on the 17th day of July, 2017, I electronically filed the foregoing with the Bankruptcy Court using the CM/ECF system which sent notification to all CM/ECF participants.

/s/ Gilbert R. Saydah Jr.
Gilbert R. Saydah Jr.