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Attorneys for Michael F. Thomson, Chapter 11 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:

THE FALLS AT CLOVIS LLC FDBA
EFALLS PROPERTIES CLOVIS CA LLC,

Debtor.

Bankr. Case No. 18-28140

Chapter 11

The Honorable R. Kimball Mosier

**TRUSTEE'S OPPOSITION TO MOTION TO TERMINATE AUTOMATIC STAY AS
TO ABEY BARAGHOSHI, TRUSTEE OF THE BARAGHOSHI FAMILY TRUST
DATED FEB 19, 03**

Michael F. Thomson, the duly appointed Chapter 11 trustee of the bankruptcy estate of The Falls Event Center LLC, Case No. 18-25116 (the "Trustee"), which is the manager of The Falls at Clovis, LLC, the debtor herein (the "Debtor"), hereby files his opposition (the "Opposition") to the *Motion to Terminate Automatic Stay as to Abey Baraghoshi, Trustee of the Baraghoshi Family Trust Dated Feb 19, 03* [Docket No. 17] (the "Motion"). In support of this Opposition, the Trustee represents as follows:

RESPONSE TO BARAGHASHI'S ALLEGATIONS

1. No response is necessary to the allegations in Paragraph 1 of the Motion as the referenced documents speak for themselves. To the extent a response is deemed necessary, the Trustee denies the allegations in Paragraph 1 of the Motion to the extent those allegations conflict with the referenced documents.

2. Deny.

3. Deny

4. Paragraph 4 of the Motion states a legal conclusion to which no response is required. To the extent a response is deemed necessary, the trustee denies the allegations in Paragraph 4 of the Motion.

5. Deny.

6. Deny.

7. No response is necessary to the allegations in Paragraph 7 of the Motion as the referenced documents speak for themselves. To the extent a response is deemed necessary, the Trustee denies the allegations in Paragraph 7 of the Motion. The Trustee lacks knowledge and information upon which to form a belief as to the trust of the allegations in Paragraph 7 of the Motion, and therefore denies such allegations.

TRUSTEE'S STATEMENT OF FACTS

1. On July 11, 2018, The Falls Event Center LLC ("TFEC") filed a voluntary petition in this Court under Chapter 11 of the Bankruptcy Code, Case Number 18-25116 (the "TFEC Case").

2. On October 31, 2018, the Debtor filed a voluntary petition [Case 18-28140, Dkt. 1].

3. On November 1, 2018, the UST, Debtor TFEC, and the Official Committee of Unsecured Creditors (the “Committee”) filed its stipulation for the appointment of a Chapter 11 trustee [TFEC Case, Docket No. 183] (the “Stipulation”).

4. On November 1, 2018, the UST filed his motion to appoint a Chapter 11 Trustee and approve the Stipulation [TFEC Case, Docket No. 184].

5. On November 14, 2018, the Court entered the order granting the Stipulation and directing the UST to appoint a qualified person to serve as Chapter 11 trustee for the TFEC estate. [TFEC Case, Docket No. 204].

6. On November 26, 2018, the UST appointed the Trustee as Chapter 11 trustee in The TFEC Case.

7. On November 27, 2018, the Court entered an order approving the appointment of the Trustee as the Chapter 11 trustee of the Debtor TFEC’s estate. [TFEC Case, Docket No. 214].

8. TFEC is the manager of the Debtor.

9. The Debtor owns certain real property located at 250/270 North Clovis Avenue, Clovis, CA 93612 (the “Property”).

10. On December 21, 2018, the Trustee filed the Statement of Financial Affairs and Schedules on behalf of the Debtor [Docket No. 7] (the “Schedules”), which list the value of the Property at \$1,432,678.00.

11. On January 31, 2019, Abey Baraghoshi, Trustee of the Baraghoshi Family Trust Dated Feb 19, 29 (“Baraghoshi”), filed Proof of Claim No. 1-1 in this case, asserting a secured claim in the amount of \$973,570.05 (the “POC”).

12. On February 11, 2019, Baraghoshi filed the Motion.

RESPONSE TO ARGUMENT AND AUTHORITY

I. Cause Does not Exist to Terminate the Automatic Stay

Although Baraghoshi does not state which specific subsections of 11 U.S.C. § 362 he relies upon as his basis for relief, it appears that his claim is based upon sections 362(d)(1) and 362(d)(2). Baraghoshi is not entitled to relief under either section.

Section 362(d)(1) provides that relief shall be granted “for cause, including the lack of adequate protection of an interest in property of such party in interest.” Section 362(d)(2) provides that relief shall be granted if (A) the debtor does not have an equity in such property; and (B) such property is not necessary to an effective reorganization.”

Baraghoshi asserts that he is entitled to relief because (1) the Debtor has failed to provide Baraghoshi with adequate protection of his interest in the Property, and (2) the Debtor has no realizable equity in the Property. *See* Motion, ¶¶ 2-3.

The Trustee is perplexed by these assertions. Although Baraghoshi does not list the amount of his purported secured claim in the Motion, his POC, filed less than two weeks prior to the filing of the Motion, asserts a secured claim in the amount of \$973,570.05. *See* POC No. 1-1. The Debtor’s Statements and Schedules value the Property at \$1,432,678.00, an amount that Baraghoshi claims “is significantly less than the actual market value of the Property.” *See* Motion, ¶ 3. Thus, it appears that Baraghoshi admits that there is, at the very least,

approximately \$460,000.00 of equity in the Property. Based thereon, Baraghoshi is adequately protected by the equity cushion in the Property, and is not entitled to relief under 362(d)(1) or (d)(2). Furthermore, the Property is necessary to the Debtor's reorganization. The Property is the Debtor's primary (and only) asset, and appears to contain significant equity.

CONCLUSION

Wherefore, the Trustee prays that the Court deny the Motion, and for such further relief the Court holds equitable and just.

DATED this 28th day of February, 2019.

/s/ Megan K. Baker

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CERTIFICATE OF SERVICE – BY NOTICE OF ELECTRONIC FILING (CM/ECF)

I hereby certify that on the 28th day of February, 2019, I electronically filed the **TRUSTEE’S OPPOSITION TO MOTION TO TERMINATE AUTOMATIC STAY AS TO ABEY BARAGHOSHI, TRUSTEE OF THE BARAGHOSHI FAMILY TRUST DATED FEB 19, 03** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF uses and will be served through the CM/ECF system.

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/s/ Megan K. Baker _____