

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

CBC RESTAURANT CORP., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 23-10245 (KBO)

(Jointly Administered)

Ref. Docket Nos. 52, 141, 163

Hearing Date: March 28, 2023 at 1:00 p.m. (ET)

**RESERVATION OF RIGHTS AND JOINDER OF BRINKER INTERNATIONAL, INC.  
AND ITS AFFILIATES RELATIVE TO DEBTORS' FIRST OMNIBUS MOTION FOR  
ENTRY OF AN ORDER: (I) AUTHORIZING THE REJECTION OF CERTAIN  
UNEXPIRED LEASES AND ABANDONMENT OF CERTAIN PERSONAL PROPERTY  
WITH CERTAIN REJECTIONS AND ABANDONMENTS EFFECTIVE *NUNC PRO  
TUNC* AS OF THE PETITION DATE; AND (II) GRANTING RELATED RELIEF**

Brinker International, Inc. and its affiliates (including Maggiano's Holding Corporation f/k/a Maggiano's Corner Bakery Holding Corporation, Maggiano's Texas Inc., Maggiano's Inc. f/k/a Maggiano's Corner Bakery Holding, Inc., and Maggiano's of Tyson's, Inc. (collectively, with Brinker International, Inc. ("Brinker")) (the "Landlords") hereby file this reservation of rights and joinder (the "Objection") to the *Debtors' First Omnibus Motion for Entry of An Order: (I) Authorizing Rejection of Certain Unexpired Leases and Abandonment of Certain Personal Property with Certain Rejections and Abandonments Effective Nunc Pro Tunc as of the Petition Date; and (II) Granting Related Relief* [D.I. 52] (the "Motion"),<sup>2</sup> and respectfully represent as follows:

<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 CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardo, Inc. (1938). The Debtors' service address is 121 Friends Lane, Suite 301, Newtown, PA 18940.

<sup>2</sup> Capitalized terms used but not otherwise defined here shall have the meanings ascribed to them in the Motion and related documents.



**I. BACKGROUND**

1. On February 28, 2023 (the “Petition Date”), CBC Restaurant Corp. and its affiliated debtor entities (the “Debtors”) filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code. The Debtors’ cases have been jointly consolidated for administrative purposes only.

2. The Debtors continue to operate their business and manage their properties as debtors-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1108. No trustee or examiner has been appointed in the Chapter 11 Cases.

3. The Debtors sublease retail space (the “Premises”) from the Landlords pursuant to several leases of nonresidential real property, two of which subleases are included for rejection in the Motion relative to premises located at (a) 6100 N. Topanga Canyon Blvd. #1330 in Woodland Hills, CA 91367 known as the Woodland Hills Store or as Store No. 163 (the “Woodland Hills Lease”), and (b) 2001 W. International Dr., Ste. 1790 in McLean, VA 22012 known as the Tyson’s Corner Store or as Store No. 72 (the “Tyson’s Corner Lease,” and collectively with the Woodland Hills Lease, the “Leases”). The Leases are both leases of “real property in a shopping center” as those terms are used in 11 U.S.C. § 365(b)(3).

4. On the Petition Date, the Debtors filed the Motion, seeking to reject, among other leases, the Woodland Hills Lease and the Tyson’s Corner Lease *nunc pro tunc* – as of the Petition Date and as of March 1, 2023, respectively (the “Effective Rejection Dates”).

5. On March 20, 2023, the Debtors’ secured lender, SSCP Restaurant Investors LLC (“SSCP”) filed its Limited Objection to the Motion [D.I. 163] (the “SSCP Objection”). In the SSCP Objection, SSCP asserts that it is secured by all assets of the Debtors. The SSCP Objection

generally takes issue with the financial impact of rejecting the subject leases and the abandonment of the personal property thereon.

6. Moreover, on the late afternoon of March 4, 20223, the undersigned received correspondence from Debtors' counsel indicating that certain personal property and/or equipment lessors (i.e. Loomis Armored US, LLC, NuCo2 LLC and Ecolab, Inc.) may still have leased property or equipment on the Premises as to which the Debtors urge the "parties to coordinate between themselves as to how and when the equipment can be removed from the premises."

## **II. RESERVATION OF RIGHTS**

7. The Landlords do not object to Debtors' exercise of their business judgment to reject the Leases. Since the filing of the Motion, the undersigned has contacted the Debtors and negotiated certain changes, along with other landlords' counsel, to the proposed order on the Motion which satisfies the Landlords' concerns.

8. That stated, as of the filing of this reservation of rights, the Debtors have not received the agreement of SSCP of the revised order. Moreover, the Landlords are assessing what leased personal property and/or equipment remains on the Premises which needs to be removed. In the event that SSCP does not agree to the negotiated language of the proposed order, the Landlords do object to disturbing the order as it has been negotiated, as the undoing of such language would cause damage to the Landlords. Further, to the extent that leased personal property and equipment remains on the Premises, the Landlords reserve the right to object to having to expend its resources and potentially incur liability in connection with the removal of that property.

9. As a result, the Landlords file this reservation of rights to the extent that (a) SSCP does not agree to the language negotiated in the current form of proposed order on the Motion or

in any way seeks to undo the provisions Order and (b) personal property and/or equipment remains on the Premises, that effect the Debtors' unequivocal surrender of the Premises to the Landlords.

10. To the extent that SSCP does asserts an objection to the currently proposed order or that leased personal property or equipment remains on the Premises, the Landlords reserve the right to request immediate payment of rent under the Leases for March 2023 (and any additional period in which the Premises have not been unequivocally surrendered) pursuant to sections 365(d)(3) and/or 365(e) of the Bankruptcy Code, to demand proof of insurance for the Premises for such periods as required by the Leases, and for any further relief which may be appropriate.

### **III. RESERVATION OF RIGHT TO FILE OBJECTIONS**

11. Landlords reserve their rights to make such objections as necessary or appropriate, including, but not limited to, any changes to the currently proposed order in regard to the rejection of the Leases.

*[Remainder of page intentionally left blank.]*

**WHEREFORE**, the Landlords do not oppose entry of the revised proposed order granting the Motion and respectfully reserve their rights to (a) request payment of any post-petition rents due as a result of the contemplated rejections, (b) oppose the SSCP Objection to the extent it alters the terms of the revised proposed order granting the Motion, (c) object to the contemplated *nunc pro tunc* rejection of the Leases in the event the Premises cannot be unequivocally surrendered to the Landlords, and (d) raise any additional arguments with respect to the Motion at the hearing.

Dated: March 24, 2023  
Wilmington, Delaware

Respectfully submitted,

**WOMBLE BOND DICKINSON (US) LLP**

/s/ Matthew P. Ward

Matthew P. Ward (Del Bar No. 4471)  
1313 North Market Street, Suite 1200  
Wilmington, DE 19801  
Telephone: (302) 252-4320  
Facsimile: (302) 252-4330  
Email: matthew.ward@wbd-us.com

and

**JACKSON WALKER LLP**

Michael S. Held (Admitted *Pro Hac Vice*)  
J. Machir Stull (Admitted *Pro Hac Vice*)  
2323 Ross Ave., Suite 600  
Dallas, TX 75201  
Telephone: (214) 953-6000  
Email: mheld@jw.com  
Email: mstull@jw.com

*Counsel to Brinker International, Inc., Maggiano's Holding Corporation f/k/a Maggiano's Corner Bakery Holding Corporation, Maggiano's Texas Inc., Maggiano's, Inc. f/k/a Maggiano's Corner Bakery Holding, Inc., and Maggiano's of Tyson's, Inc.*