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April 23, 2021

BY ELECTRONIC FILING

The Honorable Jerrold N. Poslusny, Jr.
Mitchell H. Cohen U.S. Courthouse
400 Cooper Street, 4th Floor
Courtroom 4C
Camden, NJ 08101

**Re: In re RIH Acquisitions NJ, LLC, et al.
Case No. 13-34483 (JNP)
Status of unresolved claim objections**

Dear Judge Poslusny:

I write to provide the Court with an update on the status of the two remaining unresolved claim objections in the above referenced case, both of which we are seeking to adjourn to June 29, 2021.

The first unresolved objection pertains to pension withdrawal liability claims filed by The National Retirement Fund and two other pension funds as set forth in *Debtors' Motion Pursuant to 11 U.S.C. § 502(b) and Fed. R. Bankr. P. 3007 for the Entry of an Order Granting the Debtors' First Omnibus Objection (Substantive) to Withdrawal Liability Claims*, which was filed on March 26, 2014 (Doc. 397-1).

The withdrawal liability claims exceed \$66 million. A federal statute allows an employer to limit its liability in the event of a sale of substantially all of its assets to \$1.5MM plus 35% of the liquidation value in excess of \$5MM. The liquidation value is based as of the date of the sale of the assets. Alternatively, another federal statute permits an insolvent employer undergoing liquidation or dissolution to cap the liability at 50% of the claim. Under both statutes, all businesses under common control are treated as a single employer for purposes of withdrawal liability. The NRF has contended that Atlantic Club cannot avail itself of the statutory limits because other entities that had direct or indirect ownership interests in Atlantic Club were businesses under





The Honorable Jerrold N. Poslusny, Jr.
April 23, 2021
Page | 2

common control with the Atlantic Club and those entities did not liquidate substantially all of their assets or were not insolvent.

The NRF and the entities alleged by the NRF to be under common control with Atlantic Club filed declaratory judgment actions in the United States District Court for the Southern District of New York in May 2019 styled *National Retirement Fund et al v. Colony Capital, LLC et al* (case No. 1:19-cv-03875-ALC) and *Colony Investors VI, L.P., et al v. The National Retirement Fund et al* (case No. 1:19-cv-03914-ALC). These cases have been terminated. Counsel continue to work toward a resolution of the objection.

The second unresolved objection is contained in the *Fourth Omnibus Objection of Liquidation Trustee to Claims to be Disallowed and Expunged or Reduced*, which was filed on October 7, 2015 (Doc. 598-1). Counsel continue to work toward resolution of the objection to the claim of Rational Group US Holdings, Inc., which relates to certain advances made under an agreement to purchase membership interests in the Debtor.

We will continue to advise the Court of the status of these remaining unresolved matters.

Respectfully submitted,

/s/ Carol Ann Slocum
Carol Ann Slocum

CAS/lac
Cc: all counsel of record (by ECF notice)