

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
STAGE STORES, et al.,	Case No. 20-32564
Debtors.	Related to Doc. Nos. 295 & 297

OBJECTION OF BYZANTINE, INC., MITCH PROPERTIES, LP, & HARMAN’S, INC. TO (1) THE PROPOSED DISCLOSURE STATEMENT FOR THE DEBTORS’ JOINT CHAPTER 11 PLAN AND (2) THE DEBTORS’ MOTION FOR ENTRY OF AN ORDER APPROVING (I) THE ADEQUACY OF INFORMATION IN THE DISCLOSURE STATEMENT, (II) SOLICITATION AND NOTICE PROCEDURES, (III) FORMS OF BALLOTS AND NOTICES IN CONNECTION THEREWITH, AND (IV) CERTAIN DATES WITH RESPECT THERETO

Byzantine, Inc. (“Byzantine”), Mitch Properties, LP (“Mitch”), and Harman’s Inc. (“Harman’s,” and together with Byzantine and Mitch, the “Landlords”), by and through their undersigned counsel, file this *Objection of Byzantine, Inc., Mitch Properties, LP & Harman’s Inc. to (1) the Proposed Disclosure Statement for the Debtors’ Joint Chapter 11 Plan and (2) the Debtors’ Motion for the Entry of an Order Approving (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Notice Procedures, (III) Forms of Ballots and Notices in Connection Therewith, and (IV) Certain Dates with Respect Thereto* (the “Objection”) and in support thereof state as follows:

BACKGROUND

1. The Landlords lease non-residential real estate to the Debtors at three different store locations.
2. On May 10, 2020 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*



(as amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “Court”) at case number 20-32564 (the “Case”).

3. On May 11, 2020, the Court entered an order [Doc. No. 45] authorizing procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

4. On May 21, 2020, the Debtor filed its *Joint Chapter 11 Plan of Stage Stores, Inc. and Specialty Retailers, Inc.* (the “Plan”) [Doc. No. 296], the accompanying *Disclosure Statement for the Joint Chapter 11 Plan of Stage Stores, Inc. and Specialty Retailers, Inc.* (the “Disclosure Statement”) [Doc. No. 295], and a *Motion for the Entry of an Order Approving (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Notice Procedures, (III) Forms of Ballots and Notices in Connection Therewith, and (IV) Certain Dates with Respect Thereto* [Doc. No. 297] (the “Motion”).

5. The Court set June 17, 2020, as the deadline to file objections to the Disclosure Statement and the Motion and set a hearing on both for June 30, 2020 at 2:00 p.m.

OBJECTION TO DISCLOSURE STATEMENT

6. Under section 1125 of the Bankruptcy Code, “a disclosure statement is an informational document generally regarded as being intended to provide those who are entitled to vote on a plan with sufficient information to make an informed decision.” *Paradigm Air Carriers, Inc. v. Tex. Rangers Baseball Partners (In re Texas Rangers Baseball Partners)*, 521 B.R. 134, 176 (Bankr. N.D. Tx. 2014).

7. “Adequate information” is defined in section 1125(a)(1) of the Bankruptcy Code as:

information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition

of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan

11 U.S.C. § 1125(a)(1).

8. Pursuant to section II, E. of the Disclosure Statement, all Holders of Administrative Claims will have to either return an "Administrative / Priority Claim Consent Form" agreeing to be paid "its Pro Rata share of the Administrative and Priority Claims Recovery on the Effective Date" or opt out of such treatment. The pro rata share will be based upon a pool of "Distributable Cash." However, the Disclosure Statement fails to estimate the amount of the Distributable Cash and states:

Without limiting the variability of the foregoing and for illustrative purposes only, the Debtors estimate that Distributable Cash could be equal to \$[•] - \$[•]. Assuming a mid-point of \$[•] for Distributable Cash, potential illustrative recoveries for allowed Administrative Claims are set forth below.

...

Disclosure Statement, Section II, E., at 10. The chart intended to illustrate claims recoveries of such administrative claims is blank. *See id.*

9. In addition to failing to provide information relating to estimated distributable cash to certain administrative claim holders, the Disclosure Statement also fails to provide other information, including the estimated amount of general unsecured claims.

10. The Debtors' failure to provide this information prevents the Landlords, other creditors and parties in interests, and other potential holders of administrative claims from making an informed judgment about the plan. As such, the Disclosure Statement fails to provide adequate information and should not be approved in its current form.

11. In addition to the Debtors' failure to provide complete and adequate information in the Disclosure Statement, at least some of the information in the current Disclosure Statement is inaccurate.

12. With regard to the rejection and assumption of executory contracts and unexpired leases, Section VIII, G. of the Disclosure Statement provides:

Pursuant to the approved procedures, the Debtors have rejected approximately [●] Executory Contracts and Unexpired Leases as of the date hereof.

On [●], 2020, the Debtors filed a *Notice of Cure Amounts and Potential Assumption and Assignment of Certain Executory Contracts and/or Unexpired Leases in Connection with Sale* [Docket No. [●]] that informed certain of the Debtors' contract counterparties of the possibility that their contracts would be assumed and assigned as part of a potential sale and related cure amounts. On October 11, 2019, the Debtors supplemented this notice via the *Supplemental Notice of Cure Amounts and Potential Assumption and Assignment of Certain Executory Contracts and/or Unexpired Leases in Connection with Sale* [Docket No. [●]].

Disclosure Statement, Section VIII, G, at 34.

13. The second paragraph set forth above states that the Debtors have filed a notice and supplemental notice in this Case regarding cure amounts and potential assumption and assignment of contracts and leases. No such documents have been filed in this Case.

14. Further, the date on which the Debtors state the supplemental notice has been filed is October 11, 2019 – more than six months prior to the commencement of this Case.

15. The paragraph set forth above is clearly not reflective of actual events in this Case.

16. This raises questions with regard to the remainder of the Disclosure Statement and whether all other information contained within the Disclosure Statement is actually applicable to the Debtors' Case.

17. Consequently, the Disclosure Statement – in its present state – does not allow a party in interest to effectively assess the Plan.

18. Therefore, because (i) the Disclosure Statement provides insufficient information regarding the distributable cash available to pay administrative claims on the effective date and (ii) the inclusion of factually inaccurate information makes it impossible to ascertain whether other statements set forth in the Disclosure Statement are inapplicable to this Case, the Disclosure Statement fails to provide “adequate information” as defined by 11 U.S.C. § 1125(a)(1).

WHEREFORE, the Landlords respectfully request this Honorable Court (i) DENY the Debtor’s Disclosure Statement, (ii) DENY the Debtors’ Motion, and (iii) GRANT such relief as it deems just and proper.

Dated: June 17, 2020

Respectfully submitted:

BERNSTEIN-BURKLEY, P.C.

By: /s/ Keri P. Ebeck
Keri P. Ebeck, Esq.
PA I.D. No. 91298 (Admitted in SDTX)
kebeck@bernsteinlaw.com
Kirk B. Burkley, Esq.
PA I.D.: 89511
kburkley@bernsteinlaw.com
BERNSTEIN-BURKLEY, P.C.
707 Grant St. Ste. 2200 Gulf Tower
Pittsburgh, PA 15219
Phone: (412)456-8100
Fax: (412)456-8135

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of June, 2020, she caused a true and correct copy of the foregoing objection to be serves via the Court's CM/ECF System.

/s/ Keri P. Ebeck
Keri P. Ebeck, Esq.