

ORDERED in the Southern District of Florida on JUN 18 2009



A. Jay Cristol

A. Jay Cristol, Chief Judge Emeritus
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

IN RE:

FONTAINEBLEAU LAS VEGAS
HOLDINGS, LLC., et al.

Debtors.

CASE NO. 09-21481-BKC-AJC

Chapter 11
Jointly Administered

FONTAINEBLEAU LAS VEGAS, LLC,

Plaintiff,

ADV. PRO. NO. 09-1621-BKC-AJC-A

vs.

BANK OF AMERICA, et al.

Defendants.

**SUA SPONTE ORDER DIRECTING MEDIATION OF ALL ISSUES
IN THIS ADVERSARY CASE**

Following the hearing before the Court on June 17, 2009, and in consideration of the arguments presented, the following facts appear to be without contest:

1. The Debtors, Fontainebleau Las Vegas Holdings, LLC; Fontainebleau Las Vegas, LLC and Fontainebleau Las Vegas Capital Corp. (hereinafter “Fontainebleau” or “Debtors”) have commenced an extensive project in Las Vegas, Nevada. The project is partially complete and approximately one billion dollars, more or less, has been invested and spent on the partially completed project.

2. The Debtors believe they are entitled to additional money in the form of loans from the “Revolving” group lenders and are seeking disbursement of those funds through this adversary proceeding.

3. The “Revolving” group lenders believe that alleged defaults of the Debtors relieve them of the obligation of providing the additional funds. One of the arguments propounded by the “Revolving” group lenders is that even if the additional funds are provided those funds would not be sufficient to complete the project because of alleged cost overruns.

4. The Debtors represented at the hearing that they have an additional unnamed lender standing by to provide the funds necessary to complete the project, contingent upon the Debtors receiving the draws of money which they claim to be due from the “Revolving” group lenders.

5. The financial implications of this dispute are vast and can possibly result in losses to some party or parties of hundreds of millions or even over a billion dollars.

6. It would be in everyone’s best interest if this matter could be resolved in a prudent businesslike manner rather than through litigation. Therefore, pursuant to Local Rule 9019 of this Court, the issues in this adversary proceeding are referred to mediation.

Accordingly, it is

ORDERED as follows:

1. The parties are directed to act as expeditiously as possible to establish a date for mediation of the issues in this case, which date shall be on or before **July 10, 2009**. All parties are required to participate in mediation.

2. It is deemed prudent to invite the unnamed third party lender to participate in the mediation with the hope that an overall agreement might be reached that would provide comfort to the Debtors, the "Term loan" lenders, the "Revolving" group lenders, and the unnamed potential third party lender.

3. Counsel for the Debtors and the "Revolving" group lenders are directed to communicate as soon as possible to select and agree upon a mediator from the clerk's register and schedule a mediation. The parties shall advise the Court of their progress in a jointly signed "Notice of Clerk's Designation of Mediator" which shall be filed with the Court at the earliest possible time. If the parties are unable to agree on a mediator **by June 26, 2009**, the clerk will designate a mediator from the clerk's register on a random basis using the Local Form "Notice of Clerk's Designation of Mediator".

4. The appearance of counsel and each party or representatives of each party with full authority to enter into full and complete compromise and settlement is mandatory.

5. The mediator shall report to the Court willful failure to attend the mediation conference or to participate in the mediation process in good faith, which failure may result in the imposition of sanctions by the Court.

6. In the event there is an impasse, the mediator shall report that there is a lack of agreement, with no further comment or recommendation, and the matter will be tried as scheduled.

7. If the parties reach an agreement regarding the disposition of the matter or proceeding, they shall prepare and submit to the Court as soon as possible after the mediation conference an appropriate stipulation of settlement and joint motion for its approval.

8. The pretrial conference and the trial of this adversary proceeding scheduled in the summons shall proceed as scheduled, unless otherwise ordered by the Court.

9. Any authorized discovery and preparation for trial shall not be stayed by mediation.

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Copy to:

Mindy A. Mora, Esq., Counsel for Debtors/Plaintiff

Attorney Mindy A. Mora is directed to serve a copy of this Order upon all interested parties to file a Certificate of Service with the Clerk of the Court.