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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

STATION CASINOS, INC.

Chapter 11

Case Nos. BK-09-52470-GWZ through
BK-09-52487-GWZ

Jointly Administered under BK 09-52477

**STATUS REPORT OF THE OFFICIAL
COMMITTEE OF THE UNSECURED
CREDITORS REGARDING THE
INVESTIGATION INTO THE 2007
LEVERAGED BUYOUT TRANSACTION
AND CHARACTERIZATION OF THE
MASTER LEASE TRANSACTION**

Hearing Date: November 20, 2009

Hearing Time: 10:00 a.m.

Place: 300 Booth Street
Reno, NV 89509

- ☐ Affects this Debtor
☒ Affects all Debtors
☐ Affects Northern NV Acquisitions, LLC
☐ Affects Reno Land Holdings, LLC
☐ Affects River Central, LLC
☐ Affects Tropicana Station, LLC
☐ Affects FCP Holding, Inc.
☐ Affects FCP Voteco, LLC
☐ Affects Fertitta Partners LLC
☐ Affects FCP MezzCo Parent, LLC
☐ Affects FCP MezzCo Parent Sub, LLC
☐ Affects FCP MezzCo Borrower VII, LLC
☐ Affects FCP MezzCo Borrower VI, LLC
☐ Affects FCP MezzCo Borrower V, LLC
☐ Affects FCP MezzCo Borrower IV, LLC
☐ Affects FCP MezzCo Borrower III, LLC
☐ Affects FCP MezzCo Borrower II, LLC
☐ Affects FCP MezzCo Borrower I, LLC
☐ Affects FCP PropCo, LLC

1 The Official Committee of Unsecured Creditors (the “Committee”) of Station Casinos, Inc.
 2 (“SCI”), by and through its conflicts counsel Quinn Emanuel Urquhart Oliver & Hedges, LLP (“Quinn
 3 Emanuel”), respectfully submits this Status Report for the benefit of the Court, the Debtors, creditors,
 4 and other parties in interest.

5 INTRODUCTION

6 1. On August 22, 2009, the Committee engaged Quinn Emanuel to, among other things,
 7 conduct an investigation into the so-called “going private” or leveraged buyout transaction that closed
 8 on November 7, 2007 (the “LBO Transaction”). Included in its investigation into the LBO Transaction
 9 is an analysis whether a purported lease transaction (the “Master Lease”) entered into by and between
 10 SCI and FCP PropCo, LLC (“PropCo”) is a “true” lease or is a secured financing.

11 2. The purpose of this Status Report is to provide the Court, the Debtors, creditors, and
 12 other parties in interest a status of the Committee’s investigation. This Status Report provides a
 13 summary of:

- 14 • The Committee’s efforts to obtain responsive information in order to evaluate
 15 whether there are colorable claims of the Debtors’ estates relating to the LBO
 16 Transaction and whether the Master Lease should be characterized as a “true”
 17 lease or a disguised secured financing;
- 18 • The Committee’s preliminary observations regarding the analysis and
 19 conclusions, by potential claim, contained in the SLC Report (defined
 20 below); and
- 21 • Anticipated next steps.

22 3. As set forth in more detail below, the Committee has been analyzing the factual
 23 assumptions and legal conclusions contained in the SLC Report. In connection with this analysis, the
 24 Committee has sought and obtained most of the underlying documentary information made available to
 25 the SLC. Further, the Committee has sought information from the Debtors, Deutsche Bank, and
 26 Colony. The Debtors and Deutsche Bank have provided some of the requested information, though not
 27 all. As of the date of this Status Report, only Colony has not yet provided the requested information.
 28

1 The Committee's ability to fully analyze the LBO Investigation and review the SLC report, has been
 2 hindered in part through these parties' reluctance to provide information.

3 4. Notwithstanding the fact that the Committee has not been provided all of the
 4 information necessary to evaluate the LBO Transaction and the SLC report, as discussed below, the
 5 Committee has made preliminary observations regarding the SLC Report. Certain of the observations
 6 are:

- 7 • The SLC Report concludes that constructive fraudulent transfer claims are
 8 not likely to succeed because the LBO Transaction did not render the Debtors
 9 insolvent. However, the SLC Report's conclusions rest heavily on the fact
 10 that projections for 2008 and thereafter were allegedly reasonable when
 11 made. The Committee believes that there is already substantial documentary
 12 evidence to suggest that the projections prepared in October 2007¹ that
 13 apparently were used in the LBO Transaction were unreasonably optimistic;
- 14 • The SLC Report relies on the fact that Bear Sterns "analyzed the projections
 15 and performed extensive due diligence (including a share price valuation of
 16 the Company using several different methodologies) in connection with the
 17 issuance of a fairness opinion" SLC Report at 58. The Bear Sterns
 18 fairness opinion has virtually no significance to the LBO Transaction that
 19 closed in November 2007, because it was prepared in *February 2007* based
 20 on projections prepared in late 2006;
- 21 • The SLC Report states that the Debtors' representatives believed that the
 22 "softening performance in late 2007" was merely a temporary decline. SLC
 23 Report at 59. The Committee believes that there is substantial documentary
 24 evidence, available to the Debtors at and before the time of the LBO
 25 Transaction, that suggests the Debtors knew or should have known that the
 26

27 ¹ The projections originally used to support the LBO Transaction were prepared in 2006, and were still used in July
 28 2007 when the Debtors filed a definitive proxy statement with the Securities & Exchange Commission.

key economic considerations for a Las Vegas “locals” gaming business had been declining rapidly through 2007;²

- The SLC did not address in any meaningful way the fact that insiders, who stood to make nearly \$1 billion if the LBO Transaction closed, never altered the pricing of the LBO Transaction in light of the changing economic climate. The insiders closed the LBO Transaction apparently knowing that there was substantial evidence that SCI’s business was declining throughout 2007, that key economic factors were all pointing downward, and that LBO Transaction would shift the risk of failure from stockholders (including insiders) to SCI’s unsecured creditors;
- As was the case in *TOUSA*, certain of the Debtors’ professionals who rendered fairness opinions, certain of the Debtors’ insiders, and the Debtors’ lenders stood to make millions in fees if the LBO Transaction closed;
- No solvency opinion apparently was sought or rendered by the Debtors in connection with the LBO Transaction, even though solvency opinions often are obtained for such transactions, and, in the case of the Debtors’ publicly available financial statements, the Debtors were insolvent on a GAAP-basis as of September 30, 2007;
- The SLC report does not address at all that approximately \$367 million paid to the Debtors’ insiders with employment agreements may be avoidable under 11 U.S.C. § 548(a)(1)(B)(ii)(IV); and
- The SLC Report does not account for the fact that, while the LBO Transaction was designed not to trigger “change in control” covenants in unsecured note indentures, it nonetheless triggered apparently analogous

² Moreover, the SLC Report was published prior to the decision in *In re TOUSA, Inc.*, 2009 WL 3519403 (Bankr. S.D. Fla. Oct. 30, 2009). That decision ordered the avoidance of liens under constructive fraud theories because, among other things, the economy in general, and the homebuilding market specifically, had been declining prior to the closing of the subject transaction in July 2007. These facts were known to the *TOUSA* debtors’ management and the debtors’ lenders, but ignored by the parties to the transaction.

“change in control” provisions in employment agreements with certain of the Debtors’ insiders. This raises concerns, not addressed in the SLC Report, that the LBO Transaction may have been done with the intent to hinder, delay, or defraud creditors, or that directors and officers breached fiduciary duties owed to creditors.

RELEVANT PROCEDURAL MATTERS

5. On September 22, 2009, the Special Litigation Committee of the Board of Directors of Station Casinos, Inc. (the “SLC”) filed with this Court its “Report of Investigation” (the “SLC Report”).

6. On September 30, 2009, over the objections of the Debtors, this Court approved the Committee’s application to employ Quinn Emanuel.

7. On October 23, 2009, the Committee filed an application to employ Sierra Consulting Group, LLC (“Sierra”), as consulting expert to assist Quinn Emanuel in investigating the LBO Transaction and the Master Lease. On November 9, 2009, the Debtors filed an objection to Sierra’s employment application, and on November 10, 2009, German American Capital Corporation (“DB PropCo”), an affiliate of Deutsche Bank and the collateral agent for the so-called PropCo Lenders, also objected to Sierra’s employment application. In addition another Deutsche Bank affiliate joined in the Objections. The Committee has replied to these objections, and the hearing on Sierra’s employment application is scheduled for November 20, 2009.

8. In accordance with the “PropCo” cash collateral order, the deadline to challenge the liens and claims of the PropCo lenders and challenge the characterization of the Master Lease is the earlier of (a) 90 days after delivery of the SLC Report and reasonably underlying documentation and (b) January 15, 2010. The Committee believes the deadline is January 15, 2010 because it did not receive all reasonable underlying documentation by October 15, 2010. The Committee has apprised counsel to DB PropCo of the Committee’s position, and DB PropCo has not responded indicating its disagreement.

9. In order to facilitate the delivery of necessary information while operating under the “measured pace” directed by this Court, the Committee has agreed to treat virtually all documents

provided to it by the SLC, the Debtors, Deutsche Bank, and Colony as confidential. Thus, the information provided in this Status Report is either publicly available or provides a “high level” summary of information provided to the Committee. It must be noted that the Committee has been provided documents that are labeled as confidential that are directly relevant to the investigations into the LBO Transaction and the Master Lease but the Committee is not able to share publicly at this time.

THE COMMITTEE’S INFORMATION-GATHERING EFFORTS

10. As directed by the Court, the Committee has undertaken “measured steps” to obtain the information necessary to review the SLC Report and evaluate whether there are colorable estate claims that should be asserted.

Information Gathering from the SLC

11. On September 24, 2009, the Committee sent a list of twenty-one categories of document requests to the SLC’s counsel, Squires Sanders & Dempsey (“SSD”), relating to the underlying documentation relied upon by the SLC in creating the SLC Report.

12. On October 9, 2009, the SLC provided its response to the Committee’s requests. The SLC did not present any objections to the Committee’s requests in its response, and in fact had already arranged for the Committee to have access to an extranet site on October 7, 2009. The extranet site purportedly contained the information requested by the Committee to the extent such information existed, and was supplemented by CD-ROMs provided by SSD containing additional relevant information.³ The Committee notes that the SLC apparently requested, but did not obtain, any documents from Deutsche Bank during the course of its investigation.

13. SSD informed the Committee that the following information requested by the Committee either does not exist or is not in the possession, custody or control of the SLC:

- videotapes or transcripts of witness interviews;
- videotapes, transcripts, or notes of meetings of the SLC;

³ The Committee notes that the SLC’s counsel has been responsive and courteous in its communications with the Committee’s counsel.

- documents related to parties contacted by Bear Stearns during the “go shop” period for the LBO Transaction;
- documents or information referring to the request for, or preparation of, any solvency opinions relating to the LBO Transaction;
- engagement agreements with Bear Stearns and Deutsche Bank, and any information indicating whether such entities held shares of SCI between August 2006 and November 2007-- other than information publicly available in SEC filings;
- employment agreements of SCI management -- other than information publicly available in SEC filings;
- information indicating business or personal relationships between Dr. Nave, on the one hand, and any member of the Fertitta or Sartini family, on the other hand;
- documents provided by SCI to the Nevada Gaming Control Board and the Nevada Gaming Commission,
- the underwriting files of certain title insurers;
- SCI’s individual properties’ daily operating and/or gaming reports; and
- information regarding SCI’s player tracking and marketing systems.

Further, after determining that very few e-mails relating to the LBO Transaction had been provided by the SLC to the Committee, SSD informed Committee’s counsel that, because of the manner in which the Debtors’ management can elect to retain e-mails, the SLC was able to search only those e-mails that had been placed in a so-called “G” drive. This means that e-mails that were not voluntarily placed in the “G” drive regarding the LBO Transaction apparently were not reviewed by the SLC. Given the paucity of e-mails produced, the Committee believes that there is a significant risk that a number of potentially important e-mails were never reviewed by the SLC and thus not considered in connection with the SLC Report. The Committee has requested the Debtors verify what was reported to the Committee regarding the “G” drive. If in fact the SLC’s reporting is accurate, the next steps will be to

1 determine whether the Debtors' e-mails relating to the LBO Transaction are stored elsewhere or are
2 available in hard copies.

3 14. In addition, certain categories of information have not yet been uploaded to the extranet
4 site by SSD, including certain confidential Colony documents and documents relating to the Master
5 Lease. The Committee believes that the remaining Master Lease documents will be produced shortly,
6 and that the Colony documents will be produced once the parties have entered a formal confidentiality
7 agreement.

8 15. The Committee has agreed with SSD to treat everything provided to it as confidential
9 pending the execution of a formal confidentiality agreement.

10 16. Finally, SSD appears to have agreed to make available SLC members David Weekly
11 and Dr. James Nave, and an Odyssey representative to be interviewed by the Committee subject to the
12 condition that the interviews be unsworn and not recorded or transcribed. The Committee has agreed
13 to these terms, noting however, that doing so would be without prejudice to its right to seek to take
14 depositions if necessary, and permitted to do so.

15 ***Information Gathering from the Debtors***

16 17. After learning from SSD which documents the SLC did not possess, on October 13,
17 2009, the Committee sent nine targeted document requests attempting to obtain this information from
18 the Debtors, attached hereto as Exhibit "A."

19 18. On October 23, 2009, Debtors' counsel informed counsel for the Committee that
20 Debtors had no objections to the requests and would be producing responsive information to the extent
21 it existed. Subsequently, on November 3, 2009, the Committee received the first round of responsive
22 production, containing publicly available SEC filings. The Committee received an additional
23 production on November 6, 2009, containing approximately 10 documents pertaining to financing
24 solicitations for the LBO Transaction, Debtors' engagement with Deutsche Bank, and documents
25 provided to Nevada gaming regulators in connection with the LBO Transaction.

26 19. On November 12, 2009, Debtors indicated that additional documents responsive to each
27 of the Committee's requests will continue to be produced on a rolling basis, with the exception that all
28

1 documents provided by Debtors to the Nevada gaming regulators have been produced to the
2 Committee.

3 20. As with SSD, the Committee has agreed to treat anything produced as confidential
4 pending execution of a formal confidentiality agreement.

5 21. On November 12, 2009 counsel for the Committee spoke with counsel for Debtors
6 regarding the Committee's desire to interview the same witnesses which the SLC interviewed during
7 its investigation into the LBO transaction. In response, Debtors' counsel indicated that such a request
8 would not be permitted to the extent that the topics covered were redundant to the areas investigated by
9 the SLC. Debtors requested that the Committee first inquire with SSD about the process and content of
10 the SLC's interviews of the Debtors' representatives in order to determine what information -- if any --
11 was not sufficiently covered and would need to be addressed by the Committee.

12 22. Per Debtors' request, the Committee confirmed what it expected -- that SSD's
13 summaries of witness interviews allegedly accurately capture the information discussed at each
14 interview. The Committee believes that numerous important topics were not discussed with such
15 witnesses. The Committee proposed to create, and did provide on November 16, 2009, a limited list of
16 topics it seeks to address with Debtors' representatives, to enable Debtors to select those individuals
17 who are best situated to provide responsive information.⁴ Debtors' counsel agreed to review this list of
18 topics, however noted it Debtors were not taking a formal stance as to whether such limiting efforts
19 would be sufficient, or whether any interviews would be approved at all.

20 23. The Committee also stated that it could begin by interviewing representatives from Duff
21 & Phelps and Ernst & Young. However, Debtors' counsel noted its preference that the Committee and
22 Debtors reach agreement first, as the other parties will inevitably reach out to Debtors for their
23 stance/approval in any regard. Debtors' counsel indicated that Debtors would not interfere with the
24 Committee's efforts to interview other parties, but thought their suggestion was the best approach. The
25

26 ⁴ Included among the topics are negotiations of the economics of the LBO Transaction (including revisions done in
27 October 2007) and the Master Lease. The Committee had suggested interview Frank and Lorenzo Fertitta. It is the
28 Committee's understanding that the Fertittas have retained separate counsel, and thus the Committee likely will need to
negotiate with such counsel to arrange for interviews.

1 parties are yet to reach a formal agreement on how to proceed with interviews of the Debtors'
2 representatives.

3 ***Information Gathering from Deutsche Bank***

4 24. The Committee's efforts to obtain discovery from Deutsche Bank, including DB
5 PropCo, have been more contentious. The Committee first served a comprehensive list of discovery
6 requests on Deutsche Bank on September 29, 2009. After counsel for Deutsche Bank complained
7 about the scope of these initial requests, the Committee compiled a condensed list of seven targeted
8 requests on October 5, 2009, seeking information outside the scope of what was in the possession,
9 custody or control of the SLC. Attached hereto as Exhibit "B" is that targeted list.

10 25. On October 23, 2009, Deutsche Bank provided responses to the Committee's requests,
11 which responses suggested that Deutsche Bank would endeavor to provide responsive information.
12 The Committee sent a confirming letter on October 27, 2009, seeking to reach agreement on the
13 remaining open issues related to their production, and requesting a confirmation by October 29, 2009.
14 The Committee did not receive a response, and again followed up by letter on November 3, 2009,
15 indicating that the Committee sought an indication of Deutsche Bank's position with regard to the
16 Committee's document requests and remaining impediments to the actual production of documents. In
17 addition, on November 6, 2009, the Committee provided a list of search terms to Deutsche Bank to
18 assist with Deutsche Bank's search for documents responsive to the Committee's seven requests.

19 26. In a November 8, 2009 correspondence to the Committee, Deutsche Bank again
20 objected to what it believed was the Committee's attempt to "search for a needle in a haystack," noting
21 that both the Committee's requests and proposed search terms to locate information responsive thereto
22 were broader than the "limited scope of the Committee's authorized investigation."

23 27. Counsel for the parties discussed these matters further in November 9, 2009
24 teleconference. Deutsche Bank's counsel informed counsel for the Committee that Deutsche Bank has
25 gathered electronic and hard copy materials from ten custodians associated with the LBO Transaction,
26 as well as information contained on a sharedrive relating to the LBO Transaction, and has created an
27 electronic database with those materials. Counsel for Deutsche Bank also described certain specific
28 documents already located which it believed were relevant to the Committee's requests.

28. Deutsche Bank's counsel nonetheless indicated that due to the volume of materials collected and the alleged scope of the Committee's requests, Deutsche Bank would not endeavor to review all information gathered for relevance, but would instead perform certain limited searches of the database using search terms. Deutsche Bank's counsel further complained that the list of search terms previously provided by the Committee was not sufficiently limiting and thus would not be used.

29. The Committee circulated a revised list of search terms on November 10, 2009, in order to meet Deutsche Bank's request to limit its burden and yet balance the Committee's desire to obtain relevant documents from Deutsche Bank – something the SLC was not able to accomplish.

30. On November 16, 2009, Deutsche Bank sent a letter indicating that it would be delivering its first production of documents, totaling approximately 9,000 pages, responsive to the list of documents set forth in Exhibit "B." The Committee will immediately review what Deutsche Bank provided.

31. Finally, the Committee informed Deutsche Bank that it seeks to interview a Deutsche Bank representative in connection with its investigation of the LBO Transaction. During the parties' teleconference on November 9, 2009, counsel for Deutsche Bank indicated that although the request will be considered, such interview will likely not be provided.

Information Gathering from Colony

32. After several weeks of e-mail exchanges requesting a meeting, on October 29, 2009, counsel for the Committee met with counsel for Colony. At the meeting, counsel for the Committee discussed the Committee's desire to informally request documents from Colony as well as interview Colony witnesses. The meeting was cordial, and counsel for Colony indicated that they anticipated being able to assist in these requests.

33. On October 30, 2009, the Committee sent Colony a list of thirteen categories of document requests seeking information outside the scope of information in the possession, custody or control of the SLC, attached hereto as Exhibit "C."

34. Counsel for Colony and counsel for the Committee spoke again on November 16, 2009, at which time counsel for Colony indicated that responsive documents may be produced by the end of November. It appears that production has been delayed in part due to the execution of a confidentiality

1 agreement between the parties, notwithstanding the Committee's promise to treat anything produced as
2 confidential pending such execution.

3 **PRELIMINARY OBSERVATIONS REGARDING CLAIMS**

4 35. Based upon information it has thus far gathered and preliminary legal research, the
5 Committee notes the following observations, ordered by potential estate claim.

6 ***Constructive Fraud Claims Based On Insolvency***

7 36. Although the SLC Report states that the LBO Transaction did not confer reasonably
8 equivalent value on SCI, SLC Report at 41-42, it nonetheless concludes that there are no grounds for
9 constructive fraudulent transfer claims given its belief that SCI was not insolvent at the time of nor
10 rendered insolvent as a result of the LBO Transaction. *See id.* at 45-47.

11 37. The SLC Report notes balance sheet figures for SCI for the months of September 2007
12 and December 2007 which indicate that SCI had negative asset value in September of 2007, however
13 the SLC argues that such figures are not relevant to a solvency analysis because such figures were not
14 based on the fair market value of the assets involved. *See id.* at 44.⁵

15 38. In order to make these conclusions, the SLC first concludes that the underlying financial
16 projections relied upon by SCI were reasonable, noting that (1) SCI's financial projections were well
17 grounded with reference to historical data and methodology, (2) SCI's financial projections properly
18 took into account the potential for economic downturn, (3) SCI's financial projections were based on
19 input from SCI's management and validated by experts, and (4) SCI's financial projections were
20 sufficient to attract significant debt and equity investment. *See id.* at 51-59.

21 39. However, the Committee believes that certain of these conclusions may be flawed.
22 Amongst other things, the Committee has noted that:

23 ///

24 ///

25
26 ⁵ The Committee questions whether it is correct for the SLC to assert that GAAP-based financial statements have no
27 relevance to a solvency analysis. Indeed, a Ninth Circuit Bankruptcy Appellate Panel case cited by the SLC expressly states
28 that GAAP standards are relevant, just not controlling. *See* SLC Report at n. 165 (citing *Arrow Elec., Inc. v. Justus (In re Paypro)*, 230 B.R. 400, 413 (BAP 9th Cir. 1999).

- SCI failed to alter the LBO Transaction deal price in light of the steadily decreasing financial performance in 2007,⁶ and in light of dramatically increased leveraging of the company. This failure takes on even more significance when compared to the court's detailed analysis of what was known and should have been known to the *TOUSA* debtors and lenders;
- Goodwill and undeveloped land account for nearly 40% of the total value of SCI for the LBO Transaction while at the same SCI's public filings for the third quarter ending September 30, 2007, indicated only \$154.5 million in goodwill, only \$290.6 million for land held for development, and a nearly \$300 million negative value. Thus it appears that the only way for the Debtors, not to be rendered insolvent is if an extraordinarily high goodwill number can be justified. The Committee possesses evidence suggesting that the goodwill figure cannot be justified; indeed, documents provided to the Committee suggest that professionals engaged by the Debtors reviewing the LBO Transaction questioned the goodwill component, yet this evidence is not discussed by the SLC;
- At the time of the LBO Transaction, SCI appeared to forecast post-Transaction EBITDA margins at substantially higher percentages than could be justified. Specifically, EBITDA margins projected for 2008 and thereafter were not consistent with 2007 actual interim results, but instead appeared to be in line with EBITDA margins in 2004, 2005, and 2006. 2004 and 2005 were exceptionally good, "top of the market," years. 2006 was a good year, but SCI still missed its projections.⁷ Had SCI forecasted EBITDA margin

⁶ For example, according to SCI's Form 10-Q for the third quarter ending September 30, 2007, net income for the first 9 months of 2007 was less than half of the net income during the same period in 2006 (\$41.8 million for 2007 as compared to \$87.1 million for 2006), but the net income numbers were dramatically worse for the July-September 2007 period as compared to the July-September 2006 period (\$3.7 million for 2007 compared to \$19.2 million for 2006).

⁷ Schedule 1.b of Odyssey's report (attached as Exhibit D to the SLC Report) indicates that in 2004 and 2005, SCI's actual EBITDA for its "large properties" exceeded budgeted EBITDA, but they missed EBITDA projections in 2006 by \$16 million. Further, schedule 1.b, chart 2, shows that at no time in 2007 did SCI's actual EBITDA meet or exceed budgeted (footnote continued)

percentages consistent with the 2007 actual interim results, there is a significant likelihood that the Debtors would have been rendered insolvent; and

- The Debtors' final projections assume capital expenditures far below historical averages, suggesting that the Debtors were projecting not to make capital expenditures that would justify growth, but would merely maintain existing infrastructure.⁸ Yet it does not appear that the projections assumed any adverse impact for failing to making capital improvements.

40. The SLC Report notes that there may be defenses to any constructive fraudulent transfer claim on the basis of good faith. SLC Report at 60-61. This defense was carefully considered by the *TOUSA* court, 2009 WL 3519403 at *63-67, and the Committee believes that a strong case can be made that the *TOUSA* analysis on this point would apply here. The SLC Report also notes potential bars under Bankruptcy Code section 550 (which the SLC Report assumes would not succeed, *see* SLC Report at 62) and under Bankruptcy Code section 546(e). The Committee is carefully reviewing both of these defenses.

Constructive Fraud Claims Based On Insider Employment Contracts

41. One issue not addressed in the SLC Report is whether the estates hold any claims under 11 U.S.C. § 548(a)(1)(B)(ii)(IV). This statute provides:

The trustee may avoid any transfer (including any transfer to or for the benefit of an insider under an employment contract) of an interest of the debtor in property, or any obligation (including any obligation to or for the benefit of an insider under an employment contract) incurred by the debtor, that was made or incurred on or within 2 years before the date of the filing of the petition, if the debtor voluntarily or involuntarily received less than a reasonably equivalent value in exchange for such transfer or obligation; and made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

EBITDA, and the gap between actual and budgeted EBITDA only increased during the period between June 2007 and October 2007.

⁸ The projections initially prepared by the Debtors in support of the LBO Transaction provided for \$395.7 million in capital expenditures in 2007, \$294.2 million in 2008, and \$626.8 million in 2009. *See* SLC Report at Ex. C, p. 51. Yet the final projections for the LBO Transactions dramatically lowered projected capital expenditures.

1 42. The statute does not require any showing of insolvency. Further, the Committee
2 believes that, once the elements of the claim are established, it would be difficult for any insider to be
3 able to legitimately mount a defense to the claim.

4 43. Based on publicly available information, through the LBO Transaction, approximately
5 \$367 million was paid to officers of SCI under employment agreements. It appears that this amount
6 represents accelerated vesting of stock options and restricted stock, resulting from “change in control”
7 provisions contained in such employment agreements.

8 44. The SLC Report contains the SLC’s conclusions that, on a consolidated basis, SCI did
9 not receive “reasonably equivalent value” in connection with the LBO Transaction. *See* SLC Report at
10 41-42. It appears that the “change in control” that triggered the accelerations, and the LBO
11 Transaction itself, would not be “ordinary course of business” transfers within the meaning of section
12 548(a)(1)(B)(ii)(IV).

13 45. Moreover, section 548(a)(1)(B)(ii)(IV) can be read to avoid any transfers received by
14 insiders who happen to be under employment contracts, if the debtor did not receive reasonably
15 equivalent value for the transfer and the transfer was not in the ordinary course of business. This
16 reading has the phrase “under an employment contract” modifying “insider” instead of “transfer.” If
17 such reading were to apply, all out of the ordinary course cash consideration paid to insiders who were
18 under employment agreements (i.e., not just transfers arising under employment agreements
19 themselves) is subject to avoidance.

20 46. As noted above, the SLC Report does not address claims under this statute, nor did the
21 SLC consider or review any documents relating to employment agreements (except to the extent that
22 such agreements were publicly available). Such claims in these cases could be worth at least, and
23 potentially substantially more than, \$367 million.

24 47. At page 64 of the SLC Report, the SLC concludes that approximately \$300 million of
25 equity distributions would not be avoidable because they did not involve any transfers by a debtor.
26 Based on the publicly available documents (which indicate that insiders of the Debtors transferred
27 shares in exchange for approximately \$300 million in February 2007), this appears correct, though the
28 Committee is still investigating why the LBO Transaction was structured in this fashion.

1 ***Actual Fraud Claims***

2 48. The SLC Report states that the SLC did not find direct evidence that SCI or any party
3 involved in the LBO Transaction had an intent to hinder, defraud or delay any creditors of SCI. *See*
4 SLC Report at 38. The SLC did find certain badges of fraud present relating to the LBO Transaction.
5 For example, the LBO Transaction involved transfers to insiders. *See id.* Still, the SLC concluded that
6 all participants in the LBO Transaction, including the Fertittas, other management of SCI, and Colony,
7 had a good faith belief that the LBO Transaction would succeed and that SCI would enjoy continued
8 growth. *See id.* at 40-41. The SLC also noted that such badges of fraud should be seen as nothing more
9 than the inherent features of a “going private” transaction. *See id.* at 38.

10 49. The SLC Report addresses the fact that the LBO Transaction “called for \$2.3 billion of
11 debt under the Existing Notes to remain outstanding.” *Id.* at 38. The SLC Report further notes that the
12 LBO Transaction was structured to comply with the covenants existing in these notes so as to avoid
13 triggering their repayment. *See id.* at 38-39. However, the SLC Report concludes that intent hinder,
14 defraud or delay did not exist, given the SLC’s belief that at the time of the LBO Transaction, SCI
15 thought it would be able to satisfy all note commitments as they came due. *See id.* at 39.

16 50. Although the LBO Transaction was designed to avoid triggering “change in control”
17 covenants in existing unsecured bond indentures, it nonetheless apparently did trigger analogous
18 “change in control” provisions in employment agreements, resulting in insiders being paid hundreds of
19 millions of dollars. At the time of the LBO, the Fertittas and other insiders of the Debtors should have
20 known that the gaming industry, and in particular the “locals” market, was in trouble, due to increased
21 home foreclosures, slowed housing starts, and increased unemployment, and that SCI’s projections for
22 the deal were questionable, and thus, from the perspective of unsecured creditors, going through with
23 the LBO Transaction in spite of those factors, could conceivably result in actual fraud.

24 ***Equitable Subordination Claims***

25 51. The SLC Report states that the SLC did not find evidence which would support a claim
26 for equitable subordination. Although it notes that such claims often target lenders, the SLC did not
27 uncover any evidence of lender misconduct. Specifically, the SLC states its belief that the lenders
28

involved in the LBO Transaction were well informed and acted reasonably in their reliance on the financial projections associated with the Transaction. *See* SLC Report at 68-69.

52. Because the SLC was unable to obtain information from Deutsche Bank, however, this conclusion may not be reliable. The Committee is attempting to analyze whether there are any valid equitable subordination claims against Deutsche Bank, given its role in providing both financial advisory and lender services to SCI. The Committee notes that in a recent decision in the *In re Yellowstone Mountain Club, LLC* chapter 11 case in the United States Bankruptcy Court for the District of Montana, the court entered a “Partial & Interim Order” that resulted in the equitable subordination of a lender’s claims, primarily because the lender’s efforts to promote a new lending product, in order to earn substantial fees, foisted upon the debtor too much debt, shifting the risk of loss to unsecured creditors. *See In re Yellowstone Mountain Club, LLC*, Case No. 08-61570 and Adv. Pro. 09-00014 (Bankr. D. Mont. May 13, 2009), Slip. Op. at 16-19 [Dkt. # 289]. The Committee is investigating whether Deutsche Bank engaged in any similar conduct.

Breach of Fiduciary Duty Claims/Aiding and Abetting Breach of Fiduciary Duty Claims

53. The SLC Report concludes that no officer or director of SCI breached a fiduciary duty to SCI and its shareholders in relation to the pursuit and approval of the LBO Transaction. The SLC Report also concludes that no third party aided and abetted a breach of fiduciary duty to SCI in relation to the LBO Transaction. *See* SLC Report at 65. The SLC bases its conclusions on the fact that it believes (1) SCI’s financial projections relating to the LBO Transaction were reasonable and that it was reasonable for SCI’s officers and directors to rely on such information; (2) the LBO Transaction had been thoroughly investigated and negotiated by the 2006 Special Committee of the Board of SCI; and (3) the Nevada Gaming Control Board approved the LBO Transaction. *See id.* at 65-67.

54. The Committee is nonetheless investigating the propriety of certain insiders’ decisions to recommend and approve the LBO Transaction, and, in particular, the pricing of the transaction, in light of SCI’s performance in the first three quarters of 2007 and worsening market conditions. These same insiders apparently received at least \$608.25 million (excluding the so-called “rollover” equity contributions) as a result of the closing of the LBO Transaction. *See* SLC Report at 40-41. It does not appear that at any time after a special committee established by the board of SCI approved the LBO

Transaction in late 2006 or the first two months of 2007 did SCI, its directors and officers, or the special committee ever reconsider whether the LBO Transaction was fair. Moreover, it does not appear that SCI and the professionals it engaged to offer fairness opinions ever considered whether the LBO Transaction was fair to unsecured creditors. If SCI was in the “zone of insolvency” prior to the LBO Transaction, as the Committee believes may be the case, there may be colorable claims for breach of fiduciary duty and aiding and abetting breach of fiduciary duty. This type of breach of fiduciary duty claim was not mentioned in the SLC Report.⁹

Master Lease Recharacterization

55. The SLC did not undertake any analysis of the Master Lease in connection with the preparation of the SLC Report. The Committee has engaged Quinn Emanuel, and has sought to engage Sierra, to evaluate whether the Master Lease is a “true” lease or whether it is a disguised secured financing. Since the Committee has publicly revealed its intention to undertake such an investigation, the Debtors empowered the SLC to also investigate this issue.¹⁰

56. While the Committee’s investigation is ongoing, there is little doubt that there are substantial questions whether the Master Lease should be recharacterized. A published case that appears to bear significant resemblance to the known facts regarding the Master Lease is the decision in *In re Best Prods. Co.*, 157 B.R. 222 (Bankr. S.D.N.Y. 1993). There, the court held that a sublease between a debtor, as lessee, and its subsidiary, as lessor, was not a true lease, but was a vehicle to provide for a loan to the debtor. *See id.* at 230. Examining numerous factors, as well as internal communications of the lender, the court stated: “I cannot conclude that Best and MONY intended a loan from MONY to Best California, a subsidiary with no assets and no accounts. Rather, at bottom,

⁹ With respect to the fact that Nevada gaming regulators approved the LBO Transaction, the Committee is trying to determine what information was provided to such regulators. As disclosed in the SLC Report, on October 7, 2007, Deutsche Bank issued “downwardly revised financial projections” and on October 18, 2007, the Nevada Gaming Commission, based on the recommendation of the State Gaming Control Board, approved the LBO Transaction. SLC Report at 21. However, the State Gaming Control Board met on October 4, 2007 (a fact not included in the timeline contained in the SLC Report), which suggests that such regulators were not provided with Deutsche Bank’s revised projections (since they were issued three days later).

¹⁰ Documents recently made available to the Committee by the SLC include documents relating to the Master Lease.

1 this transaction was a loan from MONY to Best with Best California serving as a vehicle to ‘get
2 around’ the antideficiency rules.” *Id.*

3 ***The SLC’s Independence***

4 57. The SLC indicates that it is independent of the Debtors. However, SLC member Dr.
5 Nave has served on the Station Board of Directors since 2001. *See* SLC Report at 2. In addition, he
6 served on the 2006 Special Committee formed to oversee and negotiate the LBO Transaction *see id.* at
7 8-9, and made approximately \$3.6 million as a result of the LBO Transaction. *See id.* at p. 40.
8 Although Dr. Nave abstained from participating in the SLC’s analysis of whether any fiduciary duties
9 were breached as a result of the LBO Transaction, *see id.* at 67, his presence on the SLC at all raises
10 questions and concerns as to its true impartiality. The SLC asserted in the SLC Report that Dr. Nave
11 “is an independent director in accordance with the standards set by the New York Stock Exchange.”
12 SLC Report at 2. It is not clear that the New York Stock Exchange’s standards have any relevance to
13 the potential claims the Debtors’ estates hold.

14 **ANTICIPATED NEXT STEPS**

15 58. The Committee intends to continue its investigation, including continuing to gather and
16 review documentary evidence, conduct research, and form conclusions. The Committee also
17 anticipates interviewing witnesses of the Debtors (including the Fertittas and various professionals
18 engaged by the Debtors), the SLC, Deutsche Bank, and Colony. To the extent that any of the
19 foregoing determine not to work with the Committee on a voluntary basis, the Committee reserves the
20 right to seek relief under Bankruptcy Rule 2004.

21 59. The Committee also anticipates seeking in the near term relief under Bankruptcy Rule
22 2004 at least as to title insurers who underwrote the PropCo loans.

23 60. Thereafter, the Committee anticipates being in position to determine whether it agrees
24 with the SLC Report’s conclusions or disagrees, in which case the Committee will seek standing as to
25 those matters. It is the Committee’s intention to bring the matters to the Court’s attention prior to the

26 ///

27 ///

28 ///

1 January 15, 2010 deadline; however, because of the delay in obtaining necessary information, the
2 Committee reserves the right to seek additional time.

3 DATED this 18th day of November, 2009.

4
5 **QUINN EMANUEL URQUHART OLIVER**
6 **& HEDGES, LLP**

7 By s/ Eric D. Winston

8 SUSHEEL KIRPALANI (SBN 2673416)
9 ERIC D. WINSTON (SBN 202407)
10 JEANINE M. ZALDUENDO (SBN 243374)
11 865 S. Figueroa Street, 10th Floor
12 Los Angeles, California 90017
13 Phone: (213) 443-3602

14 Conflicts Counsel for the Official Committee of
15 Unsecured Creditors

16 – and –

17 **GREENBERG TRAUIG, LLP**

18 **BRETT AXELROD, ESQ.**

19 Nevada Bar No. 5859

20 **ANNE M. LORADITCH, ESQ.**

21 Nevada Bar No. 8164

22 3773 Howard Hughes Parkway, Suite 400 North

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24 Telephone: (702) 792-3773

25 Nevada Counsel to the Official Committee of
26 Unsecured Creditors

27
28
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Exhibit A

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October 13, 2009

VIA E-MAIL

Thomas Kreller
Milbank, Tweed, Hadley & McCloy LLP
601 S. Figueroa Street, 30th Floor
Los Angeles, CA 90017
(213) 892-4463
tkreller@milbank.com

Re: *In Re Station Casinos, Inc.*, Case No. BK 09-52477 and related cases:

Dear Tom:

On behalf of the Creditors' Committee, we have obtained access to documents in the possession, custody, or control of Squire, Sanders & Dempsey ("SSD"), counsel to the Special Litigation Committee. The documents provided to us are intended to be responsive to our informal requests contained in September 24, 2009, letter we delivered to SSD.

While the documents provided by SSD are helpful as we investigate the 2007 LBO transaction, we require additional information, apparently not in the possession, custody, or control of SSD, that is needed to properly assess the Transaction as well as test the conclusions of the Report. Accordingly, we request that the Debtors provide, by no later than October 27, 2009, documents responsive to the categories listed below. If there are any confidentiality agreements to which the Debtors are a party, please indicate whether such agreements are still in effect, provide copies of such agreements that are still in effect, and indicate whether the Committee must execute similar confidentiality agreements in order to receive copies of any requested documents:

quinn emanuel urquhart oliver & hedges, llp

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SAN FRANCISCO | 50 California Street, 22nd Floor, San Francisco, California 94111 | TEL 415-875-6600 FAX 415-875-6700

SILICON VALLEY | 555 Twin Dolphin Drive, Suite 560, Redwood Shores, California 94065 | TEL 650-801-5000 FAX 650-801-5100

TOKYO | Akasaka Twin Tower Main Building, 6th Floor, 17-22 Akasaka 2-Chome, Minato-ku, Tokyo 107-0052, Japan | TEL +81-3-5561-1711 FAX +81-3-5561-1712

LONDON | 16 Old Bailey, London EC4M 7EG, United Kingdom | TEL +44-20-7653-2000 FAX +44-20-7653-2100

1. Any documents constituting or referring to solicitations for equity or debt financing relating to the Transactions, including any brochures, programs, or offers regarding the benefits of a leveraged buy-out and any communications with parties who were contacted by Bear Sterns;
2. Any final or draft solvency analyses, and updates, amendments or revisions thereof, whether any such analyses were prepared on a consolidated basis or on an asset by asset basis, that the Debtors received between August 1, 2006 and December 31, 2007 in relation to the November 2007 Transactions;
3. Any engagement agreements with Deutsche Bank, and any information indicating whether Deutsche bank held shares of SCI between August 2006 and November 2007;
4. Any employment agreements of officers or management of SCI who were employed at SCI between July 2006 and July 2009, including any employment agreements in existence prior to the closing of the Transactions that granted or referred to stock options or the award of stock as compensation to such employees;
5. Any documents or information referring to any efforts, offers, commitments or solicitations made by SCI or any agent thereof to sell assets of SCI between August 2006 and the closing of the Transaction in November 2007;
6. Any information indicating business or personal relationships between Dr. Nave, on the one hand, and any member of the Fertitta or Sartini family, on the other hand, other than Dr. Nave's participation as a member of the Board of Directors of SCI;
7. Any documents discussing, evaluating, or concerning, whether the Master Lease is a true lease or is a secured financing;¹ and
8. Any documents that evidence or constitute the manner in which SCI has historically paid shareholders on account of dividends prior to the close of the Transaction in November 2007.

We would appreciate an indication as soon as reasonably possible whether the Debtors can and will provide responsive documents. We are hopeful that we can proceed on a voluntary basis, as we have with SSD.

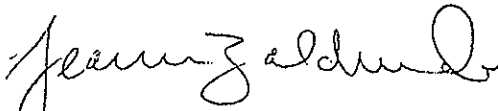
One other matter to bring to your attention. As was noted during our firm's presentation to the Court at the September 30 hearing, the Committee has determined that it needs a

¹ It is our understanding from conversations with SSD that the Special Litigation Committee may also now be reviewing the Master Lease. To avoid duplication of the provision of documents, if SSD is requesting documents similar to that requested herein with respect to the Master Lease, we will endeavor to coordinate with SSD to obtain such documents.

consulting expert to assist us in our investigation into the 2007 LBO Transaction. The Committee has decided to engage Sierra Consulting. Though it is probably not necessary to seek authority under the Bankruptcy Code to engage Sierra Consulting, out of an abundance of caution we will be filing an employment application in the near term. We will also provide Sierra Consulting access to the documents provided to us by SSD, subject to the same confidentiality restrictions we have undertaken.

If you have any questions or concerns, please contact me at 213-443-3632.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeanine Zalduendo".

Jeanine Zalduendo

JZ:jmz

CC: Bonnie Steingart, Esq.
Eric Winston, Esq.
Susheel Kirpalani, Esq.

Jeanine Zalduendo

From: Jeanine Zalduendo
Sent: Tuesday, October 13, 2009 6:38 PM
To: tkreller@milbank.com
Cc: Eric Winston

Hi Tom,

One set of documents we have not been able to obtain from SSD that we neglected to include in our letter to you is the set of apparently confidential documents provided to the Nevada Gaming regulators in connection with two hearings in October 2007.

While we have the transcripts of those hearings, we do not have the actual documents presented to those regulators. Please include those documents as part of our requests.

Thank you,
Jeanine

Jeanine Zalduendo
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11/18/2009

Exhibit B

Jeanine Zalduendo

From: Jeanine Zalduendo
Sent: Monday, October 05, 2009 5:00 PM
To: 'Kohn, Shalom'; squsba@stblaw.com
Cc: Eric Winston
Subject: Station Casinos - Informal Document Requests to Deutsche Bank

Dear Sandy and Shelly,

Thank you for talking with Eric and I at the omnibus hearing last week regarding the informal document requests we sent you on September 29, 2009. The original list of requests was comprehensive regarding all information the Creditors' Committee is seeking in furtherance of its ongoing investigation into the November 2007 Transactions. We have since prioritized the requests for Deutsche Bank to the following seven items below. To the extent that Deutsche Bank provides documents responsive to these items, it may obviate the need for any further production during our investigation period, although we nonetheless reserve our rights to do so. We look forward to working with you and hope we can arrive at an acceptable protocol for the production of these documents.

1. Any final or draft projections, any fairness opinions, any valuations, any solvency analyses, any appraisals, and any updates, amendments or revisions to the foregoing, whether any of the foregoing were prepared on a consolidated basis or on an asset by asset basis, that Deutsche Bank prepared between August 1, 2006 and December 31, 2007 in relation to the November 2007 Transactions.
2. Any final or draft projections, any fairness opinions, any valuations, any solvency analyses, any appraisals, and any updates, amendments or revisions to the foregoing, whether any of the foregoing were prepared on a consolidated basis or on an asset by asset basis, that Deutsche Bank received between August 1, 2006 and December 31, 2007 in relation to the November 2007 Transactions.
3. Any correspondence, including presentation materials, offering memorandum, "pitch books," or similar solicitation materials, that Deutsche Bank exchanged with the Debtors, the Fertittas, Colony, or any other person relating to Items 1, 2 and any other sale or efforts to sell the Debtors' assets.
4. Any engagement agreements or other agreements under which Deutsche Bank provided financial advisory or investment banking services, between Deutsche Bank, on the one hand, and any the Debtors, Colony, or the Fertittas on the other, as well as information regarding any payments, commissions or other compensation Deutsche Bank received for the provision of such services or in relation to the November 2007 Transactions.
5. Any documents discussing, evaluating, or concerning, whether the Master Lease is a true lease or is a secured financing.
6. Any documents constituting, evidencing, or referring to any claims asserted or threatened against Deutsche Bank relating to the November 2007 Transactions.
7. Request No. 8.

Jeanine Zalduendo
 Quinn Emanuel Urquhart Oliver & Hedges, LLP

11/18/2009

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Exhibit C

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October 30, 2009

VIA E-MAIL

Suzanne Uhland
Marc Feinstein
Andrew M. Parlen
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071
(213) 430-6000

Re: *In Re Station Casinos, Inc.*, Case No. BK 09-52477 and related cases;

Dear Suzanne, Marc and Andrew:

We would like to thank you again for taking the time to meet with us yesterday. As promised, enclosed are certain limited categories of documents that the Creditors' Committee seeks from Colony to assist in the Committees' investigation of the November 2007 Transactions as well as to test the conclusions of the Special Litigation Committee's Report. These requests have been tailored to focus on what we believe is uniquely relevant to or in the sole custody and control of, Colony.

As discussed in our meeting, to the extent that these requests raise confidentiality concerns for Colony, please let us know if you have suggested language for a confidentiality agreement. Given our limited investigation period, we hope to resolve any potential confidentiality issues that may slow down production, as soon as possible.

1. Any final or draft projections, fairness opinions, valuations, solvency analyses, appraisals, and any updates, amendments or revisions to the foregoing, whether any of

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NEW YORK | 51 Madison Avenue, 22nd Floor, New York, New York 10010 | TEL 212-849-7000 FAX 212-849-7100

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LONDON | 16 Old Bailey, London EC4M 7EG, United Kingdom | TEL +44-20-7653-2000 FAX +44-20-7653-2100

the foregoing were prepared on a consolidated basis or on an asset by asset basis, created or performed by Colony between August 1, 2006 and December 31, 2007 in relation to the November 2007 Transactions;

2. Any non-privileged documents reflecting internal Colony communications regarding Colony's decision to initially enter into negotiations for and ultimately consummate the November 2007 Transactions, including any internal analyses, summaries, reports or memoranda detailing any potential benefits and/or risks or drawbacks to the November 2007 Transactions;
3. Any communications between Colony and any party, regarding financial disclosures made by Station in support of the November 2007 Transactions;
4. Any communications between Colony on the one hand, and Deutsche Bank or any other lender or potential lender, and/or co-investor or potential co-investor, on the other relating to the terms of the November 2007 Transactions or the propriety of its underlying financial projections and changes made thereto;
5. Any documents constituting or referring to solicitations made to potential co-investors relating to the November 2007 Transactions, including any brochures, programs, memoranda, prospectuses, and/or supplements thereto, regarding the benefits of participating in the November 2007 Transactions;
6. Any documents constituting or referring to any due diligence, review, appraisal or analysis of flash reports, daily gaming reports, real estate market reports, and/or other updates to market indicators for the Las Vegas area market prepared by or requested on behalf of Colony in connection to the November 2007 Transactions;
7. Any documents evidencing or constituting Colony's appraisal and valuation of Station's undeveloped land and goodwill, and any updates, amendments or revisions thereto, as it was used to determine an ultimate value for Stations, reflected in the share price paid to shareholders as a result of the November 2007 Transactions;
8. Any documents constituting or referring to threats made by or to Deutsche Bank regarding Deutsche Bank's uncertain position on moving forward with the November 2007 Transactions in the months prior to the Transactions;
9. Any documents constituting or referring to any information Colony provided to any gaming regulator in October 2007;
10. Any documents constituting or referring to the impairment analysis performed subsequent to the November 2007 Transactions;
11. Any documents constituting or referring to Colony's business relationship with Deutsche Bank, in the two years prior to and/or following the November 2007 Transactions,

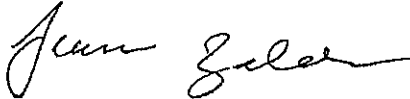
including documents reflecting Colony's interactions with Deutsche Bank in the Kerzner International leveraged buyout transaction which was completed in 2006; and

12. Any documents constituting or referring to any threats, claims or other issues raised by investors in Colony relating to Colony's participation in and ultimate buyout of Station as a result of the November 2007 Transactions.
13. To the extent not duplicative of the above, any communications between Colony on the one hand, and any other party, including but not limited to, Deutsche Bank, Station, the Fertittas, investors, or gaming regulators, on the other, relating to the November 2007 Transactions.

We would appreciate an indication as soon as reasonably possible whether Colony will provide responsive information and the extent of such information. Again, as we noted in our meeting, it is our desire to proceed with Colony, and all parties, on a voluntary and informal basis throughout our investigation period.

If you have any questions or concerns, please contact me at 213-443-3632.

Very truly yours,



Jeanine Zalduendo

CC: Bonnie Steingart, Esq.
Eric Winston, Esq.
Erica Taggart, Esq.
Susheel Kirpalani, Esq.