

THE HONORABLE SAMUEL J. STEINER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re
DELOITTE & TOUCHE, INC.
as Foreign Representative of
EVERGREEN GAMING CORP., et al.
Debtors in a Foreign Proceeding,

Chapter 15
Case No. 09-13567 (SJS)
STIPULATED ORDER
(1) EXTENDING INTERIM ORDER
GRANTING FOREIGN
REPRESENTATIVE'S EMERGENCY
REQUEST FOR RELIEF UNDER 11 U.S.C.
§§ 1519, 105 AND 362(a)
AND
(2) CONTINUING HEARING ON
APPLICATION FOR RECOGNITION OF
FOREIGN MAIN PROCEEDING

THIS MATTER came before the Court upon the Emergency Motion of the Foreign Representative for Interim Relief Under 11 U.S.C. §§1519, 105(a), 361, and 362 (the "Emergency Motion") filed by Deloitte & Touche, Inc., the court-appointed Monitor in the CCAA Proceeding¹ commenced by the Debtors in British Columbia, Canada on April 15, 2009. The Emergency Motion seeks entry of an order granting interim relief under

¹ Capitalized Terms not defined herein shall have the same meaning as in the Emergency Motion.

STIPULATED ORDER EXTENDING INTERIM
RELIEF AND RESCHEDULING HEARING- 1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

LEGAL16171310.1

1 11 U.S.C. §§ 105, 362 and 1519 staying actions of creditors affecting the Debtors' assets
2 located in the United States. The Monitor filed Chapter 15 petitions in this Court and an
3 Application for Recognition of Foreign Main Proceeding (the "Application") seeking
4 recognition of the CCAA Proceeding as a foreign main proceeding, as that term is defined in
5 §1502(4).
6
7
8
9

10 An emergency hearing was held on April 16, 2009 and appearances were made and
11 noted on the record. The Court set the Application for hearing on May 20, 2009 at 1:30 p.m.
12 and on April 17, 2009, entered an interim order (the "First Interim Order") granting the
13 relief requested in the Emergency Motion on an interim basis. The parties subsequently
14 stipulated to the extension of the First Interim Order through May 4, 2009.
15
16
17
18
19

20 A subsequent hearing was held on May 4, 2009 and appearances were made and
21 noted on the record, at which time the Court entered a final order (the "Final Interim Order")
22 granting the relief requested in the Emergency Motion through May 20, 2009.
23
24
25

26 Fortress, the Debtors, Old 99 Property Group LLC and the Monitor now HEREBY
27 STIPULATE FURTHER AS FOLLOWS:
28
29

30 1. The hearing on the Application is continued to 1:30 p.m. June 24, 2009.
31
32 Objections, if any, to the Application shall be filed and served no later than 4:30 p.m. June
33 17, 2009;
34
35

36 2. The effective term of the Final Interim Order is extended through June 24,
37 2009, or as may be subsequently extended by this Court;
38
39

40 3. The Final Interim Order is modified to add the following:

41 a. The reports referenced in paragraphs 13, 14, and 16 of the Final
42 Interim Order shall be delivered to Fortress on or before May 22, 2009.
43
44
45
46
47

STIPULATED ORDER EXTENDING INTERIM
RELIEF AND RESCHEDULING HEARING – 2

LEGAL16171310.1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

b. Riverside Casino, Inc. (“Riverside”) and Mountlake Gaming, Inc. (“Mountlake Gaming”), Riverside’s parent, are non-debtor affiliates of the Debtors herein. During the term of this extension, the Debtors shall make no transfers of cash collateral to or for the benefit of Riverside or Mountlake Gaming without the express written consent of the Monitor and Fortress.

c. Prior to Debtors making any transfers of cash collateral to or for the benefit of the Tukwila Land Company LLC, the landlord for Little Nevada, Inc., the parties shall confer. Fortress may object and seek relief in this Court to prevent any such transfer on two (2) business days notice and no funds shall be transferred pending this Court’s ruling on any such Fortress objection.

d. The Debtors shall give Fortress and the Monitor not less than three (3) business days notice of the intent to transfer any funds from cash collateral of the Chapter 15 Debtors to or for the benefit of parties who are non-Debtor affiliates or insiders of the Debtors.² Fortress may object and seek relief in this Court to prevent such transfer on two (2) business days notice and no funds shall be transferred pending this Court’s ruling on any such Fortress objection.

e. Fortress has asserted that it is entitled to adequate protection payments in the amount of any excess cash not necessary to fund the Debtor’s operations. Fortress reserves the right to move to compel such

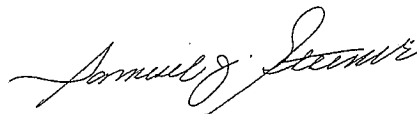
² This provision is not intended to preclude the payment of budgeted payroll for services provided to the Chapter 15 Debtors nor is intended to preclude the payment of budgeted ordinary course expenses related to maintenance, machinery and gambling equipment of the Chapter 15 Debtors.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

adequate protection payments which motion may be made on seven (7) business days notice.

4. Except as expressly modified herein, the relief granted and the adequate protection provisions established under the Final Interim Order shall continue in full force and effect as provided therein.

SO ORDERED this 20th day of May, 2009.



Honorable Samuel J. Steiner
United States Bankruptcy Court Judge

Stipulated and Approved as to form.

PERKINS COIE LLP

By: /s/ Bruce G. MacIntyre
Bruce G. MacIntyre, WSBA No. 18984
Attorneys for Foreign Representative Deloitte & Touche, Inc.

CAIRNCROSS & HEMPELMANN, P.S.

By: s/s John R. Rizzardi
John R. Rizzardi, WSBA No. 9388
Attorneys for Debtors, Evergreen Gaming Corporation, et al.

K & L GATES LLP

By: /s/ Michael J. Gearin
Michael J. Gearin, WSBA No. 20982
Attorneys for Fortress Credit Corporation

RONALD G. BROWN

/s/ Ronald G. Brown
Ronald G. Brown, WSBA # 8816
Attorney for Old 99 Property Group LLC

STIPULATED ORDER EXTENDING INTERIM
RELIEF AND RESCHEDULING HEARING - 4

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

LEGAL16171310.1