

IT IS HEREBY ADJUDGED  
and DECREED this is SO  
ORDERED.

The party obtaining this order is responsible for  
noticing it pursuant to Local Rule 9022-1.

Dated: January 28, 2010



1 Lawrence E. Wilk (006510)  
2 Barbara C. Klabacha (025078)  
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*Randolph J. Haines*

RANDOLPH J. HAINES  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In re:

Case No. 0:09-bk-19171-RJH

SUNSET SUITES ARIZONA, LLC,

**STIPULATED FINDINGS OF FACTS AND  
LAW AND ORDER FOR STAY RELIEF**

Re: 2220 Rancho Colorado Blvd.  
Bullhead City, Arizona

Debtor.

Hon. Randolph J. Haines

This matter is before the Court on the motion of M.M.M. International Corporation, Debtor's single largest creditor, both secured and unsecured ("MMM"), seeking relief from the automatic stay (Dkt. No. 43 dated October 15, 2009, as amended November 10, 2009 by Dkt. No. 64, the "Lift-Stay Motion"); this Court has heard the statements of counsel; and good cause appearing by the agreement of MMM and Debtor:

**THE COURT HEREBY FINDS:**

A. This Court has jurisdiction over the parties and the subject matter of the Lift-Stay Motion pursuant to 28 U.S.C. § 1334, and venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

B. The Lift-Stay Motion presents a core proceeding with respect to which this Court may enter a final Order pursuant to 11 U.S.C. §§ 1334 and 157(b).

C. The agreement of MMM and Debtor set forth in the following Stipulated Findings of Fact and Law (the "Stipulation") is reasonable and in the best interests of Debtor's creditors and its estate.

1 **Stipulated Findings of Fact and Law**

2 Debtor and MMM hereby jointly stipulate and agree, pursuant to 11 U.S.C. §§ 362 and  
3 363 and Bankruptcy Rule 4001(d), to the following findings of fact and points of law in  
4 resolution of the Lift-Stay Motion with respect to MMM's interest in a certain 55-unit residential  
5 real property commonly known as Sunset Suites located at 2220 Rancho Colorado Blvd.,  
6 Bullhead City, Arizona 86442 and more particularly described in Exhibit A hereto (the "Real  
7 Property") and related assets.

8 1. Debtor commenced its Chapter 11 proceedings on August 11, 2009 (the "Petition  
9 Date") and remains in possession and control of its properties and assets, including the Real  
10 Property, pursuant to 11 U.S.C. §§ 1107 and 1108.

11 2. As of the Petition Date, Debtor owed MMM no less than the principal amount of  
12 \$2,070,000.00 as evidenced by and pursuant to the following documents that are annexed as  
13 exhibits to the Lift-Stay Motion (collectively, the "Loan Documents"):

- 14 a. Note Secured by Deed of Trust dated September 10, 2005, Exhibit A;  
15 b. Deed of Trust and Assignment of Rents dated September 10, 2005, together with a Rider,  
16 Exhibit B (the "Deed of Trust");  
17 c. Assumption Agreement dated October 3, 2008, Exhibit C; and  
18 d. Modification to Promissory Note Secured by Deed of Trust and Modification to Deed of  
19 Trust and Assignment of Rents dated October 3, 2008, Exhibit D.

20 3. The Loan Documents are valid and enforceable.

21 4. Pursuant to the Loan Documents, MMM has a valid, enforceable, properly  
22 perfected and non-avoidable first priority security interest in and lien on the Real Property and all  
23 rents, income and proceeds thereof (the "Realty Collateral"). All such rents, income and proceeds  
24 of the Real Property constitute MMM's cash collateral within the meaning of 11 U.S.C. § 363(a)  
25 ("Cash Collateral"). The Debtor also granted MMM a security interest in other types of collateral  
26 described in the Deed of Trust, including fixtures ("Other Collateral"). MMM's claims to the  
27 Other Collateral are subject to any party in interest's right to contest the valid perfection of  
28 MMM's interests in any of the Other Collateral. All Other Collateral that has been properly  
perfected and the Realty Collateral shall be referred to together as the "Collateral".

1           5.       On October 5, 2009, this Court entered a Stipulated Final Order Approving Use of  
2 Cash Collateral that was extended to January 31, 2010 by a Stipulation for Continued Use of Cash  
3 Collateral entered December 31, 2009, Dkt. No. 73 (together, the "Cash Collateral Stipulation").

4           6.       Pursuant to the Cash Collateral Stipulation, Debtor was permitted to use MMM's  
5 Cash Collateral only for normal course of business operations as set forth in monthly budgets  
6 through January 29, 2010. In addition, Debtor was required to deliver to MMM all excess cash as  
7 of January 4, 2010, and on January 14, 2010, Debtor delivered to MMM cash in the amount of  
8 approximately \$5,160.00 (the "Cash Collateral Deposit").

9           7.       On October 29, 2009, Debtor and MMM stipulated that this Chapter 11 case is  
10 subject to the single asset real estate provisions of 11 U.S.C. §§ 101(1B) and 362(d)(3).

11           8.       Debtor's plan of reorganization filed November 9, 2009 (the "Plan") does not have  
12 a reasonable possibility of being confirmed within a reasonable time and Debtor has not made  
13 monthly payments to MMM as required by 11 U.S.C. § 362(d)(3). It is Debtor's intent to  
14 withdraw the Plan.

15           9.       Debtor does not have any equity in the Collateral and the Collateral is not  
16 necessary for an effective reorganization, as described by 11 U.S.C. § 362(d)(2).

17           10.      Cause exists to grant MMM relief from the automatic stay protecting the  
18 Collateral.

19           11.      Upon approval of this Stipulation by the Court:

20               (a)     MMM is entitled to immediate and presently effective relief from the  
21 automatic stay of 11 U.S.C. § 362 and all other applicable stays and injunctions, if any, to permit  
22 MMM to enforce all of its rights and remedies in the Collateral under bankruptcy or state law,  
23 including by either judicial foreclosure or non-judicial sale; and

24               (b)     Debtor agrees to promptly turn over and deliver to MMM all Cash  
25 Collateral, subject to payment of operating expenses incurred through January 28, 2010 as  
26 provided for in the Cash Collateral Stipulation. Debtor shall verify each outstanding item of  
27 expense prior to payment, and payment shall be subject to MMM's approval. Debtor shall retain  
28

1 funds sufficient to cover disputed payments, which shall be subject to further order of the  
2 Bankruptcy Court. Debtor shall turnover all undisputed excess proceeds within fifteen (15) days  
3 after the date of this Stipulation.

4 17. This Stipulation and the termination of the automatic stay with respect to the  
5 Collateral is in the best interests of all creditors of Debtor and its estate.

6 18. An Order enforcing this Stipulation shall bind Debtor and Debtor's estate.

7 19. The fourteen-day stay imposed by Fed.R.Bankr.P. 4001(a)(3) shall not apply to  
8 any Order approving this Stipulation.

9 20. An evidentiary hearing on MMM's Lift-Stay Motion scheduled for January 28,  
10 2010 shall be vacated in favor a non-evidentiary hearing to present this Stipulation to the Court  
11 for approval.

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1 In consideration of the Court's findings and the Stipulated Findings of Fact and Law:

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

3 1. The agreement between Debtor and MMM set forth in the Stipulation is approved.

4 2. MMM is granted immediate and presently effective relief from the automatic stay  
5 of 11 U.S.C. § 362 and all other applicable stays and injunctions, if any, to permit MMM to  
6 enforce all of its interests, rights and remedies in the Collateral, including, subject to paragraph  
7 11(b) above, any Cash Collateral .

8 3. Immediately upon entry of this Order, the Cash Collateral Stipulation shall  
9 terminate and Debtor shall turn over to MMM all Cash Collateral as provided for in paragraph  
10 11(b) above.

11 4. Immediately upon entry of this Order, Debtor shall provide MMM access to and  
12 possession and use of the Real Property and all written leases in connection with the Real  
13 Property.

14 5. The fourteen-day stay of Fed.R.Bankr.P. 4001(a)(3) shall not apply and this Order  
15 shall be effectively immediately.

16  
17 DATED AND SIGNED ABOVE.

18  
19 ACCEPTED AND AGREED AS TO BOTH FORM AND CONTENT:

20 JABURG & WILK, P.C.,  
21 Attorneys for M.M.M. International  
22 Corporation

23   
24 Lawrence E. Wilk  
25 Barbara C. Klabacha

ALLEN, SALA & BAYNE, PLC  
Attorneys for Sunset Suites Arizona, LLC,  
Debtor

26    
27 Paul Sala  
28 Leslie R. Hendrix

Exhibit A

A parcel of land located in the South half of the Northeast quarter of the Northwest quarter of Section 13, Township 20 North, Range 22 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona, more particularly described as follows:

COMMENCING at the Northeast corner of the South half of the Northeast quarter of the Northwest quarter of said Section 13;

thence South 89 degrees 43 minutes 41 seconds West a distance of 825.80 feet to the Northwest corner of the South half of the Northeast quarter of the Northwest quarter;

thence South 00 degrees 54 minutes 43 seconds East a distance of 295.02 feet to a point on the Southerly right-of-way of Rancho Colorado Boulevard;

thence North 89 degrees 43 minutes 28 seconds East a distance of 30.00 feet along the Southerly right-of-way of Rancho Colorado Boulevard and THE TRUE POINT OF BEGINNING;

thence continue North 89 degrees 43 minutes 28 seconds East along said right-of way a distance of 291.00 feet;

thence South 00 degrees 54 minutes 43 seconds East a distance of 278.03 feet;

thence South 89 degrees 43 minutes 28 seconds West a distance of 291.00 feet;

thence North 00 degrees 54 minutes 43 seconds West a distance of 278.03 feet parallel with and 30 feet East of the West line of said South half of the Northeast quarter of the Northwest quarter to the TRUE POINT OF BEGINNING.

ALSO KNOWN AS

Units 101 through 112, inclusive, Units 201 through 212, inclusive, and Units 301 through 312, inclusive, ARIZONA SUNSET SUITES - TRACT 5167, according to Declaration of Condominium recorded in Book 6785 of Official Records, page 606 and plat recorded at Reception Number 2007-041832, records of Mohave County, Arizona;

Together with an undivided interest in the common elements as set forth in said Declaration.