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*Proposed Counsel for the Official Committee  
of Unsecured Creditors*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

FRESH ACQUISITIONS, LLC, *et al.*,<sup>1</sup> § Case No. 21-30721 (SGJ)  
§ Chapter 11  
Debtors. § (Jointly Administered)

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**EMERGENCY MOTION FOR EXPEDITED HEARING**

The Official Committee of Unsecured Creditors (the “**Committee**”) files this motion seeking an order from the court expediting a hearing on the *Motion to Reconsider and Objection to Order Directing Arizona Bank & Trust to Produce Documents and Appear for Examination Pursuant to Bankruptcy Rule 2004* (the “**Motion to Reconsider**”) [Docket No.

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<sup>1</sup> The Debtors in these Chapter 11 cases (“Debtors”) and the last four digits of each Debtor’s Taxpayer Identification Number are as follows: Alamo Fresh Payroll, LLC (1590); Fresh Acquisitions, LLC (2795); Alamo Ovation, LLC (9002); Buffets LLC (2294); Hometown Buffet, Inc. (3002); Tahoe Joe’s Inc. (7129); OCB Restaurant Company, LLC (7607); OCB Purchasing, Co. (7610); Ryan’s Restaurant Group, LLC (7895); Fire Mountain Restaurants, LLC (8003); Food Management Partners, Inc. (7374); FMP SA Management Group, LLC (3031); FMP-Fresh Payroll, LLC (8962); FMP-Ovation Payroll, LLC (1728); and Alamo Buffets Payroll, LLC (0998). The Debtors’ principal offices are located at: 2338 N. Loop 1604 W., Suite 350, San Antonio TX, 78248, United States.

281] filed by Allen Jones, Jason Kemp, Larry Harris, Bryan Padilla, Rachel Harris and Tara Kemp (together, the **Guarantors**) and the *Response* to the Motion filed by the Committee [Docket No. 284]. Specifically, the Committee requests the Court set the hearing for July 7, 8 or 9, 2021 as soon as the Court's calendar may permit.

### **JURISDICTION AND VENUE**

1. On April 20, 2021 (the "**Petition Date**"), each of the Debtors filed Voluntary Petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On April 30, 2021, the United States Trustee for the Northern District of Texas appointed the Committee pursuant to Section 1102 of the Bankruptcy Code.

3. The Court has jurisdiction of the motion under 28 U.S.C. § 1334, and the motion constitutes a core proceeding under 28 U.S.C. § 157(b).

4. Venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

5. The statutory predicate for the relief requested in this motion is section 105 of the Bankruptcy Code.

### **RELIEF REQUESTED**

6. On June 14, 2021, the Committee filed its *Motion For Order Directing Arizona Bank & Trust to Produce Documents and Appear for Examination Pursuant to Bankruptcy Rule 2004* (the "**2004 Motion**") [Docket No. 228]. After a hearing on June 23, 2021, the Court entered its Order granting the 2004 Motion [ Docket No. 265].

7. The Order required ABT to produce the documents requested in Exhibit A to the Motion (the "**Request**") no later than June 29, 2021. The Order also required the Committee to provide notice of the 2004 Motion to the Guarantors who would have the opportunity to object.

8. On June 29, 2021, the Guarantors filed the Motion to Reconsider. The Committee filed its Response on June 2, 2021.

9. As a result of the Motion to Reconsider, ABT has declined to provide **any** documents responsive to paragraphs 2-11 of the Request, even those pertaining only to the Debtors. The documents provided in response to paragraph 1 of the Request regarding PPP funds were largely unsigned or redacted.

10. The Committee is facing upcoming deadlines a) to object to the sale of the Debtors' assets to VitaNova Brands, LLC ("**VitaNova**") [Docket Nos.165,178] that disturbingly proposes to sell all of the estates' avoidance and other causes of action against Affiliates and Insiders to VitaNova and more importantly, b) to challenge the broad releases granted by the Debtors' Final DIP Order [Docket No. 157] to ABT, VitaNova, the Guarantors, and the Debtors' affiliates and insiders.

11. The Guarantors' Motion to Reconsider has effectively blocked all discovery sought from ABT by the Committee.

12. As described in the Response, the ABT documents are critical to exploring the dealing by and among the Debtors, their affiliates and insiders—including the Guarantors who are the ultimate owners of the Debtors – to determine whether causes of action for improper conduct or transfers exist and should be pursued on behalf of the estates.

13. The Committee needs to obtain the documents quickly in order to have time to review them and prepare any necessary objections or challenges as described above.

14. Undersigned counsel has conferred with and received correspondence from counsel for the Guarantors, has prepared a response, and will continue to work to resolve this dispute prior to any hearing.

**CONCLUSION**

Based on the foregoing, the Committee requests the Court set this matter for hearing for July 7, 8 or 9, 2021 as soon as the Court's calendar may permit. A proposed form of Order is attached.

Dated: July 6, 2021

Respectfully submitted,

/s/ Carolyn J. Johnsen  
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**CERTIFICATE OF SERVICE**

I hereby certify that Notice of this document was electronically filed and served to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District on July 6, 2021.

/s/ Carolyn J. Johnsen  
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