

Jason S. Brookner
Texas Bar No. 24033684
Aaron M. Kaufman
Texas Bar No. 24060067
Amber M. Carson
Texas Bar No. 24075610

GRAY REED

1601 Elm Street, Suite 4600
Dallas, Texas 75201

Telephone: (214) 954-4135
Facsimile: (214) 953-1332
Email: jbrookner@grayreed.com
akaufman@grayreed.com
acarson@grayreed.com

**COUNSEL TO THE DEBTORS
AND DEBTORS IN POSSESSION**

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

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

**MOTION FOR EMERGENCY HEARING
ON THE DEBTORS' SECOND EMERGENCY MOTION FOR AN
ORDER PURSUANT TO SECTION 365(d)(4) OF THE BANKRUPTCY CODE
EXTENDING PERIOD WITHIN WHICH THEY MUST ASSUME OR REJECT
PURPORTED UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion (this “Motion for Emergency Hearing”):

¹ The Debtors in these chapter 11 cases 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.

1. On September 23, 2021, the Debtors filed the *Debtors' Second Emergency Motion for an Order Pursuant to Section 365(d)(4) of the Bankruptcy Code Extending Period Within Which They Must Assume or Reject Purported Unexpired Leases of Nonresidential Real Property* [Docket No. 444] (the "Section 365(d)(4) Motion").² The current deadline by which the Debtors must assume or reject any remaining nonresidential real property leases is October 2, 2021.

2. On September 21, 2021, this Court entered its *Order (A) Approving Bidding Procedures and Certain Bid Protections, (B) Scheduling Bid Deadline, Auction Date, and Sale Hearing and Approving Form and Manner of Notice Thereof, and (C) Approving Cure Procedures and the Form and Manner of Notice Thereof* [Docket No. 436] (the "Bidding Procedures Order"). Pursuant to the terms of the Bidding Procedures Order, a hearing to consider the approval of a sale of substantially all of the Debtors' assets (the "Sale") is scheduled for October 7, 2021, at 9:30 a.m. Central Time (the "Sale Hearing").

3. The Debtors respectfully request that the Court consider the Section 365(d)(4) Motion on **September 28, 2021 at 1:30 p.m. (CT)**. This request is not the result of undue delay, but rather necessitated due to the recent Sale Hearing setting. The Sale Hearing and anticipated closing date for the Sale are currently scheduled after the current Section 365(d)(4) Deadline of October 2, 2021. The Sale Hearing will significantly impact which leases are assumed or rejected. The Debtors therefore request an emergency hearing so that the Section 365(d)(4) Motion may be heard prior to the current October 2, 2021 deadline.

4. As indicated in the certificate of conference below, the Debtors have conferred with the respective counsel to their DIP lender, the U.S. Trustee, and the Official Committee of

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Section 365(d)(4) Motion.

Unsecured Creditors regarding the relief requested herein. None of these parties are opposed to emergency consideration of the Section 365(d)(4) Motion.

5. If this Motion for Emergency Hearing is granted, the Debtors will promptly file a notice of hearing, which will be served via electronic mail or U.S. First Class Mail on the limited service list maintained in these chapter 11 cases. Any additional notice will be provided as the Court directs.

WHEREFORE, the Debtors respectfully request that this Court enter an order substantially in the form attached hereto as **Exhibit A**, setting an emergency hearing on the Section 365(d)(4) Motion on **September 28, 2021 at 1:30 p.m. (CT)** and granting such other and further relief as may be just and proper.

Respectfully submitted this 23rd day of September, 2021.

GRAY REED

By: /s/ Jason S. Brookner

Jason S. Brookner
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Texas Bar No. 24060067
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CERTIFICATE OF SERVICE

I certify that on September 23, 2021, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

/s/Jason Brookner

Jason Brookner

CERTIFICATE OF CONFERENCE

I certify that on September 22, 2021, I conferred via email with: (i) Meredyth Kippes, trial counsel for the Offices of the United States Trustee; (ii) Michael Sutherland, counsel to the Debtors' DIP Lender; and (iii) Carolyn Johnsen and William Novotny, counsel to the Official Committee of Unsecured Creditors regarding the relief sought herein. None of these parties are opposed to emergency consideration of the Section 365(d)(4) Motion.

/s/Amber M. Carson

Amber M. Carson

Exhibit A

Proposed Order

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

In re:

FRESH ACQUISITIONS, LLC, *et al.*,¹

Debtors.

§
§
§
§
§
§
§
§

Chapter 11

Case No. 21-30721 (SGJ)

(Jointly Administered)

Re: Docket No. ____

**ORDER GRANTING MOTION FOR EMERGENCY HEARING
ON THE DEBTORS' SECOND EMERGENCY MOTION FOR AN
ORDER PURSUANT TO SECTION 365(d)(4) OF THE BANKRUPTCY CODE
EXTENDING PERIOD WITHIN WHICH THEY MUST ASSUME OR REJECT
PURPORTED UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Upon the motion (the “Motion for Emergency Hearing”)² filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for an emergency hearing on the

¹ The Debtors in these chapter 11 cases 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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Section 365(d)(4) Motion.

Debtors' Second Emergency Motion for an Order Pursuant to Section 365(d)(4) of the Bankruptcy Code Extending Period Within Which They Must Assume or Reject Purported Unexpired Leases of Nonresidential Real Property [Docket No. 444] (the "Section 365(d)(4) Motion"); and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having reviewed the Motion and determined that cause exists for granting the requested relief, it is HEREBY ORDERED THAT:

1. The Motion for Emergency Hearing is granted as set forth herein.
2. A hearing will be held on the Section 365(d)(4) Motion on **September 28, 2021 at 1:30 p.m. (prevailing Central Time)** before the Honorable Stacey G. C. Jernigan, United States Bankruptcy Judge for the Northern District of Texas, at the Earle Cabell Federal Building, 1100 Commerce Street, 14th Floor, Courtroom #1, Dallas, Texas 75242.
3. The Debtors shall promptly provide notice of the Hearing to all parties on the limited service list maintained in these chapter 11 cases.
4. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

END OF ORDER

Submitted by:

Jason S. Brookner

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Aaron M. Kaufman

Texas Bar No. 24060067

Amber M. Carson

Texas Bar No. 24075610

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