

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In re:

Body Contour Ventures, LLC,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-42510-pjs

Hon. Phillip J. Shefferly

**ARBORETUM I LLC'S OBJECTION TO CURE AMOUNT**

Now comes Arboretum I LLC ("Landlord") by and through its undersigned attorneys, The Law Office of Cheryl Luckoff, and files its objection ("Objection") to the Debtors' proposed cure payment

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<sup>1</sup> Debtors cases are being jointly administered for procedural purposes only and include Debtors Body Contour Ventures, LLC, Case No. 19-42510, BCA Acquisitions, LLC, Case No. 19-42511, American Aesthetic Equipment, LLC, Case No. 19-42512, Knoxville Laser Spa LLC, Case No. 19-42513, LRX Alexandria, LLC, Case No. 19-42514, LRX Birmingham, LLC, Case No. 19-42515, LRX Charlotte, LLC, Case No. 19-42516, LRX Chicago, LLC, Case No. 19-42517, LRX Colorado Springs, LLC, Case No. 19-42518, LRX Dearborn, LLC, Case No. 19-42519, LRX East Lansing, LLC, Case No. 19-42520, LRX Grand Blanc, LLC, Case No. 19-42833, LRX Hoffman Estates, LLC, Case No. 19-42521, LRX Las Vegas Summerlin, LLC, Case No. 19-42522, LRX Mesa, LLC, Case No. 19-42523, LRX Naperville, LLC, Case No. 19-42524, LRX Novi, LLC, Case No. 19-42525, LRX Orland Park, LLC, Case No. 19-42526, LRX Plymouth-Canton, LLC, Case No. 19-42527, LRX Stone Oak, LLC, Case No. 19-42528, LRX Towson, LLC, Case No. 19-42530, LRX Troy, LLC, Case No. 19-42531, Premier Laser Spa of Greenville LLC, Case No. 19-42532, Premier Laser Spa of Indianapolis LLC, Case No. 19-42533, Premier Laser Spa of Louisville LLC, Case No. 19-42534, Premier Laser Spa of Pittsburgh LLC, Case No. 19-42535, Premier Laser Spa of St. Louis LLC, Case No. 19-42536, and Premier Laser Spa of Virginia LLC, Case No. 19-42537.

relating to the property located at 34405 W. 12 Mile Road, Suites 200 and 261, Farmington Hills, MI 48331 ("Property")' as set forth in the Debtors' Notice to Counterparties to Executory Contracts and Unexpired Leases (Docket #318) ("Cure Notice"). In support of its Objection, Landlord states as follows:

### **INTRODUCTION**

1. Landlord entered into an Office Lease with Debtor Body Contour Ventures, LLC ("Debtor Body Contour") and Full Circle Financial, Inc. dated March 19, 2015, amended by a First Amendment to Lease dated April 26, 2017 (collectively as amended the "Lease") for the Property.
2. The Lease expires on June 30, 2021.
3. Debtor defaulted on the Lease and the Landlord filed a summary proceeding in the 47<sup>th</sup> District Court ("District Court").
4. The Landlord received a possession judgment and a money judgment against the Debtor for past due rent, court costs and attorney fees on December 19, 2018.
5. Debtor Body Contour failed to pay the Landlord the redemption amount and Landlord filed an application for order of eviction that was entered by the District Court.

6. On February 22, 2019, (the” Petition Date”), the Debtors filed their petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. Section 101 et sq. (the “Bankruptcy Code”).

7. On March 28, 2019, the United States Bankruptcy Court for the Eastern District of Michigan (“Bankruptcy Court”) entered an Order (I) Establishing Bidding Procedures, (II) Scheduling An Auction and a Sale Hearing in Connection the Sale of Substantially all of Debtors” Assets, (III) Setting Certain Date and Deadlines In Connection Therewith, (IV) Approving the form of the Asset Purchase Agreement including the termination fee, and (V) Granting related relief; (“Bidding Procedures Order”).

8. On April 4, 2019, Debtors filed and served the Cure Notice indicating that pursuant to the Bidding Procedures Order, the Debtors may potentially assume and assign to the Winning Bidder one or more of the executory contracts listed in the notice.

9. The Cure Notice listed in Schedule 1 various executory contracts and their respective cure amount.

10. Debtors identified a cure amount of \$12,920.05 (the “Proposed Cure Amount”) for the Lease pertaining to the Property.

11. Article 4 of the Lease provides that a tenant must pay base rent, late fees, operating expenses and taxes.

12. Article 25 of the Lease provides that upon tenant's default, the landlord is entitled to recover reasonable attorney fees for the cost of effecting a cure to the default.

### **OBJECTION**

13. Landlord objects to and disputes the Proposed Cure Amount, because the appropriate amount due and owing under the Lease is \$21,123,66 (the "Corrected Cure Amount") as set forth below and in Exhibit A:

i. Prepetition Amounts Owed.

1. \$13,475.00 rent, electricity, taxes, and late charges.
2. \$1991.61 in legal fees and court costs.

ii. Post-petition Amounts Owed.

1. \$1627.04 in rent, electricity, taxes, and late fees.
2. \$350 for the unauthorized use of third-party waste container.
3. \$1100.00 in legal fees February 2019
4. \$1480.01 in legal fees March 2019
5. \$1150.00 in legal fees in April 2019

TOTAL: \$21,123,66

14. The landlord of a defaulting debtor is entitled to recover attorney fees if the lease so provides. *In re FKA FC, LLC*, 545 B.R. 567

citing *In re Shangra-La, Inc.*, 167 F.3d at 849-50; *In re Crown Books Corp.*, 269 B.R. 12, 15-18 (Bankr. D. Del. 2001).

15. Before assuming any unexpired lease of real property, Section 365 of the Bankruptcy Code obligates the Debtors to promptly cure all defaults then existing. See 11 USC Section 365(b)(1)(A) and (B); *Elkton Associates v. Shelco Inc. (Matter of Shelco)*, 107 B.R. 483, 487 (Bankr. D. Del. 1989).

16. Landlord reserves all rights, including but not limited to supplementing this Objection with additional costs and fees incurred and to raise all sale related objections including an objection to adequate performance of future performance by any potential purchaser.

WHEREFORE, Landlord respectfully requests this Honorable Court to order that any assignment and assumption of the Lease be conditioned upon payment of the Correct Cure Amount and other such relief as this Court deems appropriate under the circumstances.

Respectfully submitted:

THE LAW OFFICE OF CHERYL LUCKOFF

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