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Proposed Counsel for Debtors and Debtors-in-Possession
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9 **UNITED STATES BANKRUPTCY COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 In re:

12 STEAKHOUSE PARTNERS, INC., a Delaware
corporation,

13 Debtor.

Case No. 08-04147-11

Chapter 11

14 In re:

15 PARAGON STEAKHOUSE RESTAURANTS, a
16 Delaware corporation,

17 Debtor.

Case No. 08-04152-11

Chapter 11

18 In re:

19 PARAGON OF MICHIGAN, INC., a Wisconsin
20 corporation,

21 Debtor.

Case No. 08-4153-11

Chapter 11

22 **FIRST DAY MOTION NO. 6;**
23 **MOTION FOR ORDER AUTHORIZING**
24 **PAYMENT OF INSTALLMENTS UNDER**
25 **PREPETITION INSURANCE PREMIUM**
26 **AGREEMENT**

27 Date: TBD

28 Time: TBD

Courtroom: 218

Judge: The Honorable James W. Meyers

Case No. 08-04147-11

MOTION re PAYMENT OF INSTALLMENTS UNDER PREPETITION INSURANCE PREMIUM AGREEMENT

1 PLEASE NOTE THAT THIS IS A FIRST-DAY MOTION FILED PURSUANT TO APPENDIX D1 OF THE
2 LOCAL BANKRUPTCY RULES OF THE SOUTHERN DISTRICT OF CALIFORNIA ("LOCAL
3 BANKRUPTCY RULES"). ANY PARTY IN INTEREST WHO OPPOSES THE FIRST-DAY MOTION MUST
4 IMMEDIATELY NOTIFY THE JUDGE'S LAW CLERK, KATHY YOST, BY CALLING (619) 557-3455. NO
5 WRITTEN OPPOSITION SHALL BE FILED TO THE FIRST-DAY MOTION UNLESS THE COURT
6 OTHERWISE DIRECTS.

7
8 TO THE HONORABLE JAMES W. MEYERS, UNITED STATES BANKRUPTCY JUDGE, SECURED
9 CREDITORS, THE TWENTY LARGEST UNSECURED CREDITORS AND THE UNITED STATES
10 TRUSTEE:

11 PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively the
12 "Debtors") hereby file this First Day Motion for an order of this Court pursuant to sections 105(a) and 363 of
13 title 11 of the United States Code (the "Bankruptcy Code") authorizing the Debtors' continued payment of
14 installments to AFCO Acceptance Company ("AFCO") under their prepetition insurance premium agreement.
15 Because the Debtors granted a security interest to AFCO prepetition (a requirement of the insurance premium
16 agreement) the Debtors are not seeking to grant a postpetition security interest to AFCO at this time.

17 PLEASE TAKE NOTICE that pursuant to Local Bankruptcy Rule 9014-5 and the "Guidelines for First
18 Day Motions" any party who opposes this Motion shall notify the judge's law clerk of its position by telephone.
19 No opposition shall be filed to a First Day Motion unless the Court otherwise directs. Pursuant to the
20 "Guidelines for First Day Motions" the Court reserves discretion to grant or deny a First Day Motion without a
21 hearing unless the Court otherwise directs.

22
23 PLEASE TAKE FURTHER NOTICE that the Motion is based upon the accompanying Memorandum
24 of Points and Authorities and the Declaration of Joseph L. Wulkowicz in support thereof filed under separate
25 cover concurrently herewith. In addition, the Debtors request that the Court take judicial notice of all
26 documents filed with the Court in these cases.

1 **WHEREFORE**, the Debtors respectfully request that this Court enter an order authorizing the Debtors
2 to pay installments to AFCO under their prepetition insurance premium agreement and granting such other
3 and further relief as is necessary and appropriate in the circumstances.

4
5 Dated: May 15, 2008

LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

6
7 By: /s/ Enid M. Colson

8 Julia W. Brand
9 Enid M. Colson
10 Proposed Counsel for Debtors and
11 Debtors-In-Possession
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 STATEMENT OF FACTS¹

4 A. Jurisdiction and Venue

5 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core
6 proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of the chapter 11 cases is proper pursuant to 28
7 U.S.C. §§ 1408 and 1409 as the Debtors' executive offices are located in San Diego County. The statutory
8 predicate for the relief sought herein is Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the
9 "Bankruptcy Rules"), Local Bankruptcy Rule 1015-1 and this Court's "Guidelines for First Day Motions." No
10 request has been made for the appointment of a trustee or examiner and no statutory committee has been
11 appointed in this case.

12 B. Background Facts

13 1. History of the Debtors

14 The three Debtors are related corporations engaged in the operation of 21 full service steakhouse
15 restaurants located in the seven states of Arizona, California, Indiana, Michigan, North Carolina, Ohio and
16 Utah. These restaurants principally operate under the brand names of Hungry Hunter, Hunter Steakhouse,
17 Mountain Jack's and Carvers.

18 Debtor Steakhouse Partners, Inc. ("Steakhouse Partners") is publicly traded over the counter under
19 the symbol "STKP." In December, 1998, Steakhouse Partners acquired its wholly owned subsidiary, Debtor
20 Paragon Steakhouse Restaurants, Inc. ("Paragon Steakhouse"), which owns and operates the restaurant
21 businesses. Paragon Steakhouse has one wholly owned subsidiary, Debtor Paragon of Michigan, Inc.,
22 ("Paragon of Michigan") through which it conducts its restaurant operations in the state of Michigan and holds
23 its intellectual property and trade names. The structural maintenance of Paragon of Michigan is dictated by
24 state alcohol laws; however, the subsidiary operations and financial results are consolidated at the Paragon
25 Steakhouse level.

26
27 1 The facts set forth in this Motion are verified in the Omnibus Declaration of Joseph L. Wulkowicz in
28 Support of Chapter 11 Petitions and First Day Motions filed concurrently herewith under separate cover.

1 The Debtors' business income is generated from food and beverage sales from each of the 21
2 restaurants, which during the Debtors' Fiscal Year 2007 (ending December 25, 2007) generated
3 approximately \$45,000,000 in gross revenue (as of the first quarter 2008, two restaurants are no longer
4 operated by the Debtors). Like other restaurant businesses, the Debtors' operations are seasonal, with the
5 overall performance peaking in the 4th quarter.

6 The Debtors' 21 steakhouses specialize in complete steak and prime rib meals, and also offer fresh
7 fish and other lunch and dinner dishes. The average restaurant check is \$27.30 per guest (including alcoholic
8 beverages) and the 21 restaurants serve approximately two million meals annually. Most restaurants are
9 open daily from 4:30 to 9:30 p.m. on weekdays and from 4:00 to 11:00 p.m. on the weekends. Some
10 restaurants are also open for lunch, typically beginning at 11:00 a.m.

11 Paragon Steakhouse and Paragon of Michigan, as of January 8, 2008 employ in excess of 1,325 full
12 and part time employees, approximately 1,200 of which perform services during any two-week period, and of
13 which approximately 55% are part-time.

14 Paragon manages six restaurants known as Sirloin Saloon and Dakota Steakhouses in the states of
15 Vermont, Massachusetts, Connecticut and New York pursuant to a Management and Services Agreement
16 between Paragon and the restaurant owners, DWH, I, Pittsfield DWH and Saloon beverages, Inc., entered
17 into effective November, 2007. This Management Agreement provides for termination of Paragon's
18 management services in the event that Paragon's acquires the membership interests in the referenced
19 corporations pursuant to a Membership Purchase Agreement or terminates the transaction pursuant to its
20 terms.

21 The Debtors maintain an internet website at www.paragonsteak.com. This website offers free access
22 to the Debtors' press releases and Steakhouse Partners' filings with the U.S. Securities and Exchange
23 Commission (the "SEC"), including its annual report on Form 10-K, quarterly reports on Form 10-Q, current
24 reports on Form 8-K and amendments to those reports, as soon as reasonably practicable after these reports
25 are filed with or furnished to the SEC.

26 2. The Debtors' Prior Bankruptcy Cases

27 On February 15, 2002, Steakhouse Partners filed a voluntary petition for relief under Chapter 11 of
28 the Bankruptcy Code in the United States Bankruptcy Court for the Central District of California (the

1 "Bankruptcy Court"). On February 19, 2002, Paragon Steakhouse and Paragon of Michigan also filed
2 voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court (together, the
3 "Initial Filing"). Effective December 31, 2003, the Debtors confirmed a Joint Plan of Reorganization (the "2003
4 Plan"), and on December 28, 2007 the Court entered an Order Regarding Final Report, Accounting and Final
5 Decree.

6 The Initial Filing was made in response to the maturing of certain notes aggregating \$1,734,285,
7 which the Debtors were unable to pay. Throughout the course of the Reorganization, the Debtors sought to
8 retain core locations, eliminate non-competitive leases, restructure their debt, and withdraw from under-
9 performing markets.

10 The 2003 Plan provided for the creation of the Class 4 Creditor Trust (the "Trust") for general
11 unsecured claimants with claims in excess of \$4,000 with a trustee (the "Trustee") for the purpose of
12 collecting, maintaining and distributing the Steakhouse Partners Class 4 Creditors Trust Assets. As part of
13 the Plan, the Trust was granted a lien on the Debtors' leasehold interests. Today, the Trust is the principle
14 secured creditor of the Debtors.

15 3. Post Plan Confirmation

16 Since confirmation of the 2003 Plan, the Debtors have experienced difficulty generating sufficient
17 cash to cover operating expenses, deferred maintenance and the extraordinary costs to satisfy reorganization
18 commitments. This inability remained an impediment to implementing long-term strategic changes required
19 to enhance the Debtors' intrinsic value, to increase top line revenue and resulting profit, and to pay long-term
20 debt. As a result, the Debtors' post-confirmation business plans focused on generating increased revenue
21 and profit, but directed attention to programs producing a longer-term focus through debt restructuring and
22 acquisition. Post confirmation, the Debtors sought and reached agreements with both public and private
23 financial institutions to complete certain acquisitions and private equity placements in order to strengthen the
24 core business and provide capital for debt repayment.

1 Although the Debtors had originally made total payments of approximately \$1,200,000 to the Trust,
2 they failed to make certain further payments as required by the 2003 Plan. As a result, the Trustee and the
3 Debtors negotiated a settlement agreement approved by the Court on August 10, 2006 (the "Settlement
4 Agreement"). Under the Settlement Agreement, the Debtors became obligated to make an alternative
5 payment of \$5,200,000 (the "Alternative Payment") of which \$1,100,000 was to be paid immediately.

6 In early 2007, the Debtors began a real estate liquidation plan designed to make structured payments
7 on their debt to the Trust. However, because the Debtors had not made the \$1,100,000 payment, on or about
8 May 18, 2007, the Debtors received the Trustee's notice of default as to the Alternative Payment. As a result,
9 the Debtors agreed to enter into a forbearance agreement (the "Forbearance Agreement") with the Trust,
10 which formalized the real estate sale plan already being marketed. The Debtors discuss their efforts and the
11 status of the sales with the Trustee of the Trust on a regular basis.

12 4. The Debtors' Situation in 2008

13 Although the Debtors have attempted to complete all of the sales contemplated by their agreement
14 with the Trust, a combination of variables causing deteriorating financial performance and third-party reticence
15 to consent to transfers have stymied the Debtors' efforts to live up to their commitments to the Trust.

16 Since mid-2007, the Debtors' financial results have deteriorated as a result of a combination of rising
17 costs and declining sales and guest frequency. By the end of March 2008, the deterioration rapidly
18 accelerated. Specifically, cost increases have been unprecedented. By way of example:

- 19
20 • The price of prime rib alone has increased by around 5%, chiefly as a result of the Midwest
21 diversion of corn products from the cattle feed market to the production of alternate fuel
22 sources such as ethanol. Thus, the feed available to ranchers has spiked in price, forcing
23 them to charge more per pound of beef. Further, in response to their own cost pressures, the
24 ranchers have reduced herd sizes, further driving up commodity costs due to lack of available
25 product. The Debtors only serve corn fed beef as it is the over whelming preference of their
26 core guests.
- 27 • Similarly, the nationwide oil and gas price increases have forced purveyors to assess "fuel
28 charges" on all products (whether produce, dairy, staples or alcohol), adding almost \$500,000
annually to the Debtors' operating cost.
- During 2007, the Debtors incurred increased payroll costs of around \$400,000 as a direct
result of state minimum wage increases. During first quarter 2008, an additional \$100,000 in
increased wages were paid as new minimum wage increases took effect.

1 As a result of this reduced revenue-increased cost environment, the Debtors have been unable to
2 generate sufficient cash to timely pay their bills on an ongoing basis and still sell real estate to satisfy the
3 Trust obligations. As the spiral has accelerated, landlords are unwilling to consent to transfers when
4 payments are not current, and state authorities will not allow transfer of single units until all state obligations
5 are current.

6 As such, the Debtors seek to complete its liquidation commitments within the protection of chapter 11
7 cases to gain sufficient time to sell assets for their highest and best price as going concerns. In the past six
8 years, the Debtors have sold and assigned more than 20 restaurants. In each case, the Debtors were able to
9 sell its leasehold interest, alcohol license, personal property and inventory for cash. In contrast, two
10 restaurants have been closed and offered for sale. In each case, no sale has been consummated because
11 the building offers no "going concern" value. A restaurateur does not want the property, because the
12 inventory and operating licenses (including liquor) are not available, and the "dark building" offers no built in
13 customer base. Alternate use buyers have shied away from purchase, because a restaurant building requires
14 extensive remodeling (especially with approximately 40% of the square footage allocated to the kitchen) or
15 razing to be suitable for alternative use.

16 Beginning in the week of May 11, 2008, the Debtors have started to receive 3-day notices from some
17 of their landlords. Other landlords have made statements to the Debtors that they may commence eviction
18 proceedings but have not yet served formal 3-day notices.

19 The Debtors believe that they can maximize cash available for distribution to creditors by offering for
20 sale their assets as operating "going concerns" while under the court's protection. They believe this can be
21 accomplished expeditiously and efficiently given the sales programs and leads already in place. However, it
22 cannot be accomplished without this Court's protection from parties seeking to block sales by seeking
23 preferential payment in front of senior creditors.

24 The remaining units will produce sufficient cash to support operations until sold. During the coming
25 ninety days, the restaurants the Debtor expects to continue to operate until sales are consummated should
26 produce a positive EBITDA.

1 cannot be accomplished without this Court's protection from parties seeking to block sales by seeking
2 preferential payment in front of senior creditors.

3 The remaining units will produce sufficient cash to support operations until sold. During the coming
4 ninety days, the restaurants the Debtor expects to continue to operate until sales are consummated should
5 produce a positive EBITDA.

6 **C. Relief Requested**

7 The Debtors seek an order of this Court pursuant to sections 105(a) and 363 of the Bankruptcy Code
8 authorizing the Debtors' continued payment of installments to AFCO Acceptance Company ("AFCO") under
9 their prepetition insurance premium agreement. Because the Debtors granted a security interest to AFCO
10 prepetition (a requirement of the insurance premium agreement) the Debtors are not seeking to grant a
11 postpetition security interest to AFCO at this time².

12
13 **D. Factual Basis for Relief Requested**

14 In the ordinary course of the Debtors' business, the Debtors are either required by law or compelled
15 by sound business judgment to maintain various forms of insurance, including workers' compensation,
16 property, automobile, fiduciary liability, directors and officers liability, and umbrella insurance. Certain
17 insurance policies obtained by the Debtors to provide such coverage require the Debtors to prepay the full
18 premium for the applicable coverage period. Because all of these insurance policies cover policy periods of
19 one year, the requirement to prepay the full premium may impose a significant financial burden on the
20 Debtors. To lessen this burden, prior to the Petition Date, the Debtors entered into the Premium Finance
21 Agreement with AFCO Acceptance Corporation ("AFCO") (attached hereto as Exhibit "A").

22 The Premium Finance Agreement requires the Debtors to pay total premiums of \$532,190, of which
23 the Debtors chose to finance \$425,752 pursuant to the terms stated in the attached Premium Finance
24 Agreement. The Debtors paid a down payment of \$106,438. Those financing terms require the Debtors to
25 pay \$48,116.44 per month with the first installment coming due on June 1, 2008.

26 _____
27 ² In the event the Debtors' need to renew their insurance premium financing during the pendency of these
28 cases and grant AFCO a new security interest, the Debtors will bring a regularly-noticed motion under section 364(c).

1 The Policies are extremely valuable policies and it is essential to maintain them in the interest of the
2 preservation of the property, assets and business of the Debtors. The Policies could not have been obtained
3 for the Debtors unless the premiums were financed. The Debtors have been unable to locate any source of
4 unsecured premium financing and, at the time the Debtors entered into the Premium Finance Agreement with
5 AFCO, they granted AFCO a security interest in the gross unearned premiums (the "Security Interest") which
6 would be payable in the event of cancellation of the Policies and which further authorizes AFCO to cancel the
7 financed Policies and obtain the return of any unearned premiums in the event of a default in the payment of
8 any installment due³. The Security Interest granted to AFCO is limited to that money which will be given to
9 the Debtors by AFCO. Therefore, the Security Interest does not affect the interests of other creditors of the
10 Debtors.

11 As of the Petition Date, the Debtors are current in their obligations to AFCO under the Premium
12 Financing Agreement but will owe \$48,116.44 on June 1, 2008. To ensure that the insurance coverage
13 provided under the financed insurance policies is not interrupted and to avoid the risk that the Debtors could
14 be forced to procure replacement insurance coverage on less favorable terms and conditions, the Debtors
15 must be able to continue to perform their obligations under the Premium Finance Agreements.

17 II.

18 LEGAL ARGUMENT

19 A. Section 363 Authorizes the Debtors to Continue Performing Their Obligations Under the 20 Premium Financing Agreement

21 As debtors-in-possession, sections 1107 and 1108 authorize the Debtors to continue to operate their
22 business within these chapter 11 cases. 11 U.S.C. §§ 1107, 1108. Section 363(c)(1) provides that a trustee
23 or debtor-in-possession authorized to operate the debtor's business under section 1108 may enter into
24 ordinary course transactions and use property of the estate in the ordinary course of business. 11 U.S.C.
25 § 363(c)(1). The Debtors entered into the Premium Finance Agreement with AFCO in the ordinary course of
26 their business and believe that continuing to honor their monthly obligations under that agreement is both

27 ³ From and after the Petition Date, AFCO's ability to utilize this remedy is limited by and subject to the
28 automatic stay imposed by section 362 of the Bankruptcy Code.

1 authorized and prudent. This will ensure that the insurance coverage provided under the financed insurance
2 policies is not interrupted and avoid the risk that the Debtors could be forced to procure replacement
3 insurance coverage on less favorable terms and conditions.

4 The insurance policies provide the Debtors with essential insurance coverage. Any interruption in
5 such coverage would expose the Debtors to potentially catastrophic risks including the cessation of business
6 operations, incurring higher costs for re-establishing lapsed or cancelled policies and incurring direct liability
7 for the payment of claims that otherwise would have been payable under the insurance policies. Accordingly,
8 the Court should authorize the Debtor to continue honoring its obligations under the Premium Finance
9 Agreement.

10 **B. Notice of This Motion Complies With This Court's Requirements and Is Appropriate**

11 Pursuant to this Court's Guidelines for First Day Motions, this Motion has been served by facsimile, or
12 personal service, or email (where consent was granted) or, where necessary, by express or overnight mail on
13 all known secured creditors and the twenty largest unsecured creditors in each of the Debtors' cases and the
14 United States Trustee. Because of the exigent circumstances, the Debtors respectfully submit, and request
15 that this Court so find, that no further notice of this Motion is required.

16
17 **C. The Court May Grant this First Day Motion Without A Hearing.**

18 Bankruptcy Code section 102(1)(A) provides in pertinent part: "(1) 'after notice and a hearing' . . .
19 means after such notice as is appropriate in the particular circumstances, and such opportunity for hearing as
20 is appropriate in the particular circumstances." Furthermore, section 102(1)(B)(i) of the Bankruptcy Code
21 "authorizes an act without actual hearing if such notice is given properly and such a hearing is not requested
22 timely by a party in interest."

23 This Motion is brought as a First Day Motion in accordance with the Guidelines for First Day Motions
24 which provide that certain matters must be addressed immediately after the commencement of a chapter 11
25 case in order to ensure the least possible disruption to the debtor's ongoing business operations and thereby
26 enhance the chances for success in chapter 11. Pursuant to the Guidelines, the Court reserves discretion to
27 grant or deny a First Day Motion without a hearing unless the Court otherwise directs. The Debtors believe
28 that under section 102(1) of the Bankruptcy Code and the Guidelines, and with the need for immediate

1 approval of this Motion based on the June 1, 2008 due date for the Debtors' first installment under the
2 Premium Financing Agreement, it would be appropriate to dispense with a hearing on the Motion.

3
4 **III.**

5 **CONCLUSION**

6 For the foregoing reasons, the Debtors respectfully request that this Court enter an order authorizing
7 the Debtors to pay installments to AFCO under their prepetition insurance premium agreement and granting
8 such other and further relief as is necessary and appropriate in the circumstances.

9
10 Dated:

LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

11
12 By: /s/ Enid M. Colson

13 Julia W. Brand
14 Enid M. Colson
15 Proposed Counsel for Debtors and
16 Debtors-In-Possession
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Exhibit A

74505
11510-100-000407

FILE NO. 1829



Premium Finance Agreement - Promissory Note
3636 Camino del Rio North, Suite 185, San Diego, CA 92108-1709
TEL. NOS. 619-584-4388 800-288-7920

(CHECK APPROPRIATE BOX)

☐ PERSONAL
☒ COMMERCIAL

Page 1 of 3

Agent (Name and Address) Willis Ins Svcs of California dba Willis Risk & Ins Svcs of San Diego 4250 Executive Square #250 La Jolla, CA 92122 858-678-2000	Insured (Name and Address as shown on the policy) Steakhouse Partners, Inc. 10200 Willow Creek Road San Diego, CA 92131
---	---

A) Total Premiums	B) Down Payment	C) Amount Financed	D) Finance Charge	E) Total Payments
\$532,190.00	\$106,438.00	\$425,752.00	\$7,295.96	\$433,047.96
F) Annual Percentage Rate	No. of Payments	Amount of Payments	First Installment Due	Installment Due Dates
4.094 %	9 (Monthly)	\$48,116.44	06/01/2008	1st

SCHEDULE OF POLICIES

Policy Prefix and Numbers	Effective Date of Policy/Inst.	Name of Insurance Company and Name and Address of General or Policy Issuing Agent or Intermediary	Type of Coverage	Months Covered	Premium \$
	05/01/2008	LIBERTY SURPLUS INSURANCE CORP Partners Specialty Group LLC 8001 Irvine Center Dr., #350 Irvine, CA 92618 USA Broker Fee Surplus Lines Tax TMB = \$47,625.00 Policy Detail Continued...	GL FEE TAX	12* NRef Ref	75,000.00 4,500.00 2,344.00

Security Agreement

(1) **DEFINITIONS:** The above named Insured (the "Insured") is the borrower. AFCO Acceptance Corporation ("AFCO") is the lender to whom the debt is owed. "Insurance company" or "company", "insurance policy" or "policy" and "premium" refer to those items listed under the "Schedule of Policies". Singular words shall mean plural and vice-versa as may be required in order to give this Agreement meaning.
 (2) **PROMISE OF REPAYMENT:** The Insured (I) requests AFCO to pay the premiums in the Schedule of Policies, less the Down Payment and any installments paid prior to acceptance of this Agreement and (II) promises to pay to AFCO the amount stated in Block E above, according to the Payment Schedule shown above, subject to the remaining terms of this Agreement. No additional authority, acts, approvals or licenses are or will be necessary as a prerequisite to the enforceability of this Agreement. AFCO may, at its option, pay loan proceeds to any agent, broker, general agent, managing general agent or insurer set forth herein. Payments to AFCO are deemed made only upon receipt in good funds. Checks are accepted, subject to collection.

INSURED AGREES TO ALL TERMS SET FORTH ON ALL PAGES OF THIS AGREEMENT AND ANY ADDENDA THERETO.

SIGNATURE OF INSURED(S) OR AUTHORIZED AGENT OF INSURED(S) [Signature] PRINT NAME VP-CFO TITLE VP-CFO DATE 5/7/08

AGENT OR BROKER REPRESENTATIONS

The undersigned warrants and agrees: (A) The policies are in full force and effect and the information in the Schedule of Policies has been verified and is correct. (B) The Insured authorized this transaction, recognizes the security interest assigned herein and has received a copy of this Agreement. (C) To hold in trust for AFCO any payments made or credited to the Insured through or to the undersigned, directly or indirectly, actually or constructively by any party and to pay the monies as well as any unearned commissions to AFCO promptly to satisfy the outstanding indebtedness of the Insured. (D) There are not and will not be any other liens given against the listed policies and the premiums are not and will not be financed by any other lender. (E) The policies comply with AFCO's eligibility requirements. (F) No audit or reporting form policies, policies subject to retrospective rating or minimum earned premium are included. The deposit or provisional premiums are not less than anticipated premiums to be earned for the full term of the policies. (G) The Insured can cancel the policies and the unearned premiums will be computed on the standard pro-rata table. (H) No proceeding(s) in bankruptcy, receivership, or insolvency have been instituted by or against the Insured. (I) All premiums shall be paid to the Insurer(s). (J) No additional authority, acts, approvals or licenses are or will be necessary as a prerequisite to the enforceability of this Agreement. (K) AFCO will rely upon these representations in determining whether to accept this Agreement.

IF THERE ARE ANY EXCEPTIONS TO THE ABOVE STATEMENTS, THEY ARE LISTED BELOW:

THE UNDERSIGNED FURTHER WARRANTS THAT IT HAS COLLECTED THE DOWN PAYMENT AND ANY OTHER SUMS DUE AS REQUIRED BY THE AGREEMENT AND IS HOLDING SAME OR THEY ARE ATTACHED TO THIS AGREEMENT

SIGNATURE OF AGENT OR BROKER _____ TITLE _____ DATE _____

FOR INFORMATION CONTACT THE DEPARTMENT OF FINANCIAL INSTITUTIONS, STATE OF CALIFORNIA



FILE NO. 1829

Premium Finance Agreement - Promissory Note3636 Camino del Rio North, Suite 185, San Diego, CA 92108-1709
TEL. NOS. 619-584-4388 800-288-7920

(CHECK APPROPRIATE BOX)

☐ PERSONAL
☒ COMMERCIAL

Page 2 of 3

SCHEDULE OF POLICIES

Policy Prefix and Numbers	Effective Date of Policy/Inst.	Name of Insurance Company and Name and Address of General or Policy Issuing Agent or Intermediary	Type of Coverage	Months Covered	Premium \$
	05/01/2008	HARTFORD FIRE INS CO	AUTO	12	16,165.00
	05/01/2008	Lloyds of London Willis Attn: Willis Insurance Services of CA Inc C/O: Willis Risk & Ins Svcs of San Diego 4250 Executive Sq #250 La Jolla, CA 92037 USA Global Excess Partners 555 Fifth Avenue New York, NY 10017 USA Swett & Crawford 21650 Oxnard St Ste 1400 Woodland Hills, CA 91367 USA Broker Fee Surplus Lines Tax	PROP FEE TAX	12 NRef Ref	82,500.00 4,500.00 2,578.00
	05/01/2008	TRAVELERS PROPERTY CASUALTY INS CO Terrorism/TRIA Fee	EQPB FEE	12 NRef	3,278.00 33.00
	05/01/2008	FIREMAN'S FUND INS CO	UMB	12	25,000.00
	05/01/2008	Everest National Insurance Company Tax	WC TAX	12* Ref	307,159.00 9,133.00

QIV# 100000169206.003

- (3) **SECURITY INTEREST AND POWER OF ATTORNEY:** The Insured assigns and hereby gives a security interest to AFCCO as collateral for the total amount payable in this Agreement and any other past, present or future extension(s) of credit; (a) any and all unearned premiums or dividends which may become payable for any reason under all insurance policies financed by AFCCO, (b) loss payments which reduce the unearned premiums, subject to any mortgagee or loss payee interests and (c) any interest in any state guarantee fund relating to any financed policy. If any circumstances exist in which all premiums related to any policy could become fully earned in the event of any loss, AFCCO shall be named a loss-payee with respect to such policy. AFCCO at its option may enforce payment of this debt without recourse to the security given to AFCCO. The Insured irrevocably appoints AFCCO as its attorney in fact with full authority to (i) cancel all insurance financed by AFCCO for the reason set forth in paragraph 12, whether pursuant to this or any other agreement, (ii) receive all sums hereby assigned to AFCCO and (iii) execute and deliver on the Insured's behalf all documents, instruments of payment, forms and notices of any kind relating to the insurance in furtherance of this Agreement.
- (4) **WARRANTY OF ACCURACY:** The Insured (i) warrants that all listed insurance policies have been issued to it and are in full force and effect and that it has not and will not assign any interest in the policies except for the interest of mortgagees and loss payees and (ii) authorizes AFCCO to insert or correct on this Agreement, if omitted or incorrect, the insurer's name, the policy numbers, and the due date of the first installment and to correct any obvious errors. In the event of any such change, correction or insertion, AFCCO will give the Insured written notice thereof.
- (5) **REPRESENTATION OF SOLVENCY:** The Insured represents that it is not insolvent or the subject of any insolvency proceeding.
- (6) **ADDITIONAL PREMIUMS:** The money paid by AFCCO is only for the premium as delineated at the time the insurance policy is issued. AFCCO's payment shall not be applied by the insurance company to pay for any additional premiums owed by the Insured resulting from any type of misclassification of the risk. The Insured shall pay to the insurer any additional premiums or any other sums that become due for any reason. If AFCCO assigns the same account number to any additional extension or extensions of credit, (i) this Agreement and any other agreement(s) identified by such account number shall be deemed to comprise a single and indivisible loan transaction, (ii) any default with respect to any component of such transaction shall be deemed a default with respect to all components of such transaction and (iii) any unearned premiums relating to any component of such transaction may be collected and applied by AFCCO to the totality of such transaction.
- (7) **SPECIAL INSURANCE POLICIES:** If the insurance policy is auditable or is a reporting form policy or is subject to retrospective rating, then the Insured promises to pay to the insurance company the earned premium computed in accordance with the policy provisions which is in excess of the amount of premium advanced by AFCCO which the insurance company retains.
- (8) **NAMED INSURED:** If the insurance policy provides that the first named insured in the policy shall be responsible for payment of premiums and shall act on behalf of all other insureds regarding the policy, then the same shall apply to this Agreement and the Insured represents that it is authorized to sign on behalf of all insureds. If not, then all insureds' names must be shown on this Agreement unless a separate agreement appoints an Insured to act for the others.
- (9) **AGENT'S WARRANTIES:** To induce AFCCO to accept this Agreement, the person executing this Agreement, if not the Insured, warrants severally and as the duly authorized agent of the Insured, that he is the duly authorized agent of the Insured, appointed specifically to enter into this transaction on the Insured's behalf and that he can perform any act the Insured could or should perform with respect to this transaction.
- (10) **AGREEMENT BECOMES A CONTRACT:** This Agreement becomes a binding contract when AFCCO mails the Insured its acceptance and is not a contract until such time. The Insured agrees that (i) this Agreement may be transmitted by facsimile, E-mail or other electronic means to AFCCO, (ii) any such transmitted Agreement shall be deemed a fully enforceable duplicate original document and (iii) such Agreement, when accepted by AFCCO, shall constitute a valid and enforceable contract.
- (11) **DEFAULT AND DISHONORED CHECK CHARGES:** If the Insured is late in making a loan payment to AFCCO by 10 or more days, the Insured will pay to AFCCO a default charge of 5% of the delinquent installment, but will be at least \$1. If a check is dishonored, the Insured will pay a dishonored check fee not to exceed \$15.
- (12) **CANCELLATION:** AFCCO may cancel all insurance policies financed by AFCCO after giving 10 days notice of its intent to do so and the full balance due to AFCCO shall be immediately payable, if the Insured does not pay any installment according to the terms of this or any other agreement with AFCCO. Payment of unearned premiums shall not be deemed to be payment of installments to AFCCO, in full or in part.
- (13) **AGREED RATE OF CHARGE:** The rate of charge for a loan not exceeding \$2,499.99 computed from the earliest effective date of the insurance coverage shall not exceed:
 (a) 2% per month on the part of the unpaid principal balance not exceeding \$1,000; 1% per month of any remainder of such unpaid balance in excess of \$1,000; or
 (b) 1.6% per month of the unpaid principal balance.
 All other rates of charge shall be agreed upon by the parties to the contract. All contracts shall be subject to a minimum charge of \$25.00.
- (14) **MONEY RECEIVED AFTER NOTICE OF CANCELLATION:** Any payments made to AFCCO after mailing of AFCCO's Notice of Cancellation may be credited to the Insured's account without affecting the acceleration of this Agreement and without any liability or obligation to request reinstatement of a canceled policy. Any money AFCCO receives from an insurance company shall be credited to the amount due AFCCO with any surplus paid over to whomever is entitled to the money. No refund of less than \$1.00 shall be made. In the event that AFCCO requests, on the Insured's behalf, reinstatement of the policy, such request does not guarantee that coverage will be reinstated.
- (15) **COLLECTION EXPENSE - ATTORNEY FEES:** The Insured agrees to pay AFCCO's collection expenses. If AFCCO obtains a court judgment against the Insured, the Insured agrees to pay to AFCCO court costs and reasonable attorney's fees as allowed by the court in the judgment.
- (16) **REFUND CREDITS:** The Insured will receive a (i) refund credit of part of the finance charge if it voluntarily prepays the outstanding debt in full before the last installment due date according to Section 18629 of the Financial Code and (ii) refund credit of part of the finance charge if the maturity of the loan is accelerated for any reason according to Section 18642 of the Financial Code. The methods for computing these refund credits are stated below.
 (a) **Voluntary Prepayment -** If prepayment in full is made during the first three months and 15 days after the earliest insurance policy effective date as shown on the front of the contract, AFCCO will compute a finance charge by multiplying the agreed rate of charge as stated at the end of this Agreement by the unpaid principal balances for the number of days from the earliest policy effective date to the date of prepayment in full. AFCCO will apply each payment made by the Insured, first to finance charge and then to principal. AFCCO will then subtract this actual finance charge from the finance charge shown in Box D of the contract to obtain the refund credit. (i) If prepayment in full is made more than three months and 15 days after the earliest insurance policy effective date, the refund credit shall be computed by the Rule of 78s method.
 (b) **Acceleration of Maturity -** If payment of the unpaid balance of the loan to AFCCO is accelerated for any reason, AFCCO shall make the same refund or credit as would be required if this loan contract was paid in full on the date of acceleration. Paragraph 16(a) states the method of computing the refund or credit. The unpaid balance remaining after subtracting the refund or credit shall be treated as the unpaid principal balance. The Insured agrees to pay AFCCO interest on the unpaid principal balance, computed at the agreed rate of charge stated at the end of this Agreement, until AFCCO is actually paid in full, notwithstanding any cancellation of coverage. If AFCCO issues a Notice of Cancellation, AFCCO may recalculate the total finance charge payable pursuant to this Agreement, and the Insured agrees to pay interest, on the Amount Financed set forth herein, from the first effective date of coverage, at the highest lawful rate of interest.
- (17) **INSURANCE AGENT OR BROKER:** The insurance agent or broker named in this Agreement (the "Agent") is the Insured's agent, not AFCCO's and AFCCO is not legally bound by anything the agent or broker represents to the Insured orally or in writing. AFCCO has not participated in the choice, placement, acquisition or underwriting of any financed insurance. Any disclosures made by the Agent are made in its capacity as the Insured's agent and AFCCO makes no representations with respect to the accuracy of any such disclosures. Notwithstanding any breakdown of the Amount Financed by policy that the Agent may disclose, AFCCO's security interest includes the totality of all gross unearned premiums in addition to any other collateral set forth in paragraph (3) and AFCCO discloses only a single aggregate Amount Financed in Block C.
- (18) **NOT A CONDITION OF OBTAINING INSURANCE:** This Agreement is not required as a condition for obtaining insurance coverage.
- (19) **SUCCESSORS AND ASSIGNS:** All legal rights given to AFCCO shall benefit AFCCO's successors and assigns. The Insured will not assign this Agreement and/or the policies without AFCCO's written consent except for the interest of mortgagees and loss payees.
- (20) **LIMITATION OF LIABILITY - CLAIMS AGAINST AFCCO:** The Insured hereby irrevocably waives and releases AFCCO from any claims, lawsuits and causes of action which may be related to any prior loans and/or to any act or failure to act prior to the time that this Agreement becomes a binding contract, pursuant to paragraph 10. AFCCO's liability for breach of any of the terms of this agreement or the wrongful exercise of any of its powers shall be limited to the amount of the principal balance outstanding, except in the event of willful misconduct. Any claims against AFCCO shall be litigated exclusively in the Supreme Court of the State of New York, County of New York.
- (21) **DISCLOSURE:** The insurance company or companies and their agents, any intermediaries and the insurance agent or broker named in this Agreement and their successors are authorized and directed to provide AFCCO with full and complete information regarding all financed insurance policy or policies, including, without limitation, the status and calculation of unearned premiums.
- (22) **ENTIRE DOCUMENT - GOVERNING LAW - ENFORCEMENT VENUE:** This document is the entire agreement between AFCCO and the Insured and can only be changed in a writing signed by both parties except as stated in paragraph (4). The laws of the state of California will govern this Agreement unless otherwise stated. AFCCO may, at its option, prosecute any action to enforce its rights hereunder in the Supreme Court of the State of New York, County of New York, and the Insured (i) waives any objection to such venue and (ii) will honor any order issued by or judgment entered in such Court.
- (23) **WAIVER OF SOVEREIGN IMMUNITY:** The Insured hereby certifies that it is empowered to enter into this Agreement without any restrictions and that the individual signing it has been fully empowered to do so. To the extent that the Insured either possesses or claims sovereign immunity for any reason, such sovereign immunity is expressly waived and the Insured agrees to be subject to the jurisdiction of the laws and courts set forth in the preceding paragraphs.

Exhibit B

CSD 1001A [11/15/04]

Name, Address, Telephone No. & I.D. No.

Julia W. Brand, Esq. (SBN: 121760)
Enid M. Colson, Esq. (SBN: 189912)
Liner Yankelevitz Sunshine & Regenstreif LLP
1100 Glendon Ave., 14th Floor
Los Angeles, CA 90024-3503
(310) 500-3500

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

STEAKHOUSE PARTNERS, INC., a Delaware corporation

BANKRUPTCY NO.

08-04147-11

Date of Hearing:

Time of Hearing:

Debtor. Name of Judge: James W. Meyers

**ORDER ON FIRST DAY MOTION NO. 6: MOTION FOR
ORDER AUTHORIZING PAYMENT OF INSTALLMENTS UNDER
PREPETITION INSURANCE PREMIUM AGREEMENT**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court
James W. Meyers

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

Enid M. Colson, Esq. (SBN: 189912)
(Firm name)

By: _____
Attorney for ☐ Movant ☐ Respondent

The Debtors and Debtors-in-Possession Steakhouse Partners, Inc., Paragon Steakhouse Restaurants and Paragon of Michigan (the "Debtors"), having properly filed and provided the required notice of its First Day Motion No. 6: "Motion for Order Authorizing Payment of Installments Under Prepetition Insurance Premium Agreement ("Insurance Motion") and the Omnibus Declaration of Joseph L. Wulkowicz filed in support of the Debtors' First Day Motions, the Court having determined that the legal and factual bases set forth in the Insurance Motion establish just cause for the relief requested, and it appearing that such relief is in the best interests of the Debtors' estates, and after due deliberation and sufficient good cause appearing therefor,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Debtors' Motion for Order Authorizing Payment of Installments Under Prepetition Insurance Premium Agreement is hereby granted; and
2. The Debtors are hereby authorized to pay installments to AFCO Acceptance Company ("AFCO") under their prepetition insurance premium agreement.

IT IS SO ORDERED

CSD 1001A [11/15/04]

Name, Address, Telephone No. & I.D. No.

Julia W. Brand, Esq. (SBN: 121760)
Enid M. Colson, Esq. (SBN: 189912)
Liner Yankelevitz Sunshine & Regenstreif LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, California 90024-3503
310.500.3500

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re **PARAGON STEAKHOUSE RESTAURANTS, a**
Delaware corporation

BANKRUPTCY NO.

08-04152-11

Date of Hearing:

Time of Hearing:

Debtor. Name of Judge: **James W. Meyers**

**ORDER ON FIRST DAY MOTION NO. 6; MOTION FOR
ORDER AUTHORIZING PAYMENT OF INSTALLMENTS UNDER
PREPETITION ISNURANCE PREMIUM AGREEMENT**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court
James W. Meyers

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

Liner Yankelevitz Sunshine & Regenstreif LLP
(Firm name)

By: /s/ Enid M. Colson

Attorney for ☐ Movant ☐ Respondent

Enid M. Colson

The Debtors and Debtors-in-Possession Steakhouse Partners, Inc., Paragon Steakhouse Restaurants and Paragon of Michigan (the "Debtors"), having properly filed and provided the required notice of its First Day Motion No. 6: "Motion for Order Authorizing Payment of Installments Under Prepetition Insurance Premium Agreement ("Insurance Motion") and the Omnibus Declaration of Joseph L. Wulkowicz filed in support of the Debtors' First Day Motions, the Court having determined that the legal and factual bases set forth in the Insurance Motion establish just cause for the relief requested, and it appearing that such relief is in the best interests of the Debtors' estates, and after due deliberation and sufficient good cause appearing therefor,

IT IS HEREBY ORDERED AS FOLLOWS:

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2. The Debtors are hereby authorized to pay installments to AFCO Acceptance Company ("AFCO") under their prepetition insurance premium agreement.

IT IS SO ORDERED

CSD 1001A [11/15/04]

Name, Address, Telephone No. & I.D. No.

Julia W. Brand, Esq. (SBN: 121760)
Enid M. Colson, Esq. (SBN: 188912)
Liner Yankelevitz Sunshine & Regenstreif, LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, California 90024-3503
310.500.3500

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

PARAGON OF MICHIGAN, INC., a Wisconsin corporation

BANKRUPTCY NO.

08-04153-11

Date of Hearing:

Time of Hearing:

Debtor. Name of Judge: James W. Meyers

**ORDER ON FIRST DAY MOTION NO. 6; MOTION FOR
ORDER AUTHORIZING PAYMENT OF INSTALLMENTS UNDER
PREPETITION INSURANCE PREMIUM AGREEMENT**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court
James W. Meyers

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

Liner Yankelevitz Sunshine & Regenstreif, LLP
(Firm name)

By: /s/ Enid M. Colson
Attorney for ☐ Movant ☐ Respondent
Enid M. Colson

The Debtors and Debtors-in-Possession Steakhouse Partners, Inc., Paragon Steakhouse Restaurants and Paragon of Michigan (the "Debtors"), having properly filed and provided the required notice of its First Day Motion No. 6: "Motion for Order Authorizing Payment of Installments Under Prepetition Insurance Premium Agreement ("Insurance Motion") and the Omnibus Declaration of Joseph L. Wulkowicz filed in support of the Debtors' First Day Motions, the Court having determined that the legal and factual bases set forth in the Insurance Motion establish just cause for the relief requested, and it appearing that such relief is in the best interests of the Debtors' estates, and after due deliberation and sufficient good cause appearing therefor,

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1. The Debtors' Motion for Order Authorizing Payment of Installments Under Prepetition Insurance Premium Agreement is hereby granted; and
2. The Debtors are hereby authorized to pay installments to AFCO Acceptance Company ("AFCO") under their prepetition insurance premium agreement.

IT IS SO ORDERED