



Hard Rock Café International, Inc., where I led development of the Hard Rock Hotel concept. I am a member of the Institute of Chartered Accountants of England and Wales and hold a BSc with honors in Banking and International Finance from the City University Business School in London.

2. On the date hereof (the "Petition Date"), each of the above-captioned debtors (collectively, the "Debtors") filed with this Court voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), as well as certain motions and other pleadings (the "First Day Pleadings"). I am authorized by the Debtors to submit this Affidavit on their behalf in support of the First Day Pleadings.

3. The First Day Pleadings are intended to enable the Debtors to operate effectively and efficiently during these chapter 11 cases, as well as avoid certain adverse consequences that might otherwise result from the commencement of such cases. Among other things, the First Day Pleadings seek relief aimed at maintaining the confidence of the Debtors' various stakeholders and vendors and the morale of the Debtors' employees. Gaining and retaining the support of these key constituencies is critical to the Debtors' efforts to reorganize successfully. I have reviewed the First Day Pleadings, and it is my belief that the relief sought therein is necessary to: (a) avoid immediate and irreparable harm to, and ensure the uninterrupted operation of, the Debtors' business; and (b) maximize and preserve the value of the Debtors' chapter 11 estates.

4. In my capacity as Chief Executive Officer, Chief Financial Officer or Manager, I am familiar with the Debtors' day-to-day operations, financial condition, business affairs and books and records. Except as otherwise indicated, all facts set forth in this Affidavit are based upon (a) my personal knowledge, (b) my review of relevant documents, (c) information supplied

to me by other members of the Debtors' management team or professionals retained by the Debtors, or (d) my opinion based upon my experience and knowledge of the Debtors' operations and financial condition. If called upon, I could and would testify competently to the facts set forth herein.

5. Part I of this Affidavit provides an overview of the Debtors' business. Part II provides a description of the Debtors' corporate and capital structures. Part III provides a discussion of the events that compelled the commencement of these chapter 11 cases, as well as the Debtors' plan for these cases. Part IV affirms and incorporates the facts that support the relief requested in the First Day Pleadings.

## **Part I**

### **Overview of the Debtors' Business**

6. Parent, through Operations and other subsidiaries and affiliates of Parent and Operations, owns and operates Hard Rock Park (the "Park"),<sup>2</sup> a 50 acre destination theme park located in Myrtle Beach, South Carolina. As the world's first rock n' roll theme park, the Park offers visitors an entertainment experience that features six unique, custom-designed zones celebrating the culture, lifestyle and legends of rock music entertainment.

7. Situated on a 140 acre development, the Park currently utilizes 50 acres of land and includes more than forty attractions, including roller coasters, live shows, children's play areas, a multi-purpose live music amphitheater, a state-of-the-art sound system specially designed for the Park, restaurants, cafes and retail stores. The Park is the largest attraction in the

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<sup>2</sup> The Debtors are not affiliated with Hard Rock Café International, Inc., but have branded and operate the Park pursuant to a license agreement with Hard Rock Café International (USA), Inc.

Myrtle Beach market and provides visitors of all generations with a fun and exciting full-day entertainment experience.

8. As the largest single investment in tourism in the history of South Carolina, the \$400 million Park is designed to provide visitors with a unique opportunity to immerse themselves in rock music culture. Through license agreements with Hard Rock Café International (USA), Inc., C + P Eighty Six, Ltd., Threshold Music Limited, Eagles Ltd., Woody Creek Music, Red Cloud Music, Wow & Flutter Music Publishing and Eagles Recording Co. II, the Park is able to build upon the Hard Rock brand, use the name and likeness of members of bands such as Led Zeppelin, The Moody Blues and The Eagles, showcase music memorabilia and provide visitors with an entertainment experience unlike that available at any other theme park.

9. During its operating season the Debtors employ over 2000 full and part-time employees. Since the opening of the Park in April 2008, the Debtors have generated approximately \$19.7 million in ticket sales.

## **Part II**

### **Corporate and Capital Structure of the Debtors**

#### **Corporate Structure**

10. As of the Petition Date the Debtors had ceased operations at the Park in connection with the regular seasonal suspension of its operations. Accordingly, within a day or two of the Petition Date the Debtors anticipate that the Debtors' workforce will be reduced to approximately 75 employees.

11. Parent is a holding company that owns, directly or indirectly, at least 50% of the voting rights for all of the Debtors other than Global Management and MB Management

Global Management is the sole owner of MB Management. MB Management, through a management agreement, operates the Park.

12. Attached hereto as Exhibit A is a comprehensive organizational chart that shows the relationship among the Debtors. Set forth below is a brief description of each of the Debtors' business activities or business function.

- (a) Parent is a holding company that owns, directly or indirectly, at least 50% of the voting rights for all of the Debtors other than Global Management and MB Management.
- (b) Holdings Capital is a co-issuer of the PIK Bonds (as defined below).
- (c) Operations owns the Park and is co-issuer of the Senior Bonds (as defined below) and the Junior Bonds (as defined below).
- (d) Capital is a co-issuer of the Senior Bonds and the Junior Bonds.
- (e) Security is a guarantor of the Senior Bonds, Junior Bonds, PIK Bonds and the Revolving Facility (as defined below).
- (f) Global Management is the parent company of MB Management.
- (g) MB Management operates the Park pursuant to a management agreement.

### Capital Structure

13. The Debtors' primary liabilities consist of (a) a revolving credit facility, (b) senior secured bonds, (c) junior secured bonds, (d) pay-in-kind bonds, and (e) unsecured trade debt.

These liabilities are described in more detail below.

#### Revolving Credit Agreement

14. On March 30, 2006, Operations entered into a \$15 million revolving credit agreement (the "Revolving Facility") with Deutsche Bank Trust Company Americas, as agent, and various lenders thereto, to fund its general corporate and working capital needs. The Revolving Facility became available for use by Operations in April 2008 and has a term of four years. As of the Petition Date, all \$15 million available under the Revolving Facility had been

drawn upon by Operations. The Revolving Facility has been guaranteed by Parent and Capital (collectively, the “Facility Guarantors”). The Revolving Facility is secured by a lien on substantially all of Operations’ and the Facility Guarantors’ existing and future assets, including the land and improvements of the Park and equity interests in Operations’ and Guarantors’ subsidiaries.

Senior Secured Bonds

15. On March 30, 2006, Operations and Capital (collectively, the “Issuers”) issued Floating Rate Senior Secured Notes due 2012 (the “Senior Bonds”) in the aggregate principal amount of \$155,000,000. Deutsche Bank Trust Company Americas currently serves as the trustee for the Senior Bonds. Interest on the Senior Bonds accrues at a variable annual rate of the six-month LIBOR rate plus 4.75% and is reset semi-annually. The interest rate on the Senior Bonds as of June 30, 2008 was 7.38%. Interest payments are due semi-annually on April 1 and October 1 of each year. The Senior Bonds have been guaranteed by Parent, Security and the existing and future wholly-owned domestic subsidiaries of the Issuers (the “Bond Guarantors”). The Senior Bonds are secured by a first priority lien on all amounts on deposit in the Senior Bonds interest reserve account and a second priority lien on substantially all of the Issuers’ existing and future assets, including the land and improvements of the Park and equity interests in the Issuers’ subsidiaries. As of the Petition Date, the Issuers were current on their interest payments, and the total amount due under the Senior Bonds was \$155,000,000.

Swap Agreement

16. In March 2006, Operations entered into an Interest Rate Swap Agreement (the “Swap”) in order to manage risk associated with the variable interest rate associated with the Senior Bonds. The Swap effectively fixes the interest rate on the Senior Bonds at a maximum of

10.05% for a three-year period. As of June 30, 2008, the Swap was recorded as a liability of \$3,613,701.

Junior Secured Bonds

17. On March 30, 2006, the Issuers issued 12.5% Junior Secured Notes due 2013 (the “Junior Bonds”) in the aggregate principal amount of \$100,000,000. Deutsche Bank Trust Company Americas currently serves as the trustee for the Junior Bonds. Interest on the Junior Bonds accrues at a fixed annual rate of 12.5% and payments are due semi-annually on April 1 and October 1 of each year. The Junior Bonds have been guaranteed by the Bond Guarantors. The Junior Bonds are secured by a first priority lien on all amounts on deposit in the Junior Bonds interest reserve account and a third priority lien on substantially all of the Issuers’ existing and future assets, including the land and improvements of the Park and equity interests in the Issuers’ subsidiaries. As of the Petition Date, the Issuers were current on their interest payments and the total amount due under the Junior Bonds was \$100,000,000.

PIK Bonds

18. On March 30, 2006, Parent, Holdings Capital and HRP PIK Corp. (“PIK”) issued 50,000 units, each consisting of: (i) \$1,000 aggregate principal amount of 14.5 % Senior Pay-in-Kind Notes due 2014 (the “PIK Bonds”) co-issued by Holdings and Holdings Capital (collectively, the “PIK Bond Issuers”); and (ii) one share of Class B common stock of PIK with a par value of \$0.01 per share. Deutsche Bank Trust Company Americas currently serves as the trustee for the PIK Bonds. Interest on the PIK Bonds accrues at a fixed annual rate of 14.5% and is payable on the first day of each calendar quarter in cash or through the issuance of additional PIK Bonds, at the option of the PIK Bond Issuers. As of the Petition Date, the Issuers were

current on their interest payments and the total amount due, inclusive of all additional PIK Bonds issued by the PIK Bond Issuers, was \$62,247,068.

Trade Debt

19. In connection with constructing and operating the Park, the Debtors have purchased a variety of goods and services from local and national vendors. Such goods and services were purchased through purchase orders and other customary procedures used by such vendors in the ordinary course of business. As much of the merchandise sold in the Park is imprinted with or utilizes the Park's logo or other licensed designs, and many of the Debtor's commitments extend six to nine months into the future and may not be cancelled. As of the Petition Date, the Debtors estimate that they owe approximately \$7.1 million for goods and services provided to them on an unsecured basis.

**Part III**

**Events Leading to the Commencement of  
These Cases and the Debtors' Chapter 11 Plans and Strategies**

20. Several internal and external factors have severely impacted the Debtors, prompting the liquidity pressures that precipitated the decision to commence these chapter 11 cases. The collapse of the housing market, skyrocketing energy and gasoline prices and steadily increasing food costs, among other things, have resulted in a decline in the discretionary spending by consumers upon which the Debtors' business depends. In particular, the high cost of gasoline has been particularly vexing for the Debtors. Eighty-nine percent of the visitors to Myrtle Beach use an automobile as their primary means of transportation.

21. The Debtors' current capital structure requires them to rely upon cash from operations and the Revolving Facility. Due to the frozen credit markets Operations was unable to increase the size of the Revolving Facility as was originally planned. Thus, although the Park

opened on schedule and under budget in April 2008, lower-than-expected attendance levels at the Park have resulted in a liquidity crisis for the Debtors.

22. In addition to the aforementioned economic factors, the Debtors believe their lower attendance levels are also attributable to their inability to devote sufficient resources to local, regional and out-of-market advertising during their initial season of operations. As an example, the Debtors have determined that nearly 80% of the Park's visitors made the decision to patronize the Park before they arrived in Myrtle Beach. Thus, the inability of the Debtors to engage in effective out-of-market advertising was particularly devastating, as the Park was limited in its ability to reach potential out-of-market visitors.

23. The Debtors believe that the filing of these cases will provide them with an opportunity to restructure their debt as well as refocus and further develop their marketing and operational strategies for the Park. In particular, the Debtors seek to take full advantage of the regularly scheduled, seasonal cessation of Park operations after the conclusion of the summer travel season to negotiate and implement a comprehensive recapitalization and new business strategy in advance of the anticipated reopening of the Park for the 2009 season.

24. The Park is unlike any other theme park and is the result of over five years of collaboration among the Debtors, experts in theme park entertainment and music legends. Visitor satisfaction levels have been strong, and visitors to the Park have spent considerable amounts on food, beverage and retail items. Thus, despite their current liquidity constraints, the unique experience offered by the Park and the strong satisfaction of visitors leaves the Debtors well-positioned to restructure their debt and emerge from chapter 11 as a profitable operation.

25. Notwithstanding the diligent pursuit of out-of-court alternatives, including attempts to refinance prepetition secured debt, and add working capital availability,<sup>3</sup> the Debtors were unable to conclude these efforts within the necessary timeframe. The Debtors ultimately determined that the commencement of these cases: (a) was necessary to address their pressing liquidity problems; and (b) would provide the opportunity to, among other things, stabilize the Debtors' business through structural improvements, marketing changes and the evaluation and elimination of liabilities that serve only as a drain on the Debtors' profitability. The commencement of these cases provides the Debtors' management with an opportunity to engage in a comprehensive strategic planning process while weathering the economic storm currently buffeting all businesses reliant upon discretionary consumer spending.

26. The Debtors' goal is the development of a business plan that will recast and streamline the Debtors' capital and expense structures to position the Debtors to attract consumers' discretionary funds. The Debtors will move swiftly to eliminate costs, while using chapter 11 to restructure their balance sheet and create a viable capital structure for long term profitability. The Debtors also intend to develop a marketing campaign that will position them properly for the reopening of the Park for the 2009 season. These restructuring and marketing initiatives will allow the Debtors to focus their resources on continued development of the Park and exploring strategies for exiting these chapter 11 cases in an expeditious and cost-effective manner.

27. Prior to filing these chapter 11 cases, the Debtors had meaningful discussions with their major secured creditor constituencies regarding the Debtors' restructuring strategies.

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<sup>3</sup> The Debtors retained Jefferies & Company, Inc. in furtherance of these efforts. The Debtors' attempts to raise capital included, among other things, soliciting new financing from financial investors. The Debtors filed for protection under chapter 11 of the Bankruptcy Code only after exhausting all possible non-bankruptcy financing solutions.

The Debtors intend to continue this dialogue with their secured creditors and any official committee of unsecured creditors appointed in these cases. It is the intention of the Debtors to restructure their operations and emerge from chapter 11 prior to the start of the next tourist season in April 2009.

28. The Debtors believe that the restructuring of their debt and refocusing of their marketing strategy will allow the Park to become the profitable destination theme park that was envisioned at the time of the Park's groundbreaking in 2006.

#### **Part IV**

##### **Facts Relevant to the First Day Pleadings**

29. Concurrently with the filing of these chapter 11 cases, the Debtors filed the First Day Pleadings, which request various forms of relief. Generally, the First Day Pleadings have been designed to meet the Debtors' goals of: (a) continuing their operations in chapter 11 with as little disruption and loss of productivity as possible, (b) maintaining the confidence and support of their customers, employees, vendors, suppliers and service providers during the Debtors' reorganization process and (c) establishing procedures for the smooth and efficient administration of these chapter 11 cases.

30. I have reviewed each of the First Day Pleadings filed contemporaneously herewith (including the exhibits thereto and supporting memoranda) and incorporate by reference the factual statements set forth in the First Day Pleadings. It is my belief that the relief sought in each of the First Day Pleadings is tailored to meet the goals described above and, ultimately, will be critical to the Debtors' ability to achieve a successful reorganization.

31. It is my further belief that, with respect to those First-Day Pleadings requesting the authority to pay discrete prepetition claims or continue selected prepetition programs (e.g., those First-Day Pleadings seeking relief related to the Debtors' obligations to their employees,

customers and taxing authorities), the relief requested is essential to the Debtors' reorganization and necessary to avoid immediate and irreparable harm to the Debtors and their employees, customers and affected vendors. Impairment of the Debtors' business operations, or of their relationships with their employees, customers or vendors — at the very time when the smooth operation of those operations and the dedication, confidence or cooperation of those constituencies is most critical — would clearly imperil the Debtors' chances of a successful reorganization. The Debtors operate in an industry that relies upon customer satisfaction and the ability to satisfy and exceed customers' expectations. Any diminution in the Debtors' ability to maintain their operations in the ordinary course will have an immediate and irreparable harmful impact upon the going concern value of the Debtors' estates to the detriment of all of the Debtors' stakeholder constituencies. The Debtors believe that payment of those selected prepetition claims identified in the First Day Pleadings will forestall irreparable harm and that all creditors of the Debtors will ultimately benefit from the relief requested therein.

32. The Debtors also have filed a motion seeking authority to enter into a postpetition financing facility (the "DIP Facility") to ensure that the Debtors have ample liquidity going forward to pay vendors and meet their other financial obligations. Court approval of the DIP Facility, which was the product of extensive arm's length negotiations between the Debtors and their advisors on the one hand, and the DIP lenders on the other hand, is absolutely vital to the Debtors' efforts to reorganize and maximize value for their estates, employees and customers. I participated in the negotiation of the terms of the DIP Facility, and it is my informed view as Chief Executive Officer, the Chief Financial Officer or Manager of the Debtors that the financing package provided thereunder was the best the Debtors could achieve given the

extremely poor conditions that currently exist in the credit markets and the Debtors' financial position.

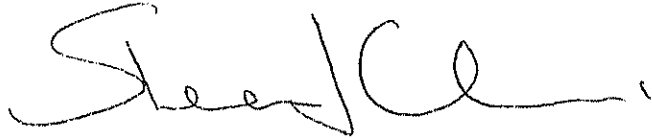
33. The Debtors' reorganization depends in large part on restoring vendor, customer and employee confidence and maintaining the operation of their business as they restructure. Accordingly, the Debtors have an immediate need to access the DIP Facility and to use prepetition collateral, including any cash collateral, in order to, among other things, permit the orderly operation of their business by securing merchandise and paying employees, preserve the going concern value of their estates by restoring vendor and customer confidence, and fund their reorganization, thereby maximizing recoveries for the Debtors' stakeholders. The Debtors believe that such financing and use of cash collateral will enable them to stabilize operations and ultimately, in conjunction with a reorganization, achieve profitability.

34. The Debtors retained Jefferies & Company, Inc. to assist in their efforts to raise new capital and secure postpetition financing. The Debtors' attempts to raise new capital included soliciting new financing from financial investors. Substantially all of the Debtors' assets are encumbered by the liens and security interests securing the Debtors' obligations under the Revolving Facility, Senior Bonds and Junior Bonds, and none of the potential lenders approached by the Debtors was willing to extend credit on a junior priority basis.

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Further affiant sayeth not.

Dated: September 24, 2008  
Myrtle Beach, South Carolina



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Steven Goodwin

Sworn to and subscribed before me, a notary public for the State of South Carolina, County of

Horry, this 24<sup>th</sup> day of September, 2008.

Sally W. Montague  
Notary Public  
My commission expires 7/2/09

**EXHIBIT A**

# COMPANY STRUCTURE

