



The court read the Objections(DN2719), Reply(DN2730)and Transcript of Feb. 17, 2011 hearing(DN2715)and finds the proposed findings and conclusions were prepared in accord with my instructions found at p.72,l.24 to p.73,l.8. These are my considered findings and conclusions.

Entered on Docket
March 24, 2011

Hon. Gregg W. Zive
United States Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

Chapter 11

STATION CASINOS, INC., et al.

Case No. BK-09-52477

Jointly Administered Cases BK 09-52470 through
BK 09-52487, and BK 10-50381

- Affects this Debtor
- Affects all Debtors
- Affects Northern NV Acquisitions, LLC
- Affects Reno Land Holdings, LLC
- Affects River Central, LLC
- Affects Tropicana Station, LLC
- Affects FCP Holding, Inc.
- Affects FCP VoteCo, LLC
- Affects Fertitta Partners LLC
- Affects FCP MezzCo Parent, LLC
- Affects FCP MezzCo Parent Sub, LLC
- Affects FCP MezzCo Borrower VII, LLC
- Affects FCP MezzCo Borrower VI, LLC
- Affects FCP MezzCo Borrower V, LLC
- Affects FCP MezzCo Borrower IV, LLC
- Affects FCP MezzCo Borrower III, LLC
- Affects FCP MezzCo Borrower II, LLC
- Affects FCP MezzCo Borrower I, LLC
- Affects FCP PropCo, LLC
- Affects GV Ranch Station, Inc

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
REGARDING "ORDER: (I) GRANTING
RELIEF UNDER 11 U.S.C. § 505(a)(1);
AND (II) DENYING MOTION OF
UNITED STATES TO DISMISS
DEBTORS' MOTION FOR RELIEF
UNDER 11 U.S.C. § 505(a)(1)"**

(Hearing held on February 17, 2011)



1 **I. INTRODUCTION**

2 1. On December 21, 2010, Station Casinos, Inc. and the other above-captioned
3 debtors and debtors in possession (but excluding GV Ranch Station, Inc.) (collectively, the
4 “Debtors”) filed their “Debtors’ Motion for Order Under 11 U.S.C. § 505(a)(1) Determining
5 That: (A) the Debtors Will Owe No Federal Income Taxes After Implementation of the SCI Plan
6 and the Restructuring Transactions; and (B) a Tax Claims Reserve of \$5 Million is Sufficient to
7 Cover Any Potential Tax Liability” (docket no. 2406, the “Section 505 Motion”).

8 2. On January 19, 2011, the United States (the “U.S.”) filed a motion to dismiss the
9 Section 505 Motion (docket no. 2449, the “U.S. Motion to Dismiss”).

10 3. The Debtors and the U.S. submitted declarations and additional briefing in
11 connection with their motions (Debtors, *see* docket nos. 2408, 2409 and 2554; U.S., *see* docket
12 nos. 2450 and 2574). The agents for the CMBS Lenders and the Prepetition Lenders filed
13 joinders supporting the relief sought by the Debtors, including denial of the U.S. Motion to
14 Dismiss (*see* docket nos. 2558 and 2578, respectively).

15 4. A hearing on the Section 505 Motion and the U.S. Motion to Dismiss was held on
16 February 17, 2011 (the “Hearing”). At the conclusion of the Hearing, the Court denied the U.S.
17 Motion to Dismiss, and granted certain relief sought in the Debtors’ Section 505 Motion
18 consistent with, and without modifying in any way, the SCI Plan, the Court’s Confirmation
19 Order and the Plan Findings and Conclusions entered in connection therewith on August 27,
20 2010. Contemporaneously herewith, the Court has entered its “Order: (I) Granting Relief Under
21 11 U.S.C. § 505(a)(1); and (II) Denying Motion of United States to Dismiss Debtors’ Motion For
22 Relief Under 11 U.S.C. § 505(A)(1)” (the “Section 505 Order”), and makes the following
23 findings of fact and conclusions of law in connection therewith.

24 5. Any finding of fact shall constitute a finding of fact even if it is stated as a
25 conclusion of law, and any conclusion of law shall constitute a conclusion of law even if it is
26 stated as a finding of fact. These written findings of fact and conclusions of law shall also
27 include any oral findings of fact and conclusions of law made by the Court during or at the
28

1 conclusion of the Hearing in accordance with Bankruptcy Rule 7052, made applicable to these
2 proceedings by Bankruptcy Rule 9014.

3 **II. FINDINGS OF FACT**

4 6. On July 28, 2009 (the "Petition Date"), the Debtors commenced their respective
5 Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy
6 Code. The Debtors were and are qualified to be debtors under Section 109(a) of the Bankruptcy
7 Code. Each of the Debtors has its principal place of business and principal assets in Nevada.

8 7. On July 15, 2010, a hearing (the "Disclosure Statement Hearing") was held on the
9 "Disclosure Statement to Accompany First Amended Joint Chapter 11 Plan of Reorganization
10 for Station Casinos, Inc. and Its Affiliated Debtors" (the "Original Disclosure Statement"). At
11 the Disclosure Statement Hearing, the Court approved the Original Disclosure Statement in the
12 form that had been filed on July 14, 2010 (docket no. 1774).

13 8. Subsequent to the Disclosure Statement Hearing, the Debtors and the Committee
14 reached a consensual agreement regarding certain aspects of the Debtors' proposed chapter 11
15 plan. Accordingly, on July 28, 2010, the Debtors filed their "First Amended Joint Chapter 11
16 Plan of Reorganization for Station Casinos, Inc. and its Affiliated Debtors (Dated July 28,
17 2010)" (docket no. 1863) (the "SCI Plan"). Also on July 28, 2010, the Debtors filed their
18 "Disclosure Statement to Accompany First Amended Joint Chapter 11 Plan of Reorganization
19 for Station Casinos, Inc. and its Affiliated Debtors (Dated July 28, 2010)" (docket no. 1864) (the
20 "Disclosure Statement").

21 9. On July 29, 2010, the Court entered the "Amended Order (A) Approving
22 Disclosure Statement, (B) Establishing Voting Record Date, Voting Deadline and Other Dates,
23 (C) Approving Procedures for Soliciting, Receiving and Tabulating Votes on Plan and for Filing
24 Objections to Plan, (D) Setting Confirmation Hearing and Related Deadlines and (E) Approving
25 Forms of Notices and Ballots" (docket no. 1868) (the "Disclosure Statement Order"). The Court
26 also authorized the filing and service of several supplements to the SCI Plan and Disclosure
27 Statement, which are reflected in the docket of the Chapter 11 Cases (as defined in the SCI Plan).
28

1 10. On August 6, 2010, after notice and a hearing, the Court granted the "Order
2 Closing Auction and Designating Successful Bid With Respect to Order Establishing Bidding
3 Procedures and Deadlines Related to Sale Process For Substantially All of the Assets of Station
4 Casinos, Inc. and Certain 'Opco' Subsidiaries" (docket No. 1909), which, among other things,
5 designated the Stalking Horse APA as the successful bid for the Opco Assets.

6 11. In order to supplement the information provided in the Disclosure Statement
7 regarding the selection of the Stalking Horse APA as the successful bid and the agreement
8 arrived at with respect to the Committee and to correct certain Estimated Claims Amounts, the
9 Debtors obtained the "Order Approving Supplement to Disclosure Statement to Accompany First
10 Amended Joint Chapter 11 Plan of Reorganization for Station Casinos, Inc. and Its Affiliated
11 Debtors (Dated July 28, 2010)" (the "Disclosure Supplement") (docket no. 1932).

12 12. No objections to confirmation of the SCI Plan, or any other objections to the
13 terms of the SCI Plan, were filed by the U.S., any Holder of Claims or Equity Interests (each as
14 defined in the SCI Plan) or any other party in interest by the deadline established in the
15 Disclosure Statement Order, or otherwise. A hearing to consider confirmation of the SCI Plan
16 was held on August 27, 2010. The U.S., through the Internal Revenue Service (the "IRS"),
17 received adequate notice of the Disclosure Statement, the Disclosure Supplement, the SCI Plan,
18 the Plan Findings and Conclusions and the Confirmation Order.

19 13. On August 27, 2010, the Court entered its "Order Confirming 'First Amended
20 Joint Chapter 11 Plan of Reorganization for Station Casinos, Inc. and its Affiliated Debtors
21 (Dated July 28, 2010)'" (docket no. 2039, the "Confirmation Order"), and related "Findings of
22 Fact and Conclusions of Law Regarding Confirmation of 'First Amended Joint Chapter 11 Plan
23 of Reorganization for Station Casinos, Inc. and its Affiliated Debtors (Dated July 28, 2010)'"
24 (docket no. 2038, the "Plan Findings and Conclusions"). Unless defined herein, capitalized
25 terms used herein shall have the meaning ascribed to them in the Plan Findings and Conclusions.

26 14. In the Confirmation Order and the Plan Findings and Conclusions, the Court
27 made the determination that:
28

1 (a) the transfer of New Opco Acquired Assets and the New Propco Acquired Assets
2 under the SCI Plan shall be free and clear of all Liens, Claims, Equity Interests (each as
3 defined in the SCI Plan), Liabilities (as defined in the Stalking Horse APA) and other
4 interests; and

5 (b) neither the Purchaser nor any other party shall have any successor or transferee
6 liability of any kind or nature arising or resulting from or relating to the transactions
7 contemplated under the SCI Plan. *See* Confirmation Order at ¶¶ 6 and 7; Plan Findings
8 and Conclusions at ¶¶ 47, 91-100, 123, 127-30 and 144-46.

9 Such determinations are final and binding on all creditors and other parties in interest, and the
10 U.S. did not contest or challenge such determinations.

11 15. The time to take an appeal from or seek reconsideration of the Plan Findings and
12 Conclusions and the Confirmation Order expired in September 2010, and no party took any such
13 action during that time period.

14 16. The Confirmation Order approved the Stalking Horse APA (as defined in the SCI
15 Plan), as amended by the APA Amendment. Confirmation Order at ¶ 3. Under the APA
16 Amendment, the Purchaser's obligation to close under the Stalking Horse APA is conditioned
17 upon the Court determining that "no administrative Tax¹ claim(s) for income tax will result from
18 or arise out of the implementation of the transactions contemplated by this Agreement [the
19 Stalking Horse APA] or the [SCI] Plan, other than . . . alternative minimum Taxes that in the
20 aggregate are less than \$15 million" (the "Tax Determination").

21 17. In connection with solicitation of acceptances of the SCI Plan, the Debtors
22 disclosed that they intended to seek the Tax Determination. In Article X of the Disclosure
23

24 _____
25 ¹ The term "Taxes" is defined in the Stalking Horse APA as "(i) all federal, state, local or foreign taxes, charges or
26 other assessments, including all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, live
27 entertainment, gaming, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social
28 security, unemployment, excise, severance, stamp, occupation, property and estimated taxes, (ii) all interest,
penalties, fines, additions to tax or additional amounts imposed by any taxing authority in connection with any item
described in clause (i) and (iii) any Liability of any Seller for the payment of amounts with respect to payments of a
type described in clauses (i) or (ii) as a result of being a member of an affiliated, consolidated, combined or unitary
group, or as a result of any obligation of any Seller under any Tax sharing arrangement or Tax indemnity
agreement."

1 Statement, entitled “Material United States Federal Income Tax Considerations,” the Debtors
2 stated that

3 the Debtors intend to seek determinations of the Bankruptcy Court regarding (1) the
4 maximum federal income taxes of the SCI Group that will be payable in connection with
5 the Restructuring Transactions, and (2) whether Holdco and its Subsidiaries will have any
6 successor (or other similar) liability for any unpaid taxes of the Debtors.

6 See Disclosure Statement, Article X.A.1. at p. 123.

7 18. Exhibit 1 to the “Debtors’ Reply Brief (A) in Opposition to U.S. Motion to
8 Dismiss Debtors' Section 505(a)(1) Tax Motion, and (B) in Reply to U.S. Opposition to Section
9 505(a)(1) Tax Motion Debtors” (docket no. 2554), is a document entitled “Service of Plan-
10 Related Pleadings on the Internal Revenue Service.” As evidenced in Exhibit 1, the U.S.
11 received proper and timely service of, among other things, the Stalking Horse APA, the SCI
12 Plan, the Disclosure Statement and Disclosure Supplement, drafts of the proposed confirmation
13 order and findings of fact and conclusions of law, the Confirmation Order and the Plan Findings
14 and Conclusions (collectively, the “Served Plan Documents”). The U.S. did not file an objection
15 to approval of the Stalking Horse APA, approval of the SCI Plan or entry of the Confirmation
16 Order or Plan Findings and Conclusions. The U.S. also did not take an appeal from entry of the
17 Confirmation Order or the Plan Findings and Conclusions.

18 19. Because the U.S. received proper and timely service of, among other things, the
19 Served Plan Documents, the U.S. received adequate notice of any matters disclosed in such
20 documents. “Due process requires notice ‘reasonably calculated, under all the circumstances, to
21 apprise interested parties of the pendency of the action and afford them an opportunity to present
22 their objections.’” *United Student Aid Funds, Inc. Espinosa*, 130 S. Ct. 1367, 1378, 176 L. Ed. 2d
23 158 (2010) (quoting in part *Mullane v. Central Bank & Trust Co.*, 339 U.S. 306, 314, 70 S. Ct.
24 652 (1950); *see also Jones v. Flowers*, 547 U.S. 220, 225, 126 S. Ct. 1708 (2006) (“[D]ue
25 process does not require actual notice . . .”). Here, it is undisputed that the U.S. received *actual*
26 notice of the filing and contents of all of the Served Plan Related Documents. As recently noted
27 by the Supreme Court in *Espinosa*, “[t]his more than satisfied [the complaining party’s] due
28 process rights.” *Espinosa*, 130 S. Ct. at 1378.

1 20. The U.S. acknowledges that it is bound by the SCI Plan. United States' Reply In
2 Support Of Its Motion To Dismiss Debtors' Motion Seeking An 11 U.S.C. § 505(a)(1)
3 Determination Regarding The Tax Consequences Of Its Restructuring Plan, footnote 6 (docket
4 no. 2574).

5 21. The Debtors filed the Section 505 Motion to obtain the Tax Determination. In its
6 U.S. Motion to Dismiss, the U.S. argued, among other things, that the Court cannot make the
7 Tax Determination or otherwise grant the relief sought in the Section 505 Motion because any
8 potential tax liabilities arising from the implementation of the SCI Plan and related approved
9 Restructuring Transactions arise after the Effective Date of the SCI Plan and therefore do not
10 relate to the administration of the estate. U.S. Motion to Dismiss, p. 14, lines 19-22 and p. 17,
11 lines 19-26. As such, the U.S. argued, the Court lacks subject matter jurisdiction under 28
12 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 1141(a).

13 22. For the reasons articulated in the U.S. Motion to Dismiss at p.14, lines 19-22, and
14 p. 17, lines 19-26, any potential tax liabilities arising from the implementation of the SCI Plan
15 and related Restructuring Transactions do not constitute administrative expense claims against
16 the Debtors or their estates.

17 **III. CONCLUSIONS OF LAW**

18 23. The Plan Findings and Conclusions are final and the Confirmation Order is a
19 final, non-appealable, order.

20 24. The Court has jurisdiction under 28 U.S.C. § 1334 to determine whether and to
21 what extent the Debtors have administrative expense liabilities. *See e.g., In re Fietz*, 852 F.2d
22 455, 457 (9th Cir. 1988) (discussing “arising in,” “arising under,” and “related to” jurisdiction);
23 *In re Harris*, 590 F.3d 730, 737 (9th Cir. 2009) (same); *In re Marshall*, 600 F.3d 1037, 1054-55
24 (9th Cir. 2010) (same). Here, the Debtors’ right to a determination by this Court of the amount
25 of its federal income tax liabilities that constitute administrative expenses is a right created by
26 statutory provisions of title 11 (Sections 503 and 505), and has a direct impact on the ability of
27 the Debtors to consummate the SCI Plan.
28

1 25. Bankruptcy Code section 505(a)(1) and 28 U.S.C. § 2201 expressly authorize the
2 Court to determine the amount of the Debtors' taxes arising in connection with the Debtors'
3 entry into and closing of the Stalking Horse APA and implementation of the SCI Plan and the
4 Restructuring Transactions contemplated thereunder to the extent that such taxes would be
5 administrative expenses. The plain language of 28 U.S.C § 2201, the Declaratory Judgment Act,
6 which generally prohibits declarations regarding Federal taxes, allows the relief sought in the
7 Section 505 Motion as it pertains to any administrative tax claims because declarations of
8 Federal taxes in all section 505 proceedings where the court otherwise has jurisdiction are
9 allowed. Several district and bankruptcy courts have interpreted Bankruptcy Code section 505 as
10 granting bankruptcy courts broad jurisdiction to determine tax liabilities arising either before or
11 after the filing of a case under title 11. *See e.g., IRS v. Amoskeag Bank Shares, Inc. (In re*
12 *Amoskeag Bank Shares, Inc.)*, 239 B.R. 653, 659 (D.N.H. 1998); *Popa v. Peterson (In re Popa)*,
13 238 B.R. 395, 398–99 (N.D. Ill. 1999); *In re Schmidt*, 205 B.R. 394, 395 (Bankr. N.D. Ill. 1997);
14 *Unsecured Creditors Comm. of Goldblatt Bros., Inc. v. United States (In re Goldblatt)*, 106 B.R.
15 522, 529 (Bankr. N.D. Ill. 1989); *In re Kilen*, 129 B.R. 538, 548-50 (Bankr. N.D. Ill. 1991); *see*
16 *also 15 Collier on Bankruptcy* ¶ TX5.04[1] (15th ed. rev. 2009) (Bankruptcy Code § 505 grants
17 bankruptcy courts “broad jurisdiction to determine tax liabilities arising either before or after the
18 filing of a case under title 11.”).

19 26. Pursuant to Bankruptcy Code section 106(a)(1), the U.S. has waived sovereign
20 immunity as a defense to entry of relief under the enumerated sections of title 11 contained
21 therein. *See In re Jove Engineering, Inc.*, 92 F.3d 1539 (11th Cir. 1996); *Employment Dev. Dept.*
22 *of Cal. v. Joseph (In re HPA Assoc.)*, 191 B.R. 167, 172 (B.A.P. 9th Cir. 1995). Bankruptcy
23 Code section 505 is one of those enumerated sections. Therefore the sovereign immunity of the
24 U.S. and its agencies does not apply here as a defense to relief appropriately requested under
25 Section 505.

26 27. I.R.C. § 7421, the so-called Anti-Injunction Act, does not apply to block the relief
27 granted by the Section 505 Order because the Section 505 Order does not restrain the Internal
28 Revenue Service (the “IRS”) from assessing or collecting taxes. Rather, the Section 505 Order

1 determines the amount of the Debtors' tax liability, as authorized by Bankruptcy Code section
2 505. The Anti-Injunction Act does not immunize the IRS from the application of the provisions
3 of the Bankruptcy Code. *See e.g., U.S. v. Whiting Pools, Inc.*, 462 U.S. 198, 209, 103 S.Ct.
4 2309, 2315-16 (1983) (upholding power of bankruptcy court to order IRS to turn over to
5 bankruptcy trustee assets of the debtor seized by IRS in tax collection efforts); *Parker v.*
6 *Saunders (In re Bakersfield Westar, Inc.)*, 226 B.R. 227, 238 (B.A.P. 9th Cir. 1998) (upholding
7 power of bankruptcy trustee to bring fraudulent conveyance suit against IRS); *Martin v. U.S. (In*
8 *re Martin)*, 150 B.R. 43 (Bankr. S.D. Cal. 1993), *appeal dismissed*, 172 B.R. 644 (S.D. Cal.
9 1994) (bankruptcy court had authority to enjoin IRS from collecting taxes in manner inconsistent
10 with terms of confirmed plan).

11 28. By the Section 505 Order, the Court is not giving an advisory opinion. The
12 Section 505 Motion represents an attempt to resolve a substantial controversy between parties
13 having adverse legal interests, of sufficient immediacy and reality such that the matter is ripe for
14 adjudication and represents a real, not hypothetical case and controversy. Entry of the Section
15 505 Order serves a useful purpose in clarifying and settling the legal relations in issue, and
16 affords relief from the uncertainty and insecurity regarding implementation of the SCI Plan that
17 would otherwise arise.

18 29. Based upon the uncontested facts submitted in support of the Section 505 Motion,
19 the Court concludes that no administrative tax claim(s) against the Debtors for income tax will
20 result from or arise out of the implementation of the SCI Plan, the Stalking Horse APA or the
21 other Restructuring Transactions contemplated thereby. Therefore, neither the Debtors nor the
22 Plan Administrator (as defined in the SCI Plan) shall be obligated to establish the Tax Claims
23 Reserve (as defined in the proposed order submitted with the Section 505 Motion).

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28

1 Submitted by:

2 /s/ Thomas R. Kreller
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19 In accordance with LR 9021, counsel submitting this document certifies as follows:

20 ___ The court has waived the requirement of approval under LR 9021.

21 ___ This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

22 X This is a chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below:

Deutsche Bank Trust Company Americas, as Administrative Agent for Prepetition "Opco" Senior Secured Lenders	Approved
German American Capital Corp., Collateral Agent for Propco CMBS Lenders	Approved
U.S. Dept. of Justice, Tax Division	Disapproved

23 ___ I certify that I have served a copy of this order with the motion, and no parties appeared or filed written objections.

24 ###