

U.S. Department of Justice  
Office of the United States Trustee  
110 North College, Suite 300  
Tyler, TX 75702  
(903) 590-1450

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

IN RE	§	
	§	
	§	
Jonesboro Hospitality, LLC	§	Case No. 17-40311
5119 Burkett Drive	§	
Frisco, TX 75034	§	
Tax ID / EIN: 45-3366179	§	
dba FairBridge Inn & Suites	§	
	§	Chapter 11
Debtor-in-possession	§	

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**UNITED STATES TRUSTEE’S OBJECTION  
TO DEBTOR’S FIRST AMENDED DISCLOSURE STATEMENT**

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TO THE HONRABLE BRENDA T. RHOADES, CHIEF UNITED STATES BANKRUPTCY JUDGE:

The United States trustee for the Eastern District of Texas Objects to the Debtor’s First Amended Disclosure Statement (docket item #100). In support United States trustee would show the Court as follows:

1. This is the Debtor’s second Chapter 11 case. The Debtor’s prior case was filed on August 27, 2013 in the U.S. Bankruptcy Court for the Northern District of Texas (case no.13-34324-hdh). The Debtor confirmed a plan of reorganization in the prior case on May 30, 2014. The Debtor’s prior attempt to reorganize its affairs through the Chapter 11 process failed.
2. The Debtor has had over ten months in the current case to reorganize its affairs. A chapter 11 plan and disclosure statement were filed by the Debtor on October 13, 2017 and a hearing to consider approval of the Debtor’s initial disclosure statement was set for November

28, 2017. A hearing has now been set for January 3, 2018 to consider the First Amended Disclosure Statement.

3. The Debtor appears to lack any prospect to reorganize its affairs within a reasonable amount of time. This is evidenced by the Debtor's apparent inability to perform under the terms of its previously confirmed plan. In addition, according to the filed operating reports, the Debtor has had significant negative cash flow over the life of the case <\$77,191>. The Debtor's filed plan lacks the support of creditors. Where a plan is "patently unconfirmable on its face, the....disclosure statement must be denied, as solicitation of the vote would be futile." *In re Quigly Co.*, 377 B.R. 110, 115-16 (Bankr. S.D.N.Y. 2007); *See also, In re Beyond.com Corp.*, 289 B.R. 138, 140 (bankr. N.D. Cal 2003).

4. The Debtor's disclosure statement fails to describe in sufficient detail the Debtor's prospects for a sale of its sole substantial asset within six months of confirmation. The disclosure statement also fails to describe what happens if a sale of the Debtor's hotel does not occur within six months. The disposition of the hotel, and of this case, should be described and the plan should include self-liquidating features. Most importantly, Debtor also should not be permitted to file another chapter 11 case in the event a sale is not accomplished within the six month period contemplated by the plan.

5. The disclosure statement fails to explain why it is necessary or permissible to provide wide injunctive protection to Debtor's estate professionals. In fact, the disclosure statement is silent as to the injunction to be imposed by the plan against any "entities" that may have claims against Debtor's professionals. The injunction language of section 9.03 of the amended plan, insofar as it applies to non-debtor 3<sup>rd</sup> party professionals, is too broad. The language should be modified to make it clear that claims by "entities" against estate

professionals are not enjoined to the extent that the claims result from intentional malfeasance or gross negligence on the part of the professional, as determined by a court of competent jurisdiction. The Debtor's injunction proposal, as limited and modified per the above, should also be described in any newly amended disclosure statement.

**WHEREFORE**, the United States Trustee respectfully requests that the Court deny approval of the First Amended Disclosure Statement and require amendments consistent with the particulars of this objection. The United States Trustee also requests such other relief as may be just as may be just.

Date: December 27, 2017

Respectfully submitted,

WILLIAM T. NEARY  
UNITED STATES TRUSTEE

/S/ Timothy W. O'Neal  
Timothy W. O'Neal  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion to Dismiss was served on the following listed persons, through the Court's electronic notification system as permitted by Appendix 5005 to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Texas, or by first class United States Mail, postage prepaid no later than December 27th, 2017.

/S/ Timothy W. O'Neal

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