

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

In re:)
PREMIER KINGS, INC., et al.,) Chapter 11
) CASE NO. 23-02871 (TOM11)
Debtor.) (Jointly Administered)

PREMIER KINGS, INC., PREMIER KINGS OF
GEORGIA, INC. AND PREMIER KINGS OF
NORTH ALABAMA, LLC,

Plaintiffs,

v.

PREMIER HOLDINGS, LLC, PREMIER
HOLDINGS OF GEORGIA, LLC, PREMIER
KINGS HOLDINGS, LLC, PREMIER KINGS
HOLDINGS OF ALABAMA, LLC AND
PREMIER KINGS HOLDINGS OF GEORGIA,
LLC,

Defendants.

Adv. Proc. No. 23-00047-TOM

ANSWER AND DEFENSES TO COMPLAINT

COME NOW, defendant Premier Holdings, LLC, Premier Holdings of Georgia, LLC, Premier Kings Holdings, LLC, Premier Kings Holdings of Alabama, LLC, and Premier Kings Holdings of Georgia, LLC (collectively, "Holdings"), by and through their undersigned counsel, and submits the following answer and defenses in response to plaintiff's Premier Kings, Inc., Premier Kings of Georgia, Inc., and Premier Kings of North Alabama, LLC (collectively, the "Debtors") (collectively, the "Debtors"), Complaint for Declaratory Relief To Determine Debtors' Rights To Property of Their Bankruptcy Estate [Doc. No. 1] (the "Complaint"):



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GENERAL DENIAL

Holdings denies all allegations, factual assertions, and propositions of law asserted in Plaintiff's Complaint and demands strict proof thereof.

DISMISSAL OF THE COMPLAINT IS APPROPRIATE

Paragraph 68 of the Complaint represents an example of an impermissible “shotgun pleading” which violates the standard for pleading set forth in Federal Rule of Civil Procedure 8, as made applicable by Federal Rule of Bankruptcy Procedure 7008. *See Barmapov v. Amuial*, 986 F.3d 1321, 1324-25 (11th Cir. 2021) (holding that a “shotgun pleading” violates Federal Rule of Civil Procedure 8 because it causes “each successive count to carry all that came before and the last count to be a combination of the entire complaint.”). Such a “shotgun pleading” is due to be dismissed.

NATURE OF THE ACTION

1. The Complaint and the pleadings before this court in jointly administered Chapter 11 Case No. 23-02871 (TOM11) (the “Bankruptcy Case”) speak for themselves.
2. Holdings denies that Debtors are entitled to the judicial declaration Debtors’ are seeking in the Complaint and demands strict proof thereof.

THE PARTIES

3. Holdings is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 3 of the Complaint, and therefore denies the same and demands strict proof thereof.
4. Holdings is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 4 of the Complaint, and therefore denies the same and demands strict proof thereof.

5. Holdings is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 3 of the Complaint, and therefore denies the same and demands strict proof thereof.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

JURISDICTION AND VENUE

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

RELEVANT FACTS

16. Holdings is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 16 of the Complaint, and therefore denies the same and demands strict proof thereof.

17. Holdings admits that Holdings and Debtors are parties to over fifty (50) commercial real property leases but Holdings is without sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 17 of the Complaint, and therefore denies the same and demands strict proof thereof.

18. Holdings admits that certain Burger King restaurants contain certain equipment (the “Equipment”), but Holdings denies the remaining allegations contained in paragraph 18 of the Complaint and demands strict proof thereof.

19. Holdings is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 19 of the Complaint and therefore denies the same and demands strict proof thereof.

20. Holdings states that the filings in the Bankruptcy Case speak for themselves, and denies the remaining allegations in paragraph 20 of the Complaint and demands strict proof thereof.

21. The orders entered in the Bankruptcy Case speak for themselves.

22. The Asset Purchase Agreements filed by Debtors speak for themselves. Holdings denies that all of the Equipment is owned by Debtors, and is without sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 22 of the Complaint, and therefore denies the same and demands strict proof thereof.

23. Holdings is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 22 of the Complaint, and therefore denies the same and demands strict proof thereof.

24. Paragraph 24 of the Complaint calls for a legal conclusion to which no response is required.

COUNT I
(Declaratory Judgement Against All Defendants)

25. Paragraph 68 of the Complaint represents an example of an impermissible “shotgun pleading” which violates the standard for pleading set forth in Federal Rule of Civil Procedure 8, as made applicable by Federal Rule of Bankruptcy Procedure 7008. *See Barmapov*

v. Amuial, 986 F.3d 1321, 1324-25 (11th Cir. 2021) (holding that a “shotgun pleading” violates Federal Rule of Civil Procedure 8 because it causes “each successive count to carry all that came before and the last count to be a combination of the entire complaint.”).

26. The statute speaks for itself.

27. The statute speaks for itself.

28. Holdings denies the allegations contained in paragraph 28 of the Complaint and demands strict proof thereof.

29. Holdings denies the allegations contained in paragraph 29 of the Complaint and demands strict proof thereof.

30. Admitted.

31. Paragraph 31 calls for a legal conclusion to which no response is required.

32. Paragraph 32 calls for a legal conclusion to which no response is required.

33. Holdings is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 33 of the Complaint and therefore denies the same and demands strict proof thereof.

34. The Complaint speaks for itself.

In response to the paragraph beginning with “WHEREFORE” and coming immediately after paragraph 34 of the Complaint, Holdings denies that Debtors are entitled to the relief requested.

FIRST DEFENSE

Holdings denies that Debtors are entitled to judgment, payment, damages, or relief whatsoever.

SECOND DEFENSE

Debtors' claims are barred by the doctrines of accord and satisfaction, settlement, payment, and release.

THIRD DEFENSE

Debtors cannot demonstrate that Debtors has incurred any damages.

FOURTH DEFENSE

Holdings asserts the affirmative defenses of waiver, estoppel, unclean hands, ratification, consent, res judicata, and collateral estoppel.

FIFTH DEFENSE

To the extent that the Debtors have suffered any damages, such damages were caused by and are the responsibility of persons, parties, and/or entities other than Holdings, including Debtors.

SIXTH DEFENSE

Debtors' claims are barred, in whole or in part, by the Debtors' failure to adhere to and perform contractual conditions.

SEVENTH DEFENSE

Debtors are not entitled to a declaratory judgment.

EIGHTH DEFENSE

To the extent not listed above, Holdings hereby incorporates all affirmative defenses set out in Fed. R. Civ. P. 8(c) and 12(b), as made applicable to this adversary proceeding by Fed. R. Bankr. P. 7008 and 7012, and any defenses related to the Complaint as a "shotgun pleading" which violates the standard for pleading set forth in Federal Rule of Civil Procedure 8, as made applicable by Fed. R. Bankr. P. 7008.

NINTH DEFENSE

Debtors' Exhibit A to the Complaint does not match the list of leases in which Holdings claim an interest in the Equipment, which list of leases is attached as Exhibit A to the *Limited Objection of Premier Holdings, LLC, Premier Holdings of Georgia, LLC, Premier Holdings, LLC, Premier Kings Holdings of Alabama, LLC and Premier Kings Holdings of Georgia, LLC to the Motion of the Debtors and Debtors-In-Possession for Entry of an Order (I) Approving Asset Purchase Agreements and Authorizing the Sale of All or Substantially All of the Debtors' Assets Under 11 U.S.C. §§ 363(B) and 363(M); (II) Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(F); (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; and (IV) Granting Related Relief.*

RESERVATION OF RIGHTS

Holdings reserves the right to assert additional defenses and counterclaims as discovery progresses in this case. To the extent any of the allegations in the Complaint have not been expressly admitted or denied, they are hereby denied, and strict proof is demanded thereof.

DATED this the 29th day of December, 2023.

/s/ Heather A. Jamison

Heather A. Jamison
Chloe E. Champion

Counsel for Premier Holdings, LLC, Premier Holdings of Georgia, LLC, Premier Kings Holdings, LLC, Premier Kings Holdings of Alabama, LLC, and Premier Kings Holdings of Georgia, LLC

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by Notice of Electronic Filing, or, if the party served does not participate in Notice of Electronic Filing, by U.S. First Class Mail, hand delivery, fax or email on this the 29th day of December, 2023:

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