SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

CAESARS ENTERTAINMENT OPERATING COMPANY, INC. and CAESARS ENTERTAINMENT CORPORATION,	
Plaintiffs,	Index No.
- against -	**COMPLAINT**
APPALOOSA INVESTMENT LIMITED PARTNERSHIP I; PALOMINO FUND LTD.; THOROUGHBRED FUND L.P.; THOROUGHBRED MASTER LTD.; AVENUE CREDIT STRATEGIES FUND; AVENUE INVESTMENTS, LP; AVENUE - COPPERS OPPORTUNITIES FUND, L.P.; AVENUE INTERNATIONAL MASTER, LP; LYXOR/AVENUE OPPORTUNITIES FUND LIMITED; MANAGED ACCOUNTS MASTER FUND SERVICES - MAP10; AVENUE SS FUND VI (MASTER), LP; AVENUE SPECIAL OPPORTUNITIES FUND I, L.P.; CANYON CAPITAL ADVISORS LLC, ON BEHALF OF ALL OF ITS PARTICIPATING FUNDS AND MANAGED ACCOUNTS THAT ARE BENEFICIAL HOLDERS OF THE NOTES; CASPIAN CAPITAL LP; CENTERBRIDGE CREDIT PARTNERS, L.P.; CENTERBRIDGE CREDIT PARTNERS MASTER, L.P.; CENTERBRIDGE SPECIAL CREDIT PARTNERS II, L.P.; CONTRARIAN CAPITAL MANAGEMENT L.L.C. ON BEHALF OF ALL MANAGED ACCOUNTS AND AFFILIATED ENTITIES THAT ARE BENEFICIAL HOLDERS OF THE NOTES; ELLIOTT MANAGEMENT CORPORATION; GSMP 2006 ONSHORE US, LTD.; GSMP 2006 OFFSHORE HARRAH'S HOLDINGS, LTD.; GSMP 2006 INSTITUTIONAL HARRAH'S HOLDINGS, LTD.; GSMP V ONSHORE INVESTMENT FUND, LTD.; GSMP V OFFSHORE INVESTMENT FUND, LTD.; GSMP V INSTITUTIONAL INVESTMENT FUND, LTD.; OAKTREE VALUE OPPORTUNITIES FUND HOLDINGS, L.P.; OCM OPPORTUNITIES FUND VII DELAWARE, L.P.; OCM OPPORTUNITIES FUND VIIB DELAWARE, L.P.; OAKTREE OPPORTUNITIES FUND VIII DELAWARE, L.P.; OAKTREE OPPORTUNITIES FUND VIIIB DELAWARE, L.P.;	

OAKTREE FF INVESTMENT FUND, L.P. – CLASS B; :
SPECIAL VALUE EXPANSION FUND, LLC; :
SPECIAL VALUE OPPORTUNITIES FUND, LLC; :
TENNENBAUM OPPORTUNITIES PARTNERS V, LP; :
and THIRD AVENUE FOCUSED CREDIT FUND, :
:
Defendants. :
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Plaintiffs Caesars Entertainment Operating Company, Inc. ("CEOC") and Caesars Entertainment Corporation ("CEC") allege, by and through their undersigned counsel, for their complaint for damages and declaratory and injunctive relief, as follows. These allegations are made based upon personal knowledge as to plaintiffs' conduct and otherwise are based upon information and belief.

NATURE OF THE ACTION

1. CEC and its subsidiary CEOC bring this action to lay to rest the unfounded threats and bogus allegations made by defendants, who claim to hold certain of CEOC's second lien notes (the "Second Lien Notes") or, in the case of defendant Elliott Management Corporation ("Elliott"), certain of CEOC's first lien notes (together with the Second Lien Notes, the "Notes").

2. Directly or through their representatives or groups of which they are members, defendants holding Second Lien Notes (the "Second Lien Note-Holder Defendants") and Elliott (together, "Defendants") have injured plaintiffs by publicly, falsely, and maliciously asserting that CEOC and CEC have breached their fiduciary duties, engaged in fraudulent transfers, or defaulted under the indentures governing the Notes. Defendants' attacks take the form of demand letters, media stories, disruptive appearances before gaming regulators, meritless allegations of improper conduct, and a baseless default notice from the Second Lien Note-Holder Defendants – that is, just about every mechanism other than the one supposedly aggrieved note-

holders should use in enforcing their rights, *i.e.*, resolution in court. The press has repeatedly publicized these allegations, describing them as an effort by Defendants to "bloody up" CEOC and CEC.

3. Defendants' attacks are baseless, and for those Defendants who own credit default swaps ("CDS") – derivatives that function as credit insurance, paying the CDS holder the face amount of the insured note if CEOC has a payment default – driven by an interest in causing CEOC to default, injuring CEOC and sabotaging ongoing discussions between CEOC and its creditors (a problem commentators describe as the "empty creditor" syndrome).

4. Among Defendants, Elliott appears to have the greatest ulterior motive in seeing that CEOC defaults rather than survives and thrives. Elliott has a blatant conflict of interest because it has acquired a significant stake in CEOC's 8½% senior secured notes due 2020, the smallest tranche of CEOC's first lien notes, while at the same time amassing an even more significant position in CDS covering CEOC. Elliott is taking these steps – which injure CEOC and its note-holders – because it is betting that its CDS holdings will pay off if its baseless assertions can convince the market that CEOC will have a payment default or if CEOC actually has a payment default.

5. Elliott's scheme is all the more troubling because Elliott itself sits on the Americas Credit Derivatives Determinations Committee of the International Swaps and Derivatives Association (the "Committee"), the industry group that makes the crucial determination of whether there has been a payment default that triggers CDS payments.

6. There is no basis for any of Defendants' attacks. As they know, CEOC has never missed a single payment of interest or principal on the Notes since they were issued in 2008. As highly-sophisticated investors, Defendants also know that the transactions executed by

plaintiffs (described below) have provided CEOC with billions of dollars in cash, dramatically improved its finances and extended its ability to make payments of its obligations as they come due, totaling billions of dollars of payments to debt-holders, including holders of the Notes.

Plaintiffs' Successful Efforts in Support of CEOC

7. CEC is the world's most diversified casino entertainment provider. CEOC is a CEC subsidiary. Starting in 2008, when CEC and CEOC took their present form, in the midst of the worst financial crisis since the Depression, management embarked on sustained cost-cutting and streamlining at CEOC, saving hundreds of millions of dollars annually. To maximize value for all stakeholders, plaintiffs have pursued a strategy of generating liquidity, extending maturities, and removing or amending covenants in CEOC's credit agreements to ensure stability and gain time for CEOC to address financial issues for the benefit of the company, its lenders, suppliers, customers and employees. This strategy and the financial transactions that have de-levered CEOC to date have yielded impressive, tangible results. CEOC has been able to make huge – and timely – payments to creditors, including interest payments of approximately $3 billion to first lien note-holders, $3 billion to second-lien note-holders, and $1.1 billion to unsecured creditors.

8. During the past several years, CEC and CEOC have completed a series of successful transactions to improve CEOC's capital structure, lighten its debt load, and improve its prospects. All told, more than 45 separate capital markets transactions have resulted in approximately $5 billion of gross debt reduction and the extension of $9 billion in pre-2015 maturity debt. Prominent among these transactions was the creation of Caesars Growth Partners, LLC ("Growth"), a joint venture with Caesars Acquisition Company ("CAC"), which was intended to provide support for new projects. This was followed by a refinancing of commercial mortgage-backed securities ("CMBS") secured by several Caesars-affiliated properties (the

"CERP Transaction"), a transaction in which several Defendants participated; the sale of four casino properties and related assets by CEOC to Growth for $2.0 billion (the "Four Properties Transaction"); and the refinancing of certain of CEOC's debt (the "CEOC Refinancing").

9. Through its efforts, CEC has created a period of stability for CEOC, in which CEOC has paid interest and repaid debt at or before maturity, and amassed approximately $2 billion in cash on its balance sheet. This has redounded to the benefit not only of CEOC, but also of its creditors. Beyond the hundreds of millions of dollars that CEC and its investors have raised for the benefit of CEOC, CEC's investors also have invested close to a half-billion dollars in CAC in support of the transactions described above and to improve the prospects of CEOC. In the words of CEC's Chairman and CEO, with the completion of these transactions, "CEOC will have added headroom under its maintenance covenant, providing CEOC with additional stability to execute its business plan." Significantly, many of CEOC's creditors other than Defendants have supported CEC and CEOC's efforts to improve CEOC's stability, and CEC and CEOC have had and continue to have productive discussions with these creditors.

Defendants' Baseless Attacks

10. Although certain Defendants previously supported – and even invested in – the CERP Transaction, since March 2014, Defendants have attempted to undermine and impede CEC and CEOC's efforts to de-lever CEOC, apparently in an effort to improve their leverage in negotiations with plaintiffs or to profit from a CEOC default. As noted, Defendants, directly and through their legal and financial advisors, have waged a very public campaign to injure plaintiffs, featuring false, malicious, and defamatory assertions, including that CEC and CEOC breached their fiduciary duties and engaged in fraudulent transfers.

11. In furtherance of their efforts to frustrate plaintiffs, on June 5, 2014, the Second Lien Note-Holder Defendants also sent a Notice of Default and Reservation of Rights

(the "Notice"), baselessly alleging defaults and events of default under the indenture dated April 15, 2009 governing their second lien notes (the "Second Lien Indenture," and, together with the First Lien Indenture, the "Indentures"). In truth, there is no such default.

12. *First*, the Notice alleges that CEC denied or disaffirmed its guarantee, contained in the Indentures, of certain of CEOC's obligations (the "Parent Guarantee"). That purported default allegedly took place when CEC stated publicly that upon its sale of 5% of CEOC's stock, the Parent Guarantee was automatically terminated. CEC's primary intent in selling equity in CEOC was to facilitate an essential financial transaction and begin to develop a public market for CEOC stock, that is, to establish a liquid and tradable equity currency that could facilitate future debt-for-equity exchanges and compensate employees. This is similar to the process whereby a now large and liquid public market was created for CEC stock.

13. The allegation in the Notice about the Parent Guarantee is nonsense. The plain words of the Indentures – by which Defendants are bound – explicitly provide that the Parent Guarantee would terminate when CEOC is no longer wholly owned by CEC without regard to how or why. Therefore, each of CEC and CEOC always had the ability to terminate the Parent Guarantee by selling, transferring, or issuing CEOC stock. As Defendants know, on May 5, 2014, CEC sold 5% of CEOC's stock to sophisticated institutional buyers, and on May 30, 2014, CEOC issued approximately 6% of its stock to an employee benefits plan. Clearly, the Parent Guarantee has been terminated, because CEC now owns only approximately 89% of CEOC.

14. In addition, the Indentures separately provide that the Parent Guarantee will be automatically released if the guarantee by CEC of certain notes issued before the 2008

acquisition is itself released. That guarantee, as discussed below, has in fact been released. Therefore, for this independent reason, the Parent Guarantee was terminated.

15. Moreover, CEC's mere *announcement* of the fact that the Parent Guarantee terminated – the act that the Notice points to as constituting the breach – cannot be a default. The Indentures do not prohibit CEC from disclosing its sale of CEOC equity or the effect of that sale on the Parent Guarantee. It is absurd to argue that the Indentures somehow prohibit CEC from disclosing these material facts to investors and the market.

16. *Second*, the Notice alleges that the Four Properties Transaction violated restrictions in the Indentures on the use of proceeds of "Asset Sales." However, seven of the eight sales in the Four Properties Transaction are not "Asset Sales" subject to the restrictions that the Notice points to in the Indentures. And to the extent that any of these sales do constitute Asset Sales, they nevertheless satisfy all the requirements of the Indentures. Moreover, the Indentures do not restrict the use of proceeds from the Four Properties Transaction for a full *15 months* after closing. Until August 2015, then, there can be no possible claim for a violation of these provisions in the Indentures.

<u>This Action</u>

17. Disregarding the facts, and in service of their narrow interests, Defendants have knowingly and falsely alleged that CEC and CEOC breached their fiduciary duties and engaged in fraudulent transfers, and manufactured allegations of default and events of default that lack any basis and are, in fact, belied by the terms of the governing Indentures. These claims of default would have been unmasked as meritless had Defendants brought their claims in a court of law. CEC and CEOC are now constrained to bring their own suit for damages resulting from Defendants' malicious false statements and for a judicial declaration that there is

no default, breach, or violation of law, in order to bring Defendants' campaign to an end and prevent continuing harm.

18. Accordingly, plaintiffs are entitled, *inter alia*, to the following relief:

(a) damages resulting from (i) Defendants' knowingly tortious interference with their prospective economic advantage, through their false and defamatory misstatements of fact made with the intent to injure plaintiffs, and (ii) Elliott's breaches of the First Lien Indenture, including Section 6.06(b) thereof;

(b) a declaration stating that (i) no default or event of default has occurred or is occurring under the Indentures, (ii) the Notice is null and void, (iii) plaintiffs have not breached their fiduciary duties or engaged in fraudulent transfers, or otherwise engaged in any violation of law, and (iv) Defendants have no basis to accelerate the principal and interest due under the Indentures; and

(c) a preliminary and permanent injunction maintaining the *status quo ante* and prohibiting Defendants from (i) issuing any further notice of default, (ii) taking any action in furtherance of any notices of default, including issuing a notice of acceleration, other than in the context of judicial proceedings to determine the parties' rights and obligations under the Indentures, and (iii) obtaining from the Committee a determination that there has been a credit event in respect of CEOC or CEC.

PARTIES

19. Plaintiff CEOC is a Delaware corporation with its principal place of business in Las Vegas, Nevada. CEOC is a direct operating subsidiary of CEC. In addition to owning and operating its own properties, CEOC benefits from management fees generated by other Caesars-affiliated properties and such fees paid by third parties under management agreements.

20. Plaintiff CEC is a Delaware corporation with its principal place of business in Las Vegas, Nevada. Through its various affiliates, including CEOC, CEC owns, manages, or operates dozens of casinos throughout the United States.

21. The Second Lien Note-Holder Defendants together claim to own over 50% in principal amount of CEOC's 10.00% second priority senior secured notes due 2018.

22. Defendant Appaloosa Investment Limited Partnership I is a Delaware limited partnership with its principal place of business in Short Hills, New Jersey.

23. Defendant Palomino Fund Ltd. is a British Virgin Islands corporation with its principal place of business in Short Hills, New Jersey.

24. Defendant Thoroughbred Fund L.P. is a Delaware limited partnership with its principal place of business in Short Hills, New Jersey.

25. Defendant Thoroughbred Master Ltd. is a British Virgin Islands corporation with its principal place of business in Short Hills, New Jersey.

26. Defendant Avenue Credit Strategies Fund is a Delaware statutory trust with its principal place of business in New York, New York.

27. Defendant Avenue Investments, LP is a Delaware limited partnership with its principal place of business in New York, New York.

28. Defendant Avenue - COPPERS Opportunities Fund, L.P. is a Delaware limited partnership with its principal place of business in New York, New York.

29. Defendant Avenue International Master, LP is a Cayman Islands limited partnership with its principal place of business in New York, New York.

30. Defendant Lyxor/Avenue Opportunities Fund Limited is a Jersey company with its principal place of business in New York, New York.

31. Defendant Managed Accounts Master Fund Services - MAP10 is a Delaware entity with its principal place of business in New York, New York.

32. Defendant Avenue SS Fund VI (Master), LP is a Delaware limited partnership with its principal place of business in New York, New York.

33. Defendant Avenue Special Opportunities Fund I, L.P. is a Delaware limited partnership with its principal place of business in New York, New York.

34. Defendant Canyon Capital Advisors LLC, is a Delaware limited liability company with its principal place of business located in Los Angeles, California. Canyon Capital Advisors LLC is acting on behalf of all of its participating funds and managed accounts that it claims are beneficial holders of the Notes, the identities of which are unknown to plaintiffs.

35. Defendant Caspian Capital LP is a Delaware limited partnership with its principal place of business in New York, New York.

36. Defendant Centerbridge Credit Partners, L.P. is a Delaware limited partnership with its principal place of business in New York, New York.

37. Defendant Centerbridge Credit Partners Master, L.P. is a Delaware limited partnership with its principal place of business in New York, New York.

38. Defendant Centerbridge Special Credit Partners II, L.P. is a Delaware limited partnership with its principal place of business in New York, New York.

39. Defendant Contrarian Capital Management L.L.C. is a Delaware limited liability company with its principal place of business in Greenwich, Connecticut. Contrarian Capital Management is acting on behalf of managed accounts and affiliated entities that it claims are beneficial holders of the Notes, the identities of which are unknown to plaintiffs.

40. Defendant Elliott Management Corporation is a Delaware corporation with its principal place of business in New York, New York.

41. Defendant GSMP 2006 Onshore US, Ltd. is a Cayman Islands limited liability company with its principal place of business in George Town, Cayman Islands.

42. Defendant GSMP 2006 Offshore Harrah's Holdings, Ltd. is a Cayman Islands limited liability company with its principal place of business in George Town, Cayman Islands.

43. Defendant GSMP 2006 Institutional Harrah's Holdings, Ltd. is a Cayman Islands limited liability company with its principal place of business in George Town, Cayman Islands.

44. Defendant GSMP V Onshore Investment Fund, Ltd. is a Cayman Islands limited liability company with its principal place of business in George Town, Cayman Islands.

45. Defendant GSMP V Offshore Investment Fund, Ltd. is a Cayman Islands limited liability company with its principal place of business in George Town, Cayman Islands.

46. Defendant GSMP V Institutional Investment Fund, Ltd. is a Cayman Islands limited liability company with its principal place of business in George Town, Cayman Islands.

47. Defendant Oaktree Value Opportunities Fund Holdings, L.P. is a Delaware limited partnership with its principal place of business in Los Angeles, California.

48. Defendant OCM Opportunities Fund VII Delaware, L.P. is a Delaware limited partnership with its principal place of business in Los Angeles, California.

49. Defendant OCM Opportunities Fund VIIb Delaware, L.P. is a Delaware limited partnership with its principal place of business in Los Angeles, California.

50. Defendant Oaktree Opportunities Fund VIII Delaware, L.P. is a Delaware limited partnership with its principal place of business in Los Angeles, California.

51. Defendant Oaktree Opportunities Fund VIIIb Delaware, L.P. is a Delaware limited partnership with its principal place of business in Los Angeles, California.

52. Defendant Oaktree FF Investment Fund, L.P. – Class B is a Cayman Islands limited partnership with its principal place of business in Los Angeles, California.

53. Defendant Special Value Expansion Fund, LLC is a Delaware limited liability company with its principal place of business in Santa Monica, California.

54. Defendant Special Value Opportunities Fund, LLC is a Delaware limited liability company with its principal place of business in Santa Monica, California.

55. Defendant Tennenbaum Opportunities Partners V, LP is a Delaware limited partnership with its principal place of business in Santa Monica, California.

56. Defendant Third Avenue Focused Credit Fund is a Delaware limited liability company with its principal place of business in New York, New York.

JURISDICTION AND VENUE

57. This Court has jurisdiction over Defendants pursuant to CPLR 302(a)(1) because they maintain offices within the State of New York and/or transact business within the State of New York.

58. Further, Section 13.16 of the First Lien Indenture provides that the "terms of this Indenture are subject to the terms of the First Lien Intercreditor Agreement and the Second Lien Intercreditor Agreement," and Section 13.16 of the Second Lien Indenture provides that the "terms of this Indenture are subject to the terms of the [Second Lien] Intercreditor Agreement." Section 5.08 of the First Lien Intercreditor Agreement includes a consent to "the exclusive general jurisdiction of the state and federal courts located in New York County." Section 8.7 of the Second Lien Intercreditor Agreement includes a consent to jurisdiction in New York that provides the parties thereto "consent to the nonexclusive jurisdiction of any state or federal court located in New York County, New York."

59. The Second Lien Intercreditor Agreement also specifically includes a covenant in which the Second Lien Note-Holder Defendants agree that they will not bring any action or proceeding relating to the Second Lien Intercreditor Agreement in any court other than a court located in this County.

60. Section 13.09 of the Indentures provides that the provisions of both Indentures are governed by, and intended to be construed in accordance with, New York law.

61. Venue is proper in this County pursuant to CPLR 503(a) because certain Defendants maintain their principal place of business in New York, New York.

FACTUAL ALLEGATIONS

Background

62. CEC owns 100% of CERP (comprised of Caesars Entertainment Resort Properties, LLC and Caesars Entertainment Resort Properties Finance, Inc.), an interest in Growth, and 89% of CEOC. Together, these entities employ more than 60,000 employees, and own and manage casino entertainment facilities in Las Vegas, Atlantic City, New Orleans, and elsewhere.

63. On January 28, 2008, investment funds managed by affiliates of Apollo Global Management, LLC ("Apollo") and TPG Capital, LP ("TPG"), along with co-investors, acquired for cash a holding company (CEC, formerly known as Harrah's Entertainment Inc.) which in turn owned 100% of two primary subsidiaries: CEOC and a CMBS subsidiary (now known as CERP). On February 8, 2012, CEC conducted a public offering of its stock, which now actively trades on NASDAQ.

64. Beginning shortly after the acquisition, CEOC was faced with significant revenue and operational challenges driven by: (a) an unprecedented economic crisis in the United States and abroad; (b) increasing competition from newly legalized gaming in

jurisdictions throughout the United States; and (c) a significant expansion of supply in existing markets, particularly Las Vegas.

65. Despite its constrained capital structure, CEC was able to fund growth projects at the holding company level with cash flow generated by its CMBS subsidiary. As the deadline for refinancing the CMBS debt approached, however, it became clear that after this refinancing CEC would, most likely, no longer have access to that cash flow to fund growth and necessary investments in Caesars-affiliated properties.

66. The strength and success of Caesars-affiliated properties is vital to CEOC. These properties generate significant management fees paid to CEOC. In addition, these affiliated properties generate visitors and business for CEOC through the Total Rewards program. This program, like a frequent flyer arrangement, allows visitors to any Caesars-affiliated property to earn credits redeemable at any property throughout the Caesars system. Total Rewards, the industry-leading casino loyalty program with 45 million members, operates at nearly all Caesars-affiliated properties and is used to market promotions and generate revenue across all affiliated properties. Stimulating traffic at one location benefits other properties within the Total Rewards network. Thus, the success of one Caesars-affiliated property is linked to the success of other Caesars-affiliated properties and CEOC benefits from investments in other Caesars-affiliated properties.

67. Because Caesars-affiliated properties are interdependent, in CEOC's experience, revenue and EBITDA at a property actually fall when the property is sold to a buyer outside the Caesars group. For the same reason, selling a CEOC property within the Caesars group can be expected to yield the best available price for CEOC.

The Growth Transaction

68. In 2013, CEC formed Growth, a joint venture with CAC, for the purpose of funding the development of capital-intensive properties, and taking advantage of other growth opportunities.

69. In connection with the formation of Growth (the "Growth Transaction"), funds managed by affiliates of Apollo and TPG invested over $450 million in CAC, and public shareholders of CEC invested up to another $750 million, a total of approximately $1.1 billion. CAC has its own board of directors, and trades on NASDAQ, with a current market capitalization of approximately $1.6 billion.

70. Growth was initially capitalized with assets held by CEC that it had built and accumulated over the years with excess cash flow that it received. These assets (including online, mobile, and social gaming businesses, and a portfolio of bonds) were contributed by CEC to Growth, along with approximately $1.1 billion of proceeds from a rights offering at CAC. That resulted in CEC owning a 58% economic interest in Growth and CAC owning the remaining 42%.

71. After Growth was formed, it used a portion of the proceeds from the Growth Transaction to purchase from CEOC Planet Hollywood Resort & Casino in Las Vegas and CEOC's interest in the Horseshoe Baltimore project. As a result of that purchase, Growth paid $360 million to CEOC – cash that was used to pay interest on debt held by Defendants and others. And CEOC will continue to derive a substantial revenue stream from the management of Planet Hollywood and Horseshoe Baltimore.

72. Both Planet Hollywood and Horseshoe Baltimore required significant capital that CEOC could not provide. Planet Hollywood required upgrading, and with access to capital, Growth funded this, paying for renovations to the entertainment space and showrooms.

In addition, Planet Hollywood had a $501 million loan that was coming due in 2015 and needed to be refinanced. The Horseshoe Baltimore project also had large cash needs; it is a ground-up development project due to open later this year, with an approximately $400 million construction budget. CEOC did not have the capital these properties needed to succeed. The Growth Transaction benefitted these properties, their employees, and the communities in which they operated, and also strengthened the network of Caesars-affiliated properties and CEOC.

73. The Growth Transaction benefitted CEOC and its creditors because, as noted above, the success of each of the Caesars-affiliated properties – whether owned by CEOC, Growth, or CERP – is critical to the success of the entire Caesars enterprise. By the same token, the greatest value for Caesars-affiliated properties is obtained when they remain within the group, for example, when they are sold to Growth or CERP.

74. The process by which the Growth Transaction was accepted by the CEC board was eminently fair. The Growth Transaction was negotiated over several months by an independent Valuation Committee of CEC's board (the "Valuation Committee") that was formed to ascertain the fair market value of the assets and equity to be exchanged in the Growth Transaction. The Valuation Committee engaged Morrison & Foerster LLP as counsel and Evercore Partners L.L.C. as its financial advisor. Evercore is an investment bank with extensive experience in capital market transactions.

75. The Valuation Committee held approximately 25 in-person or telephone meetings concerning the transaction. In addition, the chairman and committee members held numerous separate discussions with each other, Morrison & Foerster and Evercore. As a result of extensive negotiations with representatives of funds managed by affiliates of Apollo and TPG from February through April 2013, the Valuation Committee obtained significant concessions

and price increases. Following the negotiations, and in consultation with its advisors, the Valuation Committee concluded – after applying its independent business judgment based upon due diligence – that the consideration proposed to be paid for the assets represented fair market value.

76. That conclusion was supported by Evercore's opinion. Evercore opined that the value of the consideration to be received in exchange for the assets to be sold or contributed by CEC or its subsidiaries to or with Growth was not less than the fair market value of the assets to be sold or exchanged. Evercore further concluded that "the consideration to be received by or on behalf of CEOC or its subsidiaries" in respect of Planet Hollywood and 50% of the management fee stream for that property, and in respect of CEOC's interests in the Horseshoe Baltimore and 50% of the management fee stream for that property, was in each case "reasonably equivalent to the fair market value of such assets."

The CERP Transaction

77. As noted above, in the fall of 2013, it became necessary to refinance CMBS debt on several significant Caesars-affiliated properties. Failure to refinance this debt would have left these properties without the financial resources necessary for investment and growth, and therefore would have severely injured CEOC – not least because those properties absorbed approximately 30% of CEOC's corporate costs through a shared services agreement.

78. The CMBS lenders – including certain Defendants – agreed to sell their loans at a discount and participate in a new financing, but only in return for significant credit improvement. To facilitate the transaction, CEC raised funds through a sale of stock to the public and contributed $200 million in cash.

79. Two CEOC properties – a construction project in Las Vegas named Project Linq and the Octavius Hotel Tower, were contributed to CERP in order to accomplish the

refinancing. Linq and Octavius were chosen for this contribution because of CEC's and CEOC's limited available cash and because existing agreements made the contribution of other properties difficult. Significantly, Linq and Octavius provided very little value to the Defendants, because the limited cash flow they generated was dedicated to servicing debt on those properties and not available to pay interest on the Notes.

80. The refinancing of the CMBS debt meant that the CMBS properties would continue to absorb approximately 30% of CEOC's corporate costs (or about $140 million per annum). Were the CMBS debt to default and lenders repossess the assets, CEOC would have been faced with approximately $140 million of additional costs and thus $140 million of reduced EBITDA. The CMBS refinancing therefore produced benefits to CEOC and allowed CEOC to avoid significant costs. In addition to these advantages, CEOC obtained approximately $150 million in cash and bonds in the transaction.

81. CEOC's board retained an independent financial advisor to advise it and to determine whether the consideration to be received by CEOC was reasonably equivalent to the value of the assets transferred. Following due diligence, the advisor opined that the value of the consideration was in fact reasonably equivalent to the value of the transferred assets.

82. As noted above, certain Defendants were among the holders of the original CMBS debt – a group that took the position that more assets had to be put into the package that was being offered to refinance the CMBS debt. Following negotiations, that lending group participated in the transactions and became holders of the new CERP debt. Having participated in the CERP Transaction and negotiated for CEOC to contribute assets to CERP, it is in the utmost bad faith for these Defendants now to purport to raise any objection to the fairness of the

transaction. They are now estopped from doing so and have waived any challenge to the CERP Transaction.

The Four Properties Transaction

83. Like the Growth and CERP Transactions, the Four Properties Transaction was designed to provide CEOC with substantial liquidity necessary to fund its operations and debt service obligations, to satisfy debt covenants, and to provide the transferred casino properties with significant capital investment, which Growth – with its more favorable capital structure – is far better suited to provide than CEOC. Thus, the Four Properties Transaction positioned CEOC to address its capital structure issues, avoid default, and move forward on a more stable basis.

84. In the Four Properties Transaction, CEOC agreed to sell four casino properties (three in Las Vegas and one in New Orleans) and related assets to Growth for $2 billion. All of these were capital-intensive properties that CEOC could not afford to renovate, maintain and improve. Two of the Las Vegas properties were in the midst of substantial, costly renovations ($225 million for The Quad and $200 million for The Cromwell) and generating *de minimis* cash flow (in the case of The Quad) or no cash flow at all (The Cromwell). The other two are very large properties that required over $100 million in capital expenditures. As in the Growth Transaction, CEOC maintained 50% of the ongoing management fees payable by each of the four properties being sold.

85. The Four Properties Transaction was negotiated and approved by a special, independent committee of CEC's board (the "Special Committee"). The Special Committee consisted of two independent directors and was advised by independent legal, financial, and valuation experts. The Special Committee held fifteen formal meetings before

recommending that CEC's board approve the transaction, and six more meetings about the execution and closing of the transaction, as well as telephone conferences, at times on a near-daily basis, with its advisors and with its counterpart, the special committee of CAC's board. Through the Special Committee's negotiations with the CAC special committee, the purchase price was increased by approximately $250 million.

86. For all of the reasons noted above, by selling the four properties to another Caesars-affiliated entity, CEOC was able to take advantage of higher multiples than would have been obtainable in a sale outside the Caesars group.

87. The Special Committee received independent advice from Centerview Partners LLC and Duff & Phelps, LLC ("D&P") on the transaction. Centerview opined that the $2 billion purchase price was fair from a financial point of view and that it was reasonably equivalent to the aggregate of the enterprise value of the properties being sold and the value of 50% of the management fees payable to their managers. D&P opined that the Four Properties Transaction was on terms that were no less favorable to CEOC than terms obtainable in a comparable arm's length transaction with a non-CEC affiliate.

<u>The CEOC Refinancing</u>

88. On May 6, 2014, CEC and CEOC announced that they had entered into the CEOC Refinancing, a transaction designed, like the Four Properties Transaction, to improve CEOC's financial health. As a result of the CEOC Refinancing, CEOC was able to repay its debts maturing prior to 2016, ease its liquidity constraints, and reduce the likelihood of default or breach of a financial covenant. The major features of the CEOC Refinancing are as follows:

(a) $1.75 billion was raised in an additional credit facility;

(b) CEC sold 5% of CEOC's outstanding stock to entities unaffiliated with CEC for a price indicating a $123 million equity valuation of CEOC. CEC and CEOC agreed to proceed with a listing of CEOC's shares, which will benefit CEOC by

creating a liquid and tradable equity currency that could facilitate future debt-for-equity exchanges. The sale of CEOC stock, which resulted in termination of the Parent Guarantee, was made at the insistence of lenders who agreed to provide the $1.75 billion of new capital only if the guarantee was terminated. Termination of the guarantee provided enhanced credit support for the new $1.75 billion loan; and

(c) The lenders under the Second Amended and Restated Credit Agreement, dated as of March 1, 2012, among CEC, CEOC, and the lenders thereto (the "Credit Agreement"), consented to amend it by, among other things: (i) relaxing certain financial covenants; (ii) making CEC's guarantee of the Credit Agreement obligations a guarantee of collection rather than of payment; and (iii) limiting that guarantee to debt held by consenting lenders and $2.9 billion of additional indebtedness.

CEOC used the proceeds of the CEOC Refinancing to retire virtually all existing debt maturing before 2016. Specifically, CEOC retired (i) 98% of the $214.8 million in aggregate principal amount of 10.00% Second Priority Senior Secured Notes due 2015; (ii) 99.1% of the $792 million in aggregate principal amount of 5.625% Senior Notes due 2015; and (iii) 100% of the $29 million aggregate principal amount in term loans due 2015.

89. The CEOC Refinancing closed on July 25, 2014, after regulatory approvals were obtained.

90. The CEOC Refinancing was a watershed moment for CEOC, as it achieved the following:

(a) there is no significant maturity remaining through the end of 2015 and there was a $578 million reduction in 2016 maturities, greatly improving CEOC's cash flow profile; and

(b) there is very little risk that CEOC would violate its sole financial maintenance covenant.

91. With approximately $2 billion of cash, no near-term maturities, and minimal risk of covenant default, the way was clear for CEOC to continue to operate and service its debt through 2014, 2015, and potentially into 2016. This significant time period provided CEOC with the time and stability to continue to deleverage and refinance its debt. Creditors

acting in good faith would be extremely pleased with this outcome. However, as Defendants' actions have made clear, they would rather try to drive CEOC into default in the near term, in order to create unfair leverage over CEOC and its affiliates and/or profit from their CDS holdings.

Defendants' Malicious Misstatements Intended to
Harm Plaintiffs and to Interfere with CEOC's Restructuring

92. While plaintiffs have been working in good faith to put CEOC on firmer financial footing, Defendants have repeatedly interfered with these efforts, in a cynical attempt to improve their leverage in negotiations with CEOC at the expense of CEOC and its other note-holders and to increase the value of their CDS positions. These efforts include (a) a public campaign of letters making false allegations of breaches of fiduciary duty and fraud by plaintiffs; (b) threats made in the press of meritless litigation; (c) disruption of hearings before state gaming regulatory agencies from which plaintiffs must obtain prior approval for the transactions – for example by falsely asserting that the transactions were fraudulent and would harm CEOC, even though Defendants are aware that the transactions would improve CEOC's financial stability; and (d) the Notice, in which the Second Lien Note-Holder Defendants allege, without basis, defaults and events of default under the Second Lien Indenture.

93. Defendants' attacks were made with malicious intent to harm plaintiffs and CEOC's other debt holders and to interfere with CEOC's prospective economic advantage, including the advantages to be obtained in connection with the Four Properties Transaction and the CEOC Refinancing. Defendants, aware of the falsity of their factual assertions and the weakness of their legal claims, are busily marketing them in the court of public opinion, rather than a court of law. Defendants' false statements and maneuvers include, without limitation, the following.

Defendants' Allegations of Breach of Fiduciary Duty
and Fraudulent Transfer Made to "Bloody up the Company"

94. On March 21, 2014, the Second Lien Note-Holder Defendants sent a threatening letter to plaintiffs, CAC, Growth and their respective counsel, alleging that CEC and CEOC had breached their fiduciary duties and that CEOC had decided to "cede valuable assets of CEOC to affiliated entities for inadequate consideration."

95. As these Defendants knew and intended, CEC was obligated to disclose their statements. Thus, on March 26, 2014, CEC reported in an 8-K that it had received a letter from a law firm acting on behalf of clients who claimed to hold second-priority secured notes of CEOC, alleging, *inter alia*, "that CEOC's owners improperly transferred or seek to transfer valuable assets of CEOC to affiliated entities" and that the letter "includes allegations that these transactions constitute or will constitute voidable fraudulent transfers and represent breaches of alleged fiduciary duties owed to CEOC creditors," and demands "that the transactions be rescinded or terminated."

96. As expected, the press reported on the Second Lien Note-Holder Defendants' threats. On March 28, 2014, The Deal Pipeline reported that defendants "Canyon Capital Advisors LLC, Oaktree Capital Management LLC and Appaloosa Management LP are the second-lien bondholders behind [the March 21, 2014] letter." The article quoted a research report stating that "[t]he timing of the letter may have been to exert some indirect pressure on [CEC] – i.e., bloody up the company …."

97. On April 3, 2014, certain first lien note-holders sent a threatening letter to plaintiffs, which falsely, maliciously, and defamatorily asserted that plaintiffs had "transferred significant value out of CEC, CEOC and other CEC subsidiaries to Caesars Growth Partners [*i.e.*, Growth] and [CERP] … to the direct detriment of CEOC's creditors, at a time when CEC

and CEOC were insolvent." As Elliott and certain other first lien note-holders knew, CEC was required to disseminate their statements in regulatory filings, and on April 4, 2014, it issued a report on Form 8-K stating that it had received this letter, which alleged "that CEC and CEOC improperly transferred or seek to transfer assets of CEC and CEOC to affiliated entities" and "that the transactions represented breaches of alleged fiduciary duties," and which demanded "rescission or termination of the Transactions."

98. On April 15, 2014, certain first lien note-holders sent a letter demanding that plaintiffs produce "immediately" to the first lien note-holders' financial advisor 17 broad categories of documents relating to plaintiffs' restructuring efforts for CEOC, "to expedite our ongoing assessment of these matters." Plaintiffs declined to produce the vast quantities of confidential information sought – particularly as counsel to these first lien note-holders refused to identify its clients. Plaintiffs expressed their willingness, however, to work cooperatively and constructively with the note-holders to address their concerns.

99. As the Second Lien Note-Holder Defendants, Elliott, and certain other first lien note-holders intended, the press widely disseminated their false statements.

- On April 21, 2014, The Capital Forum reported that "[w]eeks after announcing the transaction, CEC and CEOC received letters from first lien lenders and second lien noteholders … asserting … that the proposed transaction, as well as certain prior transactions, … constituted voidable fraudulent transfers and breaches of fiduciary duties."

- On May 2, 2014, Moody's Investors Service reported that "Caesars recently disclosed that it has received letters from law firms representing certain creditors that allege it is improperly transferring assets to affiliated entities."

- On May 6, 2014, The Las Vegas Review-Journal (Caesars' home town publication of record) reported that "Caesars Entertainment previously disclosed it received letters from … law firms claiming to act on behalf of lenders and bondholders who contend the transaction is improper …."

- On May 6, 2014, The Wall Street Journal reported that "[a] group of Caesars Entertainment Operating Co.'s note holders alleged in March that the transactions were fraudulent and represent a breach of fiduciary duty owed to the unit's creditors."

- On May 7, 2014, Bloomberg reported that "[l]awyers representing certain debt holders have sent letters to Caesars challenging the company's transfer of assets."

- On May 14, 2014, Bloomberg reported that "[b]ondholders have locked horns with the company, sending letters protesting steps being taken, including asset transfers away from the CEOC unit."

- On May 28, 2014, The Wall Street Journal reported that "lawyers for several funds that own Caesars bonds, including Canyon Partners LLC … Oaktree Capital Management LP and David Tepper's Appaloosa Management LP, have alleged in letters to Caesar that Apollo's recent moves are fraudulent, according to Securities and Exchange Commission filings."

- On July 2, 1014, Bloomberg stated that "[a] first-lien group of creditors has [] sent a letter alleging improper transfer of assets, according to an April 4 regulatory filing."

Defendants' Efforts to Prevent the Four Properties Transaction
Through False Allegations of Breach of Fiduciary Duty and Fraudulent Transfer

100. Defendants have not limited their efforts to a letter-writing campaign to plaintiffs. They also impeded, delayed, and tried to prevent the closing of the Four Properties Transaction through their false statements made with the intent to injure plaintiffs.

101. On April 24, 2014, the legal and financial advisors for the Second Lien Note-Holder Defendants, Elliott, and certain other first lien note-holders appeared before the Louisiana Gaming Control Board (the "LGCB") and falsely, maliciously, and defamatorily asserted that (a) the Four Properties Transaction constituted a fraudulent transfer because the assets being sold by CEOC to Growth were purportedly worth "between $1.1 and $2.2 billion more" than Growth would be paying for them – notwithstanding the Special Committee's independent evaluation and vigorous negotiation of that Transaction, with the advice of

independent legal and financial advisors, and (b) there was "a fair likelihood" that their clients would "institute proceedings to unwind the transactions … under the applicable fraudulent transfer laws of this country, and rescind it so it becomes voidable." These statements were made with the intent that they be publicly disseminated. The LGCB declined at that meeting to vote on whether to approve the transfer of Harrah's New Orleans to Growth – a delay that, as explained below, proved to be extremely costly to plaintiffs.

102. Thereafter, counsel for Defendants met with officials with the Nevada Gaming Control Board and made similar statements to those they made to the LGCB.

103. On May 13, 2014, letters from counsel for the Second Lien Note-Holder Defendants and certain first lien note-holders, accompanied by slide decks apparently prepared by their financial advisors, were submitted to the LGCB. Both sets of submissions alleged that the sale of Harrah's New Orleans was a fraudulent transfer and urged the LGCB not to approve it.

104. On May 19, 2014, Defendants again appeared, through their legal and financial advisors, before the LGCB, and urged it not to approve the transfer of Harrah's New Orleans to Growth. At the hearing, CEOC explained that, due to the delay in obtaining its approval, Growth had to take a $700 million bridge loan, at a cost of approximately $200,000 in interest per day. In turn, CEOC was injured because it was denied access to the full proceeds of the Four Properties Transaction. After obtaining regulatory approvals, the Four Properties Transaction closed.

105. Defendants knew and intended that their false statements made at the LGCB hearings would be disseminated to the public through the press. The Wall Street Journal and Bloomberg obtained transcripts of the LGCB hearings and in articles dated May 28, 2014

and June 24, 2014, respectively, reported on the hearings and the false statements made by Defendants' representatives on their behalf, including their threats of litigation.

Defendants' Efforts to Prevent the CEOC Refinancing

106. Defendants also attempted to impede, delay, or prevent the closing of the CEOC Refinancing. On June 24, 2014, Bloomberg reported that Defendants' representatives would testify before the Illinois Gaming Board ("IGB") at a hearing scheduled for June 26, 2014. Plaintiffs' application for approval of the CEOC Refinancing was then pulled from the agenda for the June 26 meeting and placed on the agenda for a July 24 meeting.

107. On July 24, 2014, counsel for certain of Defendants appeared at the IGB hearing and asserted to the IGB the same false assertions they previously made, including asserting that certain transactions entered into by CEOC were "significantly below their fair market value." The Second Lien Note-Holder Defendants' representative urged the IGB to deny approval of the CEOC Refinancing, which he called "the endless shell game." Over the objections of these Defendants, the IGB approved the CEOC Refinancing on July 24, 2014, and the transaction closed on July 25, 2014.

108. These Defendants knew that their statements to the IGB would be quickly disseminated to the public through the press, which was eagerly reporting on the hearing. At 4:24 p.m. on July 24, 2014, Bloomberg reported on the hearing, quoting the Second Lien Note-Holder Defendants' representative's description of the CEOC Refinancing as a "shell game."

109. Delays in obtaining the IGB's approval – which was known to be the final hurdle before the closing of the CEOC Refinancing could be completed – cost plaintiffs approximately $400,000 per day. This was the price of double interest payments for CEOC while the proceeds of the new term loan remained in escrow. That is, CEOC had to pay interest on the new term loan, and also pay interest on the indebtedness that this escrowed financing was

intended to repay. By the time the closing of the CEOC Refinancing had been completed, these tactics had cost CEOC approximately $25 million in additional interest.

Defendants' Threats of Litigation and Baseless Notice of Default

110. Defendants have repeatedly and maliciously threatened litigation against CEOC and CEC. On May 7, 2014, The New York Post reported that "David Tepper [of defendant Appaloosa Management] … is preparing to sue Caesars Entertainment for allegedly trying to avoid paying its loans." Like Defendants' assertions of breach and fraudulent transfer, this accusation that CEOC was attempting to avoid paying its debts was blatantly false. As Defendants know, since 2008 CEOC has never missed a payment to Defendants or any of its other debt holders.

111. On May 13, 2014, the legal and financial advisors to certain first lien note-holders falsely, maliciously, and defamatorily threatened in their presentation to the LGCB that the transfer of Harrah's New Orleans to Growth would result in "complex, expensive and lengthy" litigation, including claims for constructive and intentional fraudulent transfer and for breaches of fiduciary duty, and a revocatory action to nullify the transfer. These statements were made with the intent that they be publicly disseminated.

112. On June 3, 2014, Debtwire reported that "[a] litigious group of second lien Caesars Entertainment Operating Company bondholders yesterday sent Caesars Entertainment executives a stinging legal brief that spells out the group's allegation that the company violated its bond indentures…." In fact, no Second Lien Note-Holder Defendant sent any such document, and in spite of their continued threats of litigation, they have not filed a lawsuit.

113. On June 5, 2014, the Second Lien Note-Holder Defendants served CEOC with the Notice, making baseless allegations of defaults and events of default.

114. The following day, June 6, 2014, Bloomberg reported on the Notice, stating that "[t]he creditors said the company defaulted on its obligations by transferring assets, such as Bally's Las Vegas hotel, to an affiliate, and by removing the parent company's guarantee on the operating unit's debt." Bloomberg explained, "[t]he creditors' action puts Caesars on notice that, if their concerns aren't addressed, they could seek to exercise remedies under the loan documents …." Numerous news outlets, including Vegas Inc., Law360, The Wall Street Journal, Bloomberg, Jewish Business News, and The Street, also reported on the Notice.

115. Thus, while plaintiffs are seeking in good faith to improve CEOC's balance sheet and de-lever it for the benefit of all of its creditors, equity holders, and other stakeholders, Defendants have maliciously and intentionally made defamatory public misstatements – including that CEOC has tried to avoid paying its loans. These misstatements and threats have interfered with the consummation of the Four Properties Transaction and the CEOC Refinancing, costing CEOC millions of dollars in additional financing fees, interest, and other expense.

Section 6.06(b) of the Indentures

116. Defendants' efforts to frustrate the Four Properties Transaction and the CEOC Refinancing were prejudicial to the interests of other CEOC note-holders, some of whom are negotiating with plaintiffs, and plainly inconsistent with Section 6.06(b) of the Indentures, which provides that "[a] holder may not use this Indenture to prejudice the rights of another holder or to obtain a preference or priority over another holder." That is precisely what Defendants, including Elliott, sought to do in connection with CEOC's recent capital markets transactions: prejudice the rights of other holders or obtain a preference or priority for Defendants over other holders by threatening litigation in order to enhance the value of their

CDS positions and extract concessions from CEC and CEOC – all at the expense of other note-holders. The Indentures explicitly condemn such conduct.

117. Even more troubling, abusing its position as a majority holder of CEOC's 8½% senior secured notes due 2020, Elliott is now attempting to (a) foster a belief in the marketplace that CEOC will have a payment default on the Notes or (b) alternatively, push CEOC into a payment default (whether due to bankruptcy – once Elliott's claim triggers accelerations across the capital structure – or due to any other reason). In either scenario, Elliott plans to profit on its CDS, by selling its CDS in the secondary market, or by claiming a payment based on CEOC's payment default.

118. In sum, Elliott is actively trying to injure CEOC, its employees, business partners, the communities in which CEOC operates, *and other holders of CEOC notes* – all for Elliott's unique benefit. Elliott's efforts to use its purported rights under the First Lien Indenture to enhance the value of its CDS and extract concessions from CEC and CEOC for its own benefit and at the expense of other note-holders represent a clear violation of Section 6.06(b) of the Indentures.

The Alleged Defaults and Events of Default Lack Any Merit

119. As Defendants are well aware, CEOC has never defaulted on a payment due under the Indentures.

120. Nevertheless, the Notice baselessly alleges two defaults. *First*, the Notice claims that, in violation of Section 6.01(h) of the Second Lien Indenture, CEC "denied and/or disaffirmed its obligations under the Indenture and/or the Parent Guarantee." CEC allegedly did so by making the truthful statement in its May 6, 2014 Report on Form 8-K that upon its sale of 5% of CEOC's stock (which was necessary to complete the CEOC Refinancing), the Parent Guarantee was automatically released. Section 6.01(h) provides that:

SECTION 6.01. Events of Default.

An "Event of Default" occurs with respect to notes if: …

(h) the Note Guarantee of the Parent Guarantor … ceases to be in full force and effect (except as contemplated by the terms thereof) or the Parent Guarantor denies or disaffirms its obligations under this Indenture or its Parent Guarantee and such Default continues for 10 days.

121. The Notice alleges that the conditions to the release of the Parent Guarantee under the Indentures have not occurred and that the statement in the 8-K constituted denial or disaffirmance of obligations under the Parent Guarantee.

122. The Second Lien Note-Holder Defendants are wrong. CEC terminated the Parent Guarantee as expressly permitted under the terms of the Indentures, so that CEC had no obligation of any kind under the Parent Guarantee. The plain words of the Indentures – by which Defendants are bound – have always provided that the Parent Guarantee would terminate when CEOC is no longer wholly owned by CEC. The provision provides in pertinent part:

SECTION 12.02. Limitation on Liability.

…

(c) The Parent Guarantee shall terminate and be of no further force or effect and the Parent Guarantor shall be deemed to be released from all obligations under this Article XII upon:

(i) the Issuer ceasing to be a Wholly Owned Subsidiary of [CEC]; …

123. A wholly-owned subsidiary is defined in the Indentures as a subsidiary whose stock is "100%" owned by the parent company.

124. Under the plain language of Section 12.02(c)(i), each of CEC and CEOC always had the ability to terminate the Parent Guarantee simply by transferring or issuing CEOC stock to a third party, after which CEOC would no longer be a wholly owned subsidiary of CEC.

As Defendants know, on May 5, 2014, CEC did precisely that when it sold 5% of CEOC stock to sophisticated institutional buyers in order to allow consummation of the CEOC Refinancing. And, on May 30, 2014, CEOC transferred approximately 6% of its stock to an employee benefits plan. Clearly, the Parent Guarantee is now terminated, because CEC owns only approximately 89% of CEOC – a far cry from a "100%" wholly-owned subsidiary.

125. Termination of the Parent Guarantee in the event CEOC is no longer wholly owned by CEC is consistent with the purpose of the Parent Guarantee. The Parent Guarantee was – and understood by all parties to the Indentures to be – a "guarantee of convenience." The terms of the Indentures clearly demonstrate that fact. If the purpose of the Parent Guarantee was to ensure CEC's long-term credit support for the Notes, then the Indentures would have included typical covenants designed to ensure that CEC would remain a reliable guarantor. For example, the Indenture would have contained covenants restricting CEC's ability to sell or transfer CEOC stock; restricting CEOC's ability to sell, transfer, or issue any of its own stock; and restricting CEC's ability to incur further debt or sell assets. Although the Indentures are lengthy, detailed documents, they contain no such provisions.

126. Moreover, the Indentures independently provide that the Parent Guarantee will be "automatically released" if the guarantee by CEC of the Credit Agreement or certain indebtedness is released or discharged:

> **SECTION 12.02. <u>Limitation on Liability</u>.**
>
> …
>
> In addition, the Parent Guarantee will be automatically released upon the election of the Issuer and Notice to the Trustee if the guarantee by [CEC] of the Credit Agreement, the Retained Notes or any Indebtedness which resulted in the obligation to guarantee the Notes has been released or discharged.

127. The sale of CEOC stock effected a termination of the Parent Guarantee on the Retained Notes. For this independent reason, the Parent Guarantee was terminated in accordance with the plain terms of the Indentures.

128. Beyond the fact that the Parent Guarantee has been terminated, CEC did not violate the Indentures by stating its belief that its sale of CEOC stock terminated the Parent Guarantee. Contrary to what the Notice asserts, CEC's statement is not a "denial or disaffirmance of its obligation," under Section 6.01(h) of the Indentures. Rather, CEC has done what it is perfectly entitled to do, that is, terminate the Parent Guarantee and then issue a good faith statement about its actions and its understanding of their consequences. CEC was surely allowed – and perhaps obligated – to communicate these facts to its shareholders and creditors and to the market. For that additional reason, the Notice's claim of a default based on termination of the Parent Guarantee lacks any merit.

129. *Second*, the Notice claims that the transfers by CEOC and its subsidiaries to Growth in the Four Properties Transaction – including the four properties and 50% of the ongoing management fees for them (together, the "Transferred Properties") – violated the asset sales covenant in Section 4.06(a) of the Indentures. Section 4.06(a) of the Indentures provides in pertinent part:

> **SECTION 4.06. <u>Asset Sales</u>.**
>
> (a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, cause or make an Asset Sale, unless (x) the Issuer or any of its Restricted Subsidiaries, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value (as determined in good faith by the Issuer) of the assets sold or otherwise disposed of ….

130. The Notice alleges that (a) the consideration received by CEOC was not at least equal to the fair market value of the Transferred Properties, and that a determination that

fair market value was received was not made in good faith; and (b) any dispositions of equity interests or assets by restricted subsidiaries to unrestricted subsidiaries did not constitute "Permitted Investments" because such transfers allegedly are not "Investments" within the meaning of the Indentures.

131. These allegations are baseless for several reasons. Defendants ignore the fact that Section 4.04 of the Indentures specifically allows CEOC to make Permitted Investments, and that Permitted Investments are not Asset Sales subject to Section 4.06. In particular, the Indentures contain numerous "baskets" under the defined term Permitted Investments, which allow significant capacity for Investments that are not subject to the restrictions of Section 4.06. To give CEOC flexibility to transfer funds and assets within the limits of the baskets, the term Permitted Investments is broadly defined, and clearly applies to seven of the eight sales that were part of the Four Properties Transaction. Defendants – highly sophisticated investment funds represented by experienced counsel and financial advisors – were on notice of these provisions, which unambiguously authorize these transactions.

132. Where all eight of the sales are concerned, the Second Lien Note-Holder Defendants' claims are wrong for an additional reason. Under Section 4.06 of the Indenture, where CEOC determines in good faith that it received fair market value, it has up to 15 months to use the resulting funds in ways permitted by the Indentures. These conditions are satisfied here.

133. There can be no dispute that fair market value was received. As described above, to ensure that fair market value was received, CEC formed the Special Committee, the Special Committee employed independent outside financial and legal advisors, and arm's length

negotiations with CAC's special committee ensued that yielded material improvements in the economic terms of the transaction.

134. The Second Lien Note-Holder Defendants ignore the fact that the Indentures merely require that a good faith determination be made by CEOC of fair market value. Given the formation of the Special Committee, the nature of the negotiations, the independence of the advisors, and the opinions that these advisors provided, there can be no doubt that a good faith determination was reached.

135. Even assuming all eight of the sales are Asset Sales subject to the requirements of Section 4.06, because there has been a good faith determination that fair market value was received, under Section 4.06(b) of the Indentures, CEOC has 15 months from closing to use the proceeds in a manner permitted by the Indentures. So long as CEOC applies the proceeds to a prescribed use by August 2015, there is no claim under the Indentures. Until that time, there is no conceivable basis for an allegation of default.

Plaintiffs Are Entitled to a Preliminary and Permanent Injunction to Preserve the *Status Quo Ante* the Notice, and Enjoining Any Action in Furtherance of the Notice

136. In addition to damages and a declaration of the parties' rights and legal relations under the Indentures, plaintiffs seek a preliminary and permanent injunction against Defendants issuing any further notices of default or taking any action in furtherance of the Notice, other than seeking a judicial determination of the parties' rights and remedies under the Indentures.

137. *First*, plaintiffs are likely to succeed on the merits of their request for a declaration that there has been no default or event of default, or any other violation of law, for, *inter alia*, the reasons described.

138. *Second*, any act by Defendants in furtherance of the Notice or any other purported declaration of default or event of default, such as a purported acceleration under the Indentures or obtaining from the Committee a determination that there has been a credit event, would irreparably harm CEOC and CEC. For example, if the Second Lien Note-Holder Defendants declare an acceleration of CEOC's debt under Section 6.02 of the Indentures based on their spurious assertion that there has been an event of default, this acceleration, coupled with the domino effect of other accelerations it may trigger, threatens to leave CEOC with insufficient funds to satisfy its approximately $19 billion of obligations. Even if the Second Lien Note-Holder Defendants do not accelerate under the Indentures, the Notice, if it remains effective, will impose reputational injury on CEC and CEOC, impact supplier credit, customers and the cost of funds, and could prevent either of them from pursuing new growth and investment opportunities.

139. *Third*, while plaintiffs will suffer the irreparable injuries described above, Defendants will not face any harm to their interests as note-holders from an order barring them from taking any non-judicial step in furtherance of their purported Notice. Accordingly, this Court should issue a preliminary and permanent injunction to ensure the *status quo ante* the Notice.

Plaintiffs' Claims Are Ripe for Adjudication By This Court

140. A justiciable controversy exists, and plaintiffs are therefore entitled to a declaratory judgment pursuant to CPLR 3001 concerning the defaults, events of default, and other violations of law alleged by Defendants to have arisen under the Indentures, because the parties have adverse interests under the Indentures, and plaintiffs have a legally protectable interest in the controversy.

141. The Notice – which was issued in the midst of Defendants' false, malicious, defamatory, and actionable campaign to interfere with and obstruct key CEOC capital

markets transactions, and which asserts the occurrence of events of default under the Indentures – is an essential contractual prerequisite to further actions available to Defendants, including acceleration of the principal and interest due under the Indentures. On July 24, 2014, through their counsel, the Second Lien Note-Holder Defendants confirmed the existence of a ripe controversy, stating, "We've issued notices of default and we intend to exercise all of our rights and remedies that are available under applicable law."

142. The false, malicious, and defamatory assertions that Elliott has already made and that it intends to make, and the positions it intends to take – including that CEOC is in default under the First Lien Indenture and that Elliott is entitled to accelerate the principal and interest due thereunder – also create a ripe controversy. Despite the absence of any default or event of default under the First Lien Indenture or any of the other indentures governing CEOC's first and second lien debt, Elliott's actions, as well as the actions it intends to take, threaten to procure a breach by all of CEOC's note-holders. That is, Elliott's actions are designed to cause these note-holders to seek acceleration, meaning the payment of billions of dollars in principal and interest due under their notes, without the existence of the requisite basis, which is a default or event of default under the governing indentures.

143. Thus, a prompt resolution of whether there has been a default or an event of default under the Indentures will promote economy in the litigation process, and may lead to settlement.

FIRST CAUSE OF ACTION
(Tortious Interference with Prospective Economic Advantage)

144. Plaintiffs repeat and re-allege the allegations above as if fully set forth herein.

145. Plaintiffs had business relationships with third parties, including CEOC's lenders, from which they expected to expeditiously complete financing transactions including the Four Properties Transaction and the CEOC Refinancing, and thereby timely obtain for CEOC and its stakeholders the economic benefit of such transactions.

146. Defendants had knowledge of plaintiffs' expectation and intentionally and maliciously made false and defamatory statements described above to the public and to gaming regulators, including the LGCB and the IGB, for the purpose of inflicting harm on plaintiffs. These false, malicious, and defamatory statements impugned plaintiffs' respective reputations for professional integrity and creditworthiness, which, in turn, damaged their relationships with third parties, including CEOC's lenders. Defendants thereby delayed the Four Properties Transaction and the CEOC Refinancing, intentionally interfered with plaintiffs' prospective economic advantage, and prevented plaintiffs' legitimate expectancy from timely ripening into valid business relationships.

147. As a result of defendants' tortious interference, plaintiffs have suffered damages in an amount to be proven at trial.

SECOND CAUSE OF ACTION
(Declaratory Judgment)

148. Plaintiffs repeat and re-allege the allegations above as if fully set forth herein.

149. Plaintiffs seek a declaration from this Court stating that (a) no default or event of default has occurred or is occurring under the Indentures, (b) the Notice is null and void,

(c) plaintiffs have not breached their fiduciary duties or engaged in fraudulent transfers, or otherwise engaged in any violation of law, and (d) Defendants have no basis to accelerate the principal and interest due under the Indentures.

THIRD CAUSE OF ACTION
(Breach of Contract – Elliott)

150. Plaintiffs repeat and re-allege the allegations above as if fully set forth herein.

151. Elliott has breached the First Lien Indenture, including Section 6.06(b) thereof, which provides that "A holder may not use this Indenture to prejudice the rights of another holder …."

152. Elliott is acting to enhance the value of its CDS holdings, and to improve its leverage in negotiations with plaintiffs. Until now, Elliott has participated in the campaign of certain first lien note-holders to make false, malicious, defamatory, intentionally injurious, and intentionally public statements – as publicly, as vigorously, and as frequently as possible – to the effect that in the transactions described above, plaintiffs transferred assets of significant value away from CEOC, to CEOC's detriment, thereby engaging in fraudulent conveyances and breaches of fiduciary duty. In other words, by exploiting its position as the holder of a majority of a series of CEOC notes, Elliott has sought to thwart CEOC's restructuring efforts and prejudice the rights of other holders or obtain a preference or priority for itself over other holders in order to enhance the value of its CDS. Now, Elliott will pursue this course of conduct further, and assert that CEOC is in default under the First Lien Indenture, and thereupon declare an acceleration. Elliott intends to (a) foster a belief in the marketplace that CEOC will have a payment default, or (b) lead CEOC to have a payment default. In either event, Elliott is

wagering that it will thereby profit on its CDS. Elliott also seeks to extract concessions from CEC and CEOC for its own benefit, which would be at the expense of other note-holders.

153. As a result of Elliott's breaches, plaintiffs have suffered and will suffer injuries, for which they are entitled to damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that judgment be awarded in their favor and against Defendants as follows:

(a) An award of damages in respect of (i) Defendants' tortious interference with prospective economic advantage and (ii) Elliott's breach of contract (including Section 6.06(b) of the First Lien Indenture) – in all instances in amounts to be proven at trial;

(b) A judicial declaration stating that (i) no default or event of default has occurred or is occurring under the Indentures, (ii) the Notice is null and void, (iii) plaintiffs have not breached their fiduciary duties or engaged in fraudulent transfers, or otherwise engaged in any violation of law, and (iv) Defendants have no basis to accelerate the principal and interest due under the Indentures;

(c) A preliminary and permanent injunction maintaining the *status quo ante* and prohibiting Defendants from (i) issuing any further notice of default, (ii) taking any action in furtherance of any notices of default, including issuing a notice of acceleration, other than in the context of judicial proceedings to determine the parties' rights and obligations under the Indentures, and (iii) obtaining from the Committee a determination that there has been a credit event in respect of CEOC or CEC; and

(d) Such other, further and different relief to either or both of plaintiffs as this Court deems just and proper.

Dated: New York, New York
August 5, 2014

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