

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MASTER CASE NO. 09-2106-MD-GOLD/GOODMAN

In re:

FONTAINEBLEAU LAS VEGAS
CONTRACT LITIGATION

MDL NO. 2106

This document relates to:

ALL ACTIONS

**DEFENDANT BANK OF AMERICA, N.A.'S
NOTICE OF PENDING, REFILED,
RELATED OR SIMILAR ACTIONS**

Pursuant to S.D. Fla. L.R. 3.8 and 7.1, and Section 2.15.00 of the Court's Internal Operating Procedures, defendant Bank of America, N.A. ("BANA") notifies the Court of a related and similar action pending in this District.

Attached as Exhibit A is a copy of the complaint in *Soneet Kapila v. Jeffrey Soffer, et al.*, Adv. No. 09-21481-AJC (Bankr. S.D. Fla.) (the "*Trustee* Action"), an action filed in the United States Bankruptcy Court for the Southern District of Florida on June 8, 2011.¹ The *Trustee* Action is a "similar" action under Section 2.15.00 of the Court's Internal Operating Procedures because it "involves subject matter which is a material part of the subject matter of another action or proceeding . . . pending before this Court." The *Trustee* Action involves the same subject matter as two actions previously transferred to MDL No. 2106: (1) *Avenue CLO Fund, et al. v. Bank of America, N.A., et al.*; and (2) *Brigade Leveraged Capital Structures Fund, Ltd., et*

¹ BANA is not a party to the *Trustee* Action.

al. v. Fontainebleau Resorts, LLC, et al., Adversary No. 11-01130-mkn (Bankr. D. Nev.), a recently-filed action that is the subject of a May 19, 2011 Judicial Panel on Multidistrict Litigation Conditional Transfer Order.²

All three actions involve claims arising out of representations and certifications made by Fontainebleau to BANA and other lenders in connection with the financing for the development of the Fontainebleau Casino and Resort under the June 6, 2007 Credit Agreement and Disbursement Agreement. In the *Avenue* Action against BANA, the Term Lender Plaintiffs allege that BANA breached its duties as Disbursement Agent by allowing Fontainebleau to access loaned funds despite BANA's alleged knowledge that Fontainebleau could not meet various conditions precedent under the Credit Agreement and Disbursement Agreement. In the *Brigade* action, the same Term Lender Plaintiffs reverse course and allege that Fontainebleau and various of its affiliates, officers and directors repeatedly made knowingly false and misleading statements which were intended to, and did, *conceal* from BANA and the Project's lenders (including Plaintiffs) that Fontainebleau could not meet the very same conditions precedent.

In the *Trustee* Action, the Fontainebleau Chapter 7 Trustee asserts breach of fiduciary duty and statutory fraudulent conveyance claims against various Fontainebleau officers and directors based on allegations identical to the *Brigade* Plaintiffs' fraud allegations.³ Thus, a

² The *Brigade* action was filed in the District Court of Clark County, Nevada on March 25, 2011, and removed by defendant Crown Services (US), LLC on May 2, 2011 on the ground that it is "related to the Chapter 7 cases currently pending in the United States Bankruptcy Court for the Southern District of Florida . . . jointly administered with the bankruptcy case *In re Fontainebleau Las Vegas Holdings, LLC*, Case No. 09-21481." The *Brigade* Action was transferred by JPML on May 19, 2011 pursuant to Conditional Transfer Order No. 2 ("CTO No. 2") (D.E. No. 56). Certain *Brigade* action parties have filed motions to vacate CTO No. 2; briefing on those will be completed on June 30, 2011. A true and correct copy of the *Brigade* complaint is annexed hereto as Exhibit B.

³ See Ex. A, ¶¶ 83-85.

central question in each of the *Avenue*, *Brigade* and *Trustee* Actions is whether Fontainebleau made materially false and misleading representations concerning its financial condition to a group of lenders under a senior secured credit facility, including BANA (who was also the lenders' agent under the credit facility). Accordingly, the *Trustee* Action is "similar" to the *Avenue* and *Brigade* Actions under Section 2.15.00 of the Court's Internal Operating Procedures.

Dated: June 28, 2011
Miami, Florida

Respectfully submitted,

By: /s/ David E. Bane _____

HUNTON & WILLIAMS LLP
David E. Bane
1111 Brickell Avenue, Suite 2500
Miami, Florida 33131
Telephone: (305) 810-2576
Facsimile: (305) 810-1661
E-mail: dbane@hunton.com

- and -

O'MELVENY & MYERS LLP
Bradley J. Butwin (*pro hac vice*)
Jonathan Rosenberg (*pro hac vice*)
Daniel L. Cantor (*pro hac vice*)
William J. Sushon (*pro hac vice*)
7 Times Square
New York, New York 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061

Attorneys for Bank of America, N.A.

CERTIFICATE OF SERVICE

I, Melissa Wangenheim, hereby certify that on June 28, 2011, I served true and correct copies of the foregoing Defendant Bank of America, N.A.'s Notice of Pending, Refiled, Related or Similar Actions by first class mail on the following counsel of record:

David A. Rothstein, Esq.
DIMOND KAPLAN & ROTHSTEIN,
P.A.
2665 South Bayshore Drive,
Penthouse Two-B
Miami, Florida 33133

Kirk Dillman, Esq.
Robert Mockler, Esq.
Rebecca Pilch, Esq.
HENNIGAN DORMAN LLP
865 South Figueroa Street, Suite 2900
Los Angeles, California 90017

*Attorneys for Plaintiffs Avenue CLO Fund,
Ltd., et al.*

/s/ Melissa Wangenheim
Melissa Wangenheim

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(MIAMI DIVISION)
www.flsb.uscourts.gov

In re

CASE NO. 09-21481-BKC-AJC
CHAPTER 7
(Jointly Administered)

FONTAINEBLEAU LAS VEGAS
HOLDINGS, LLC, et al.,

Debtors.

_____ /

SONEET KAPILA, not individually but
as Chapter 7 trustee of the above-styled
jointly administered Debtors,

ADV. NO.

Plaintiff,

vs.

TURNBERRY ASSOCIATES,
TURNBERRY REALTY CORP. a/k/a
TURNBERRY REALTY, TURNBERRY
CONSTRUCTION, INC., TURNBERRY
DEVELOPMENT, LLC a/k/a TURNBERRY
DEVELOPMENT, TURNBERRY RESIDENTIAL
MANAGEMENT, L.P. a/k/a TURNBERRY
RESIDENTIAL MGMT, AND REPUBLIC CRANE
& HOIST SERVICE, LLC a/k/a REPUBLIC CRANE
SERVICE

Defendants.

_____ /

**ADVERSARY COMPLAINT TO AVOID AND RECOVER
FRAUDULENT TRANSFERS AND FOR OTHER RELIEF**

The Plaintiff, SONEET KAPILA (“Kapila or the “Trustee”), not individually but as Chapter 7 Trustee of the above-styled jointly administered Debtors, files this Adversary Complaint for Damages, to Avoid and Recover Avoidable Transfers and for Other Relief, against the Defendants, TURNBERRY ASSOCIATES, TURNBERRY REALTY CORP a/k/a TURNBERRY REALTY, TURNBERRY CONSTRUCTION, INC., TURNBERRY

DEVELOPMENT, LLC, TURNBERRY RESIDENTIAL MANAGEMENT, L.P., REPUBLIC CRANE & HOISE SERVICE, LLC (the foregoing named defendants shall sometimes be referred to collectively herein as the “Defendants”),¹ and alleges:

THE PARTIES, JURISDICTION & VENUE

1. On June 9, 2009 (the June 2009 Petition Date), Debtors Fontainebleau Las Vegas Holdings, LLC, Fontainebleau Las Vegas, LLC, and Fontainebleau Las Vegas Capital Corp. commenced these cases by filing voluntary petitions for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) with this Court. Thereafter, on November 25, 2009 (the “Nov. 2009 Petition Date”), the affiliated Debtors Fontainebleau Las Vegas Retail Parent, LLC, Fontainebleau Las Vegas, Retail Mezzanine, LLC, and Fontainebleau Las Vegas Retail, LLC filed voluntary petitions for relief under the Bankruptcy Code with this Court (each of the foregoing Debtors shall collectively be referred to herein as the “Debtors”). By orders of Court, each of the Debtors are being jointly administered under Main Case No. 09-21481-BKC-AJC.

2. By Order dated April 20, 2010, the Bankruptcy Court converted the Debtors’ cases to Chapter 7 liquidations.

3. Thereafter, Kapila was appointed Chapter 7 trustee of the estates of the Debtors, which appointment was accepted by the Bankruptcy Court.

4. As such, Kapila is the duly appointed and acting Trustee of the jointly administered Chapter 7 bankruptcy estate of the Debtors.

5. Jeffrey Soffer (“Soffer”), a Florida resident, was, at all material times, the Chairman and CEO of FBR and a member of its Board of Managers. Soffer is also one of two members of the Board of Directors of Fontainebleau Las Vegas Capital Corp. Soffer owns or

¹ In compliance with Fed. R. Bankr. P. 7020 and Local Rule 7003-1(D) regarding the joinder of multiple parties in a single action, the claims asserted against the named defendants arise out of the same series of transactions and involve common issues of law and fact.

controls the Defendants. Soffer is the manager of the general partner of both TRLP and Turnberry Ltd.

6. Turnberry Associates is a fictitious name registered and used in the States of Florida, by Soffer and others in connection with several business entities including the Defendants.

7. Defendant Turnberry Realty Corp. ("Turnberry Realty") is a Florida Profit Corporation owned and/or controlled by Soffer.

8. Defendant Turnberry Construction, Inc. ("Turnberry Construction") is a Florida Profit Corporation owned and/or controlled by Soffer.

9. Defendant Turnberry Residential Management, L.P. ("Turnberry Residential Mgmt") is a limited partnership authorized to do business in the State of Florida and owned and/or controlled by Soffer.

10. Defendant Turnberry Development, LLC ("Turnberry Development") is a Florida limited liability company owned and/or controlled by Soffer.

11. Defendant Republic Crane & Hoist Service, LLC is a Nevada limited liability company owned, controlled and/or affiliated with Soffer.

12. The Trustee files this Complaint pursuant to 11 U.S.C. § 541(a) as successor to the interests in property of the estate, and pursuant to 11 U.S.C. § 544.

13. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334.

14. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

15. Venue is proper in this district pursuant to 28 U.S.C. § 1409.

BACKGROUND

16. The claims at issue in this adversary proceeding seek to avoid and recover fraudulent transfers arising out of the Debtors' involvement with the development and construction of the multi-million dollar, multi-use Fontainebleau Resort and Casino in Las Vegas, Nevada (the "Project").

17. The Project was to include: (i) a 63-story glass skyscraper featuring over 3,800 guest rooms, suites and condominium units; (ii) a 100-foot high, three level podium complex housing casino/gaming areas, restaurants and bars, a spa and salon, a live entertainment theater and rooftop pools; (iii) a 353,000 square-foot convention center; (iv) a high-end retail space including shops and restaurants; and (v) a nightclub.²

18. Soffer is the son of Donald Soffer, a prominent real estate developer who developed, among other projects, the City of Aventura, Florida. In 2005, Soffer and his partners purchased the well-renowned Fontainebleau Miami Hotel. Soffer conceived of The Fontainebleau Resort and Casino in Las Vegas, Nevada as the first step in the development of upscale Fontainebleau resorts throughout the world.

19. The Project was designed to be a destination casino-resort on the north end of the Las Vegas Strip, situated on approximately 24.4 acres. As stated above, it was to include a 63-story glass skyscraper featuring over 3,800 guest rooms, suites and condominium units; a 100-foot high three-level podium complex housing casino/gaming areas, restaurants and bars, a spa and salon, a live entertainment theater and rooftop pools; a parking garage with space for more than 6,000 vehicles; and a 353,000 square-foot convention center. The Project also was to

² By Order of the Bankruptcy Court entered after adequate notice and multiple hearings, all of the Debtors' right, title and interest in the Project was sold to a third party for substantially less than the amount of mortgages and liens encumbering the Project.

include approximately 286,500 square-feet of retail space, including retail shops, restaurants, and a nightclub.

20. Soffer and Schaeffer founded FBR in 2005 to develop and operate the Fontainebleau hotels in Miami and Las Vegas. FBR was controlled by a Board of Managers consisting of Soffer, Schaeffer, Kotite, Parello and Weiner (the “FBR Board of Managers”). The officers of FBR included Soffer, Freeman, and Kumar.

21. FBR created several subsidiaries to develop the Project, including the Debtors (collectively, the “Project Entities”). Each of the Project Entities was wholly-owned, directly or indirectly, by FBR and largely controlled by the FBR Board of Managers. The board of directors of Debtor Fontainebleau Las Vegas Capital Corp. consisted of Soffer and Kotite.

22. The general contractor for the Project was Turnberry West Construction (“TWC”). TWC is an affiliate of the Defendants and was created for the purpose of overseeing the construction of the Project.

23. Between 2007 and 2009 more than \$1.6 billion was requested by TWC and disbursed in connection with the Project. But not all of the disbursements can be traced to subcontractors or other legitimate purposes. Some of the TWC construction funds were inexplicably disbursed to Republic Crane & Hoist. As reflected in the chart attached hereto as Exhibit “A” Republic Crane & Hoist received transfers totaling \$27,474,081.90 (the “Republic Transfers”).

24. In addition, the Debtors’ books and records indicate that certain of the Defendants received direct transfers from the Debtors with no apparent legitimate business purpose. As reflected in the charts attached hereto as Composite Exhibit “B”—

- Turnberry Associates received \$112,037.61

- Turnberry Construction received \$24,371.46
- Turnberry Development received \$13,367.11
- Turnberry Realty received \$1,512,605.70
- Turnberry Residential Management received \$42,798.92

These transfers are collectively referred to herein as the “Turnberry Transfers.”³ The Turnberry Transfers together with the Republic Transfers are and shall be referred to herein as the “Transfers.”

25. Through his position on the Board of Managers and in the Turnberry Defendants, as well as his ownership interests in the Fontainebleau and Turnberry entities, Soffer personally exercised substantial if not exclusive control over the Project, including decisions regarding Project development, financing and construction.

26. It is apparent from the Debtors’ books and records and from the investigation conducted by the Trustee and his professionals that the Transfers had no legitimate business purpose, and were instead fraudulently made to satisfy the personal expenses of Soffer, Turnberry Associates and/or their affiliates.

COUNT I

Action to Avoid and Recover Fraudulent Transfers Pursuant to Sections 544 and 548 of the Bankruptcy Code and Chapter 726 of the Florida Statutes

The Trustee sues the Defendants and alleges:

27. The Trustee realleges paragraphs 1 through 26 above as if fully set forth herein.

28. Pursuant to Sections 544 and 548 of the Bankruptcy Code and Chapter 726 of the Florida Statutes, a Chapter 7 trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within two

³ The Debtors books and records also reflect transfers to TWC totaling \$1,459,455,133.70. In a separate Complaint, the Trustee seeks to recover all funds transferred to TWC were not incurred and disbursed for legitimate business purposes.

years (under Section 548 of the Bankruptcy Code) and four years (under Chapter 726 of the Florida Statutes) before the date of the filing of the petition, if the debtor voluntarily or involuntarily – (A) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made or such obligation was incurred, indebted; or (B)(i) received less than a reasonably equivalent value in exchange for such transfer or obligation; and (ii)(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation; (II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital; or (III) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor’s ability to pay as such debts matured.

29. In addition, pursuant to Fla. Stat. Section 726.110, a Chapter 7 trustee may avoid transfers pursuant to Fla. Stat. Section 726.105(1)(a) within one year after the transfer was or could reasonably have been discovered by the Trustee.

30. Pursuant to Section 550 of the Bankruptcy Code, in a fraudulent transfer action commenced under Sections 544 and 548 of the Bankruptcy Code and Chapter 726 of the Florida Statutes, the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from – (1) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or (2) any immediate or mediate transferee of such initial transferee.

31. The Transfers constitute transfers of an interest in property of the Debtors to the Defendants within two years (under Section 548) and four or more years (under Chapter 726) prior to the Petition Date.

32. The Transfers were made with actual intent to hinder, delay or defraud creditors of the Debtors.

33. In addition, the Debtors did not receive reasonably equivalent value for the Transfers and they: (i) were insolvent at the time of the Transfers or became insolvent as a result thereof; (ii) were engaged or were about to engage in a business or transaction for which the remaining assets of the Debtors were unreasonably small in relation to the business or transaction; or (iii) intended to incur, or believed or reasonably should have believed, that they would incur debts beyond their ability to pay as they came due.

34. As evidenced by the proof of claim register for the Debtors' estates, multiple creditors existed prior to the Petition Date that could have avoided the Transfers.

35. As a result of the above, the Trustee can avoid the Transfers pursuant to Sections 544 and 548 of the Bankruptcy Code and Chapter 726 of the Florida Statutes, and recover the value thereof for the benefit of the estate pursuant to Section 550 of the Bankruptcy Code.

WHEREFORE, the Trustee respectfully requests that this Court enter a judgment against the Defendants that: (i) avoids the Transfers to the Defendants and recover same for the benefit of the estates; (ii) awards to the Trustee the amount or value of the Transfers, plus pre-judgment interest and costs; (iii) disallows any claim that the Defendants may have against the Debtors until such time the Transfers are re-paid to the Plaintiff pursuant to Section 502(d) of the Bankruptcy Code; and (iv) awards any other relief the Court deems appropriate.

COUNT II
Unjust Enrichment

36. The Trustee realleges Paragraphs 1 through 35 above.

37. This is a claim for unjust enrichment against the Defendants.

38. The Debtors conferred a benefit on Defendants by making the Transfers, without any resulting value or benefit being received by the Debtors.

39. The Defendants knowingly and voluntarily accepted and retained the benefits conferred by the Debtors.

40. The circumstances are such that it would be inequitable and unjust for the Defendants to retain the respective benefit conferred by the Debtors without paying the Trustee the value thereof.

41. The Defendants have been unjustly enriched at the expense of the Debtors' estates.

42. The Trustee is entitled to the return of those amounts in which the Defendants was unjustly enriched through disgorgement or any other appropriate remedy.

WHEREFORE, the Trustee demands judgment in his favor and against the Defendants in the amount of the Transfers together with pre-judgment interest and costs, and for any other relief the Court deems appropriate.

RESERVATION OF RIGHTS

The Trustee reserves the right to amend this Complaint to add additional claims as they may be discovered.

Respectfully submitted this 8th day of June, 2011.

GENOVESE JOBLOVE & BATTISTA, P.A.
Special Counsel for the Chapter 7 Trustee
100 S.E. Second Street, 44th Floor
Miami, FL 33131
Tel. (305) 349-2300
Fax. (305) 349-2310
Email: dcimo@gjb-law.com

By: /s/David C. Cimo

David C. Cimo, Esq.
Fla. Bar. No. 775400
Peter W. Bellas, Esq.
Fla. Bar. No. 611387
Monique D. Hayes, Esq.
Fla. Bar. No. 843571

Miami Division

Summary of Disbursements from Turnberry West Construction

2008, and 2009 Draw Schedules Submitted by TWC to Debtor

Vendor	2007	2008	2009	Total
TWC to Subcontractors	\$ 265,178,763.76	\$ 784,269,774.12	\$ 488,640,878.53	\$ 1,538,089,416.41
TWC to Fontainebleau Resorts	355,006.29	-	-	355,006.29
TWC to Republic Crane Service LLC	2,382,546.00	16,658,986.90	8,430,549.00	27,472,081.90
TWC to Turnberry West Construction/TWC	-	4,792,815.31	447,954.13	5,234,669.44
TWC to Unknown Entities	11,373,036.84	46,396,253.77	25,549,359.81	83,318,650.42
	\$ 279,289,352.89	\$ 852,117,830.10	\$ 523,068,741.47	\$ 1,654,475,924.46

Draw schedules do not contain complete supporting information. Accordingly the data above is based on the information available in the Debtors records and may not be correct. This information has been verified in the bank records.

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Fontainebleau Florida Hotel
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
FONTAINEBLEAU FLORIDA HOTEL	2978	06-12-2008	PASS08 43008	04-30-08	\$ 48,511.44
FONTAINEBLEAU FLORIDA HOTEL	2820	07-08-2008	PASS08 BAL	06-30-08	3,195.00
FONTAINEBLEAU FLORIDA HOTEL	4076	12-23-2008	LVFB	09-16-08	12,435.06
Total					\$ 64,141.50

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Fontainebleau Resort Acct
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
FONTAINEBLEAU RESORT ACCT	299	12-31-2008	0000000001	10-23-07	\$ 3,556.71
Total					\$ 3,556.71

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
United States Bankruptcy Court
Southern District of Florida
Miami Division

Disbursements to Turnberry Associates
Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY ASSOCIATES	13159	03-21-2007	1404397	01-10-07	\$ 35,446.66
TURNBERRY ASSOCIATES	13552	05-31-2007	5/03/07	05-31-07	2,790.28
TURNBERRY ASSOCIATES	2000312	11-26-2007	102607	10-26-07	2,730.23
TURNBERRY ASSOCIATES	2000313	11-26-2007	101207	10-12-07	2,730.23
TURNBERRY ASSOCIATES	122707	12-27-2007	091407	12-01-07	2,730.23
TURNBERRY ASSOCIATES	122707	12-27-2007	122107	12-21-07	2,730.23
TURNBERRY ASSOCIATES	122707	12-27-2007	121407	12-14-07	8,866.67
TURNBERRY ASSOCIATES	20011008	01-10-2008	010408	01-04-08	2,730.23
TURNBERRY ASSOCIATES	20012108	01-21-2008	011808	01-18-08	2,730.23
TURNBERRY ASSOCIATES	20012908	01-31-2008	013108	01-31-08	2,730.23
TURNBERRY ASSOCIATES	70021508	02-15-2008	021508	02-15-08	2,730.23
TURNBERRY ASSOCIATES	70022908	02-29-2008	022908	02-29-08	2,730.23
TURNBERRY ASSOCIATES	70031408	03-14-2008	031408	03-14-08	2,730.23
TURNBERRY ASSOCIATES	70032808	03-28-2008	032808	03-28-08	2,730.23
TURNBERRY ASSOCIATES	41608	04-15-2008	041108	04-11-08	2,730.23
TURNBERRY ASSOCIATES	42408	04-24-2008	042408	04-24-08	3,412.42
TURNBERRY ASSOCIATES	70051208	05-12-2008	700051208	05-09-08	2,866.78
TURNBERRY ASSOCIATES	70052108	05-22-2008	052208	05-23-08	2,866.78
TURNBERRY ASSOCIATES	70061308	06-13-2008	061308	06-13-08	2,866.78
TURNBERRY ASSOCIATES	70062508	06-25-2008	062008	06-20-08	2,293.86
TURNBERRY ASSOCIATES	70071008	07-09-2008	7/3 payroll	07-03-08	2,864.62
TURNBERRY ASSOCIATES	2001260	11-24-2008	103008-TA	10-30-08	15,000.00
Total					\$ 112,037.61

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry Consutrction, Inc.
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY CONSTRUCTION, INC	2001729	04/01/09	12132	1/27/2009	\$ 3,409.69
TURNBERRY CONSTRUCTION, INC	2001729	04/01/09	12102	1/27/2009	20,861.77
Total					\$ 24,271.46

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry Development
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY DEVELOPMENT	1526	10-25-2007	102507	10-25-07	\$ 4,575.45
TURNBERRY DEVELOPMENT	2000314	11-26-2007	6/07-7/07	10-01-07	4,402.41
TURNBERRY DEVELOPMENT	2000315	11-26-2007	6/27 - 7/13	10-01-07	1,661.11
TURNBERRY DEVELOPMENT	2002208	01-22-2008	Taglione Exp	01-22-08	130.00
TURNBERRY DEVELOPMENT	20012208	01-22-2008	24/7	01-16-08	1,427.50
TURNBERRY DEVELOPMENT	2000440	01-24-2008	112807	12-01-07	1,170.64
Total					\$ 13,367.11

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry Realty
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY REALTY	20010208	01-02-2008	110107	11-01-07	\$ 100,000.00
TURNBERRY REALTY	70042508	04-25-2008	#2	03-31-08	72,306.21
TURNBERRY REALTY	70052608	05-23-2008	3	04-30-08	52,995.75
TURNBERRY REALTY	70062708	06-25-2008	#4	05-31-08	87,309.14
TURNBERRY REALTY	70072508	07-25-2008	#5	06-30-08	53,220.25
TURNBERRY REALTY	70082408	08-25-2008	082508ADV	08-25-08	336,238.50
TURNBERRY REALTY	70082708	08-25-2008	# 6	07-31-08	236,942.06
TURNBERRY REALTY	70092908	09-29-2008	#7	08-31-08	199,413.32
TURNBERRY REALTY	70103408	10-28-2008	#8	09-30-08	60,854.47
TURNBERRY REALTY	70103008	10-30-2008	103008	08-20-08	20,296.88
TURNBERRY REALTY	90112908	11-28-2008	9	10-30-08	39,237.78
TURNBERRY REALTY	2001470	01-26-2009	#11	12-31-08	83,870.74
TURNBERRY REALTY	90020309	02-02-2009	#10	11-30-08	79,041.19
TURNBERRY REALTY	2001597	03/11/09	#12	1/31/2009	38,290.47
TURNBERRY REALTY	2001696	03/31/09	13	2/28/2009	52,588.94
Total					\$ 1,512,605.70

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry Residential Management
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY RESIDENTIAL MGMT	1577	11-01-2007	3738	10-18-07	\$ 729.30
TURNBERRY RESIDENTIAL MGMT	1577	11-01-2007	3760	10-18-07	3,958.50
TURNBERRY RESIDENTIAL MGMT	2243	03-06-2008	2/19/2008..	02-19-08	(309.18)
TURNBERRY RESIDENTIAL MGMT	2243	03-06-2008	2/19/2008	02-19-08	3,110.87
TURNBERRY RESIDENTIAL MGMT	2243	03-06-2008	2/19/2008.	02-19-08	4,934.47
TURNBERRY RESIDENTIAL MGMT	2570	05-01-2008	032708	03-27-08	22,500.00
TURNBERRY RESIDENTIAL MGMT	3212	08-12-2008	062508	06-25-08	5,084.68
TURNBERRY RESIDENTIAL MGMT	102	12-31-2008	0000013552	05-03-07	2,790.28
Total					\$ 42,798.92

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
United States Bankruptcy Court
Southern District of Florida
Miami Division

Disbursements to Turnberry West Construction
Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	2000441	01-25-2007	FBLV-002	12-28-07	\$ 17,136.29
TURNBERRY WEST CONSTRUCTION	90022707	02-27-2007		01-31-07	1,556,822.45
TURNBERRY WEST CONSTRUCTION	90022707	02-27-2007	Draw1		1,720,742.89
TURNBERRY WEST CONSTRUCTION	90022807	02-27-2007		09-30-07	1,999.60
TURNBERRY WEST CONSTRUCTION	90022807	02-27-2007			574,655.64
TURNBERRY WEST CONSTRUCTION	90031607	03-16-2007	Draw2	02-28-07	2,508,938.04
TURNBERRY WEST CONSTRUCTION	90031607	03-19-2007			1,009,014.00
TURNBERRY WEST CONSTRUCTION	90041007	04-10-2007			3,543,500.20
TURNBERRY WEST CONSTRUCTION	90041307	04-13-2007		03-31-07	9,800.94
TURNBERRY WEST CONSTRUCTION	90041307	04-13-2007	Draw3		684,940.83
TURNBERRY WEST CONSTRUCTION	90031607	04-27-2007			280,495.03
TURNBERRY WEST CONSTRUCTION	90031607	04-27-2007			13,956,903.80
TURNBERRY WEST CONSTRUCTION	90042507	04-27-2007		04-30-07	2,428,655.93
TURNBERRY WEST CONSTRUCTION	90042507	04-27-2007			11,461,028.26
TURNBERRY WEST CONSTRUCTION	90042507	04-27-2007			11,971,020.00
TURNBERRY WEST CONSTRUCTION	90042507	04-27-2007	Draw4		3,468,081.00
TURNBERRY WEST CONSTRUCTION	90042707	04-27-2007			7,626,167.40
TURNBERRY WEST CONSTRUCTION	90052507	05-25-2007			3,664,576.91
TURNBERRY WEST CONSTRUCTION	90052507	05-25-2007			4,561,881.33
TURNBERRY WEST CONSTRUCTION	90052507	05-25-2007			17,698,724.87
TURNBERRY WEST CONSTRUCTION	90052507	05/25/07	Draw5	05-25-07	(4,078,994.16)
TURNBERRY WEST CONSTRUCTION	90072507	07-25-2007	SC01	07-20-07	132,956.26
TURNBERRY WEST CONSTRUCTION	90073007	07-30-2007			30,000.00
TURNBERRY WEST CONSTRUCTION		07-30-2007			2,307,098.00
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007			3,120,258.86
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007	Draw7		961,522.00
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007		06-30-07	269,088.00
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007			961,522.00
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007			1,300,000.00
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007			7,075,077.74
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007			7,207,246.44
TURNBERRY WEST CONSTRUCTION	90073107	07-31-2007			8,873,217.28
TURNBERRY WEST CONSTRUCTION	2000155	08-24-2007	SC02	08-15-07	41,632.83
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007			381,051.00
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007			557,586.64
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007			1,290,838.00
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007			4,170,168.14
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007			6,278,851.24
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007			17,203,144.32
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2007	Draw8		2,878,993.66
TURNBERRY WEST CONSTRUCTION	2000213	09-25-2007	SC03	09-11-07	65,984.66
TURNBERRY WEST CONSTRUCTION	90093007	09-30-2007			716,189.00
TURNBERRY WEST CONSTRUCTION	90093007	09-30-2007			989,194.52
TURNBERRY WEST CONSTRUCTION	90093007	09-30-2007			8,049,268.70
TURNBERRY WEST CONSTRUCTION	90093007	09-30-2007			8,422,006.27
TURNBERRY WEST CONSTRUCTION	90093007	09-30-2007			9,093,441.76
TURNBERRY WEST CONSTRUCTION	90093007	09-30-2007	Draw9		2,507,593.55
TURNBERRY WEST CONSTRUCTION		09-30-2007			2,730.23
TURNBERRY WEST CONSTRUCTION	2000279	10-25-2007	SC04	09-30-07	429,265.98
TURNBERRY WEST CONSTRUCTION	90102607	10-26-2007			238,611.00
TURNBERRY WEST CONSTRUCTION	90102607	10-26-2007			731,038.00
TURNBERRY WEST CONSTRUCTION	90102607	10-26-2007			5,567,611.71
TURNBERRY WEST CONSTRUCTION	90102607	10-26-2007			9,685,454.13
TURNBERRY WEST CONSTRUCTION	90102607	10-26-2007			14,836,329.86
TURNBERRY WEST CONSTRUCTION	90102607	10-26-2007	Draw10		3,075,435.97
TURNBERRY WEST CONSTRUCTION	90112707	11-07-2007		10-31-07	469,027.11
TURNBERRY WEST CONSTRUCTION	90112607	11-26-2007	SC05	11-05-07	453,059.32
TURNBERRY WEST CONSTRUCTION	90112707	11-27-2007			3,299,664.18
TURNBERRY WEST CONSTRUCTION	90112707	11-27-2007			266,832.31
TURNBERRY WEST CONSTRUCTION	90112707	11-27-2007			935,319.00
TURNBERRY WEST CONSTRUCTION	90112707	11-27-2007			6,298,089.47
TURNBERRY WEST CONSTRUCTION	90112707	11-27-2007			13,787,456.42
TURNBERRY WEST CONSTRUCTION	90112707	11-27-2007			14,104,715.57
TURNBERRY WEST CONSTRUCTION	90122607	12-26-2007	SC06	12-05-07	537,455.63
TURNBERRY WEST CONSTRUCTION	90122807	12-28-2007			5,612,657.21
TURNBERRY WEST CONSTRUCTION	90122807	12-28-2007		11-30-07	316,296.20
TURNBERRY WEST CONSTRUCTION	90122807	12-28-2007			1,144,580.00

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry West Construction
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	90122807	12-28-2007			11,729,262.93
TURNBERRY WEST CONSTRUCTION	90122807	12-28-2007			13,653,258.74
TURNBERRY WEST CONSTRUCTION	90122807	12-28-2007			14,564,590.36
TURNBERRY WEST CONSTRUCTION	90012508	01-25-2008	SC07	01-04-08	908,093.94
TURNBERRY WEST CONSTRUCTION	90013108	01-31-2008		12-31-07	259,825.20
TURNBERRY WEST CONSTRUCTION	90013108	01-31-2008			872,320.00
TURNBERRY WEST CONSTRUCTION	90013108	01-31-2008			8,345,391.30
TURNBERRY WEST CONSTRUCTION	90013108	01-31-2008			12,842,405.09
TURNBERRY WEST CONSTRUCTION	90013108	01-31-2008			21,742,410.53
TURNBERRY WEST CONSTRUCTION	90013108	01-31-2008	Draw13		5,231,570.27
TURNBERRY WEST CONSTRUCTION	90013208	01-31-2008	Draw14	01-31-08	96,000.00
TURNBERRY WEST CONSTRUCTION	2000489	02-25-2008	FBLV-003	01-31-08	29,567.22
TURNBERRY WEST CONSTRUCTION	90022508	02-25-2008	SC08	02-01-08	1,066,902.06
TURNBERRY WEST CONSTRUCTION	90022608	02-26-2008	Draw15	02-29-08	322,780.00
TURNBERRY WEST CONSTRUCTION	90022708	02-26-2008			3,903,496.67
TURNBERRY WEST CONSTRUCTION	90022708	02-26-2008			547,132.00
TURNBERRY WEST CONSTRUCTION	90022708	02-26-2008			1,263,501.00
TURNBERRY WEST CONSTRUCTION	90022708	02-26-2008			8,400,503.72
TURNBERRY WEST CONSTRUCTION	90022708	02-26-2008			13,732,092.20
TURNBERRY WEST CONSTRUCTION	90022708	02-26-2008			14,851,896.13
TURNBERRY WEST CONSTRUCTION	90032708	03-27-2008			4,232,685.47
TURNBERRY WEST CONSTRUCTION	90032708	03-27-2008			902,137.30
TURNBERRY WEST CONSTRUCTION	90032708	03-27-2008			1,129,424.00
TURNBERRY WEST CONSTRUCTION	90032708	03-27-2008			12,831,421.74
TURNBERRY WEST CONSTRUCTION	90032708	03-27-2008			16,697,741.12
TURNBERRY WEST CONSTRUCTION	90032708	03-27-2008			19,398,764.81
TURNBERRY WEST CONSTRUCTION	90041108	04-11-2008	Draw16	03-31-08	119,432.66
TURNBERRY WEST CONSTRUCTION	2000658	04-25-2008	FBLV-005	03-31-08	20,082.79
TURNBERRY WEST CONSTRUCTION	2000659	04-25-2008	FBLV-004	02-29-08	20,516.64
TURNBERRY WEST CONSTRUCTION	90043008	04-30-2008			3,882,358.44
TURNBERRY WEST CONSTRUCTION	90043008	04-30-2008			241,767.58
TURNBERRY WEST CONSTRUCTION	90043008	04-30-2008			897,732.90
TURNBERRY WEST CONSTRUCTION	90043008	04-30-2008			14,217,521.22
TURNBERRY WEST CONSTRUCTION	90043008	04-30-2008			17,117,051.19
TURNBERRY WEST CONSTRUCTION	90043008	04-30-2008			22,091,126.66
TURNBERRY WEST CONSTRUCTION	90052308	05-23-2008	SC11	05-02-08	1,308,690.38
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008		04-30-08	(3,208.00)
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008			510,820.58
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008			1,582,371.00
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008			13,134,850.30
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008			21,601,806.65
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008			25,650,530.11
TURNBERRY WEST CONSTRUCTION	90053008	05-30-2008	Draw17		5,146,779.98
TURNBERRY WEST CONSTRUCTION	90053108	05-31-2008			285,989.00
TURNBERRY WEST CONSTRUCTION		06-11-2008			225,582.10
TURNBERRY WEST CONSTRUCTION		06-19-2008			110,543.51
TURNBERRY WEST CONSTRUCTION	200832	06-25-2008	FBLV-007	05-31-08	24,425.76
TURNBERRY WEST CONSTRUCTION	2000833	06-25-2008	FBLV-006	04-30-08	23,166.68
TURNBERRY WEST CONSTRUCTION	90062508	06-25-2008	SC12	06-02-08	299,281.09
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(592,281.84)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(65,037.10)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(17,799.00)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(15,466.90)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(12,785.00)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(4,208.00)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(2,890.80)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(1,862.10)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(620.30)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	(94.20)
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-07	875,646.00
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	1,599,688.00
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-07	3,543,970.71
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-07	4,455,674.83
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-07	13,060,458.29
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	18,607,638.13
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	26,630,638.98
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008		05-31-08	28,827,053.63

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry West Construction
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008	Draw18	05-31-08	5,369,116.34
TURNBERRY WEST CONSTRUCTION	90063008	06-30-2008	Draw6	05-31-07	169,311.42
TURNBERRY WEST CONSTRUCTION		06-30-2008			1,031,008.73
TURNBERRY WEST CONSTRUCTION		07-17-2008			105,375.47
TURNBERRY WEST CONSTRUCTION		07-17-2008			186,798.23
TURNBERRY WEST CONSTRUCTION	2000902	07-25-2008	FBLV-008	06-30-08	25,194.07
TURNBERRY WEST CONSTRUCTION	90072508	07-25-2008	SC13	07-01-08	271,744.72
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(46,824.48)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(15,323.66)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(5,341.00)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(1,603.80)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(70.00)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(47.60)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(24.20)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			(1.00)
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			1,240,772.00
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			19,907,882.53
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			22,351,097.56
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008			29,679,188.54
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008	Draw19		5,335,385.40
TURNBERRY WEST CONSTRUCTION	90073108	07-31-2008	SC19	06-30-08	(106,528.84)
TURNBERRY WEST CONSTRUCTION		07-31-2008		1/0/1900	194,738.48
TURNBERRY WEST CONSTRUCTION	2000987	08-25-2008	FBLV-009	07-31-08	26,772.10
TURNBERRY WEST CONSTRUCTION	90082508	08-25-2008	SC14	08-01-08	33,113.88
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(31,151.86)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(15,619.50)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(12,904.60)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(8,205.00)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(4,118.32)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(1,162.30)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			(540.00)
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			239,816.22
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			1,402,105.00
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			16,193,898.08
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			29,386,271.08
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008			32,410,814.86
TURNBERRY WEST CONSTRUCTION	90083108	08-31-2008	Draw20		7,414,823.32
TURNBERRY WEST CONSTRUCTION		08-31-2008			967,720.13
TURNBERRY WEST CONSTRUCTION	2001076	09-25-2008	FBLV-010	08-31-08	26,310.13
TURNBERRY WEST CONSTRUCTION	90092908	09-29-2008	SC15	09-03-08	382,010.16
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008		08-31-08	(45,643.62)
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			(19,880.49)
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			(19,586.20)
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			(6,293.80)
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			(3,509.60)
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			(267.70)
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			125,702.00
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			507,483.54
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			2,017,496.10
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			4,385,553.16
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			19,986,405.87
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			22,210,673.04
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008			41,690,145.17
TURNBERRY WEST CONSTRUCTION	90093008	09-30-2008	Draw21		2,461,051.69
TURNBERRY WEST CONSTRUCTION	90093208	09-30-2008		10-31-08	32,489.89
TURNBERRY WEST CONSTRUCTION	90093308	09-30-2008			0.01
TURNBERRY WEST CONSTRUCTION	90093308	09-30-2008			0.13
TURNBERRY WEST CONSTRUCTION	90093308	09-30-2008			0.19
TURNBERRY WEST CONSTRUCTION	90093308	09-30-2008		01-31-09	1.01
TURNBERRY WEST CONSTRUCTION	90093308	09-30-2008			1.80
TURNBERRY WEST CONSTRUCTION		09-30-2008			398,631.03
TURNBERRY WEST CONSTRUCTION		09-30-2008			683,322.78
TURNBERRY WEST CONSTRUCTION	90012809	10-27-2008		12-31-08	0.40
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008		09-30-08	(16,384,895.78)
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			(13,224.03)
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			(10,417.60)
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			(2,409.00)

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
United States Bankruptcy Court
Southern District of Florida
Miami Division

Disbursements to Turnberry West Construction
Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			(758.20)
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			(361.00)
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			776.90
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			1,544.38
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			3,908.80
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			9,266.20
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			19,400.40
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			20,076.80
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			93,758.40
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			140,990.52
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			146,594.80
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			342,970.00
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			940,341.84
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			19,465,448.67
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			22,521,581.05
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008			58,465,483.49
TURNBERRY WEST CONSTRUCTION	90102708	10-27-2008	Draw22		941,921.61
TURNBERRY WEST CONSTRUCTION	90102808	10-28-2008	SC16	09-30-08	575,764.05
TURNBERRY WEST CONSTRUCTION	2001189	11-05-2008	FBLV-011	09-30-08	42,903.70
TURNBERRY WEST CONSTRUCTION	2001261	11-24-2008	FBLV-012	10-31-08	24,609.16
TURNBERRY WEST CONSTRUCTION	90112608	11-26-2008	SC17	10-31-08	76,120.60
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(2,437,330.02)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(442,523.85)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(339,915.82)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(39,675.10)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(37,625.62)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(12,166.42)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(12,119.85)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(10,050.00)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(4,937.00)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(2,278.80)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			(239.90)
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			493.20
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			800.00
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			1,005.00
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			1,255.47
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			1,266.90
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			12,184.01
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			22,788.00
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			31,541.40
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			55,378.35
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			104,176.00
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			127,592.19
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			179,296.74
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			200,229.18
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			251,013.34
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			254,186.84
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			273,400.25
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			376,293.57
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			396,752.00
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			403,167.82
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			1,485,354.03
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			20,983,055.47
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			26,073,159.77
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008			36,808,690.03
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008	Draw23		416,996.59
TURNBERRY WEST CONSTRUCTION	90113008	11-30-2008	SC19		(120.00)
TURNBERRY WEST CONSTRUCTION	90121608	12-16-2008			490,506.60
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(88,182.18)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(38,713.43)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(30,086.00)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(24,751.49)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(18,324.00)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(13,592.53)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(4,218.30)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(443.00)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(72.50)

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry West Construction
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			(5.00)
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			725.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			836.98
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			7,206.88
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			7,396.50
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			10,578.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			10,600.48
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			12,928.32
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			33,067.34
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			38,167.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			85,931.38
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			110,181.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			113,191.52
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			166,152.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			169,297.83
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			214,708.72
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			230,523.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			231,643.11
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			249,874.46
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			256,744.21
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			288,612.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			300,860.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			363,242.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			387,135.33
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			470,045.75
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			492,818.03
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			503,330.00
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			928,599.51
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			1,889,261.79
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			21,827,442.83
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008			23,838,636.14
TURNBERRY WEST CONSTRUCTION	90123108	12-31-2008	Draw24		328,423.25
TURNBERRY WEST CONSTRUCTION	90127108	12-31-2008	SC18	11-30-08	108,224.60
TURNBERRY WEST CONSTRUCTION		12-31-2008			39,254,019.33
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	(740,320.29)
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	225.00
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	835.98
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	2,177.10
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	7,465.26
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	20,883.64
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	34,136.35
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	41,235.81
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	80,022.23
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	83,143.80
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	99,400.10
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	114,799.11
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	116,474.32
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	146,140.62
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	208,452.60
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	210,002.13
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	210,108.51
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	211,015.95
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	234,435.86
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	240,714.49
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	256,716.90
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	286,122.40
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	303,006.47
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	313,068.56
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	451,681.35
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	467,175.00
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	15,204,162.07
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	20,056,762.07
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009		1/31/2009	32,900,061.56
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009	Draw25	1/31/2009	34,135.33
TURNBERRY WEST CONSTRUCTION	90012809	01-28-2009	SC19	1/31/2009	1,680,727.21
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	(23,881.70)
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	(22,132.86)

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry West Construction
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	(5,065.90)
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	834.98
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	16,726.94
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	36,798.79
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	42,572.69
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	51,648.23
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	54,045.60
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	86,589.22
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	98,924.00
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	125,613.20
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	156,914.00
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	199,482.47
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	212,722.16
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	223,634.26
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	235,828.73
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	241,657.00
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	245,572.96
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	249,722.94
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	267,278.72
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	278,522.10
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	295,986.77
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	307,764.70
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	364,584.60
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	558,817.00
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	1,165,015.83
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	1,404,273.79
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	18,587,668.24
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	25,095,766.30
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009		1/31/2009	39,624,382.24
TURNBERRY WEST CONSTRUCTION	90030209	03-02-2009	Draw26	1/31/2009	96,751.95
TURNBERRY WEST CONSTRUCTION	90030409	03-03-2009	SC19	01-31-09	245,514.95
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/28/2009	0.20
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/28/2009	0.27
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/28/2009	(215,382.61)
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	(6,971.40)
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	125.00
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	834.98
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	1,072.17
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	2,312.01
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	2,357.72
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	2,961.94
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	9,257.95
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	10,912.26
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	13,541.90
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	16,994.87
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	18,496.55
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	25,159.05
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	27,172.25
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	47,541.81
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	57,550.56
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	60,011.83
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	68,968.80
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	84,933.04
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	94,292.17
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	107,242.40
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	159,252.33
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	189,534.70
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	193,760.38
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	211,745.70
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	225,136.72
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	227,024.88
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	229,156.74
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	262,943.68
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	268,677.96
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	451,620.60
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	452,757.00
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	503,681.40

FONTAINEBLEAU LAS VEGAS HOLDINGS, LLC. ET AL, Debtors
 Chapter 11 - Case No. 09-21481-BKC-AJC (Jointly Administered)
 United States Bankruptcy Court
 Southern District of Florida
 Miami Division

Disbursements to Turnberry West Construction
 Pre-petition - Detail

Source: Debtor's Accounting System

Petition Date: June 9, 2009

Vendor	Check Number	Check Date	Invoice Number	Invoice Date	Total Amount
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	569,312.26
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	896,579.64
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	1,190,258.44
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	1,573,456.98
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	2,409,190.58
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	20,150,078.94
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	23,835,601.45
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09		2/27/2009	30,198,739.76
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09	Draw11	2/27/2009	0.03
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09	Draw12	2/27/2009	0.01
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09	Draw27	2/27/2009	229,189.34
TURNBERRY WEST CONSTRUCTION	90032609	03/26/09	SC19	2/27/2009	109,733.00
TURNBERRY WEST CONSTRUCTION	2001728	04/01/09	FBLV-015	1/30/2009	74,227.31
TURNBERRY WEST CONSTRUCTION	2001458	01/26/09	FBLV-014	12/31/2008	74,227.31
Total					\$ 1,459,455,133.70

EXHIBIT B

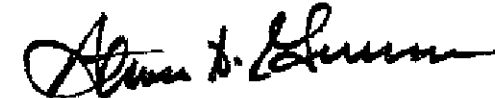
EXHIBIT B

1 **COMP**

2 TAYLOR L. RANDOLPH
3 Bar No. 10194
4 **RANDOLPH LAW FIRM, P.C.**
5 2045 Village Center Circle, Suite 100
6 Las Vegas, Nevada 89134
7 Tel. (702) 233-5597
8 tr@randolphlawfirm.com

9 Attorney for Plaintiffs

Electronically Filed
03/25/2011 01:05:08 PM



CLERK OF THE COURT

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 BRIGADE LEVERAGED CAPITAL
13 STRUCTURES FUND, LTD.; BATTALION CLO
14 2007-I LTD.; CANPARTNERS INVESTMENTS
15 IV, LLC; CANYON SPECIAL OPPORTUNITIES
16 MASTER FUND (CAYMAN), LTD.; CASPIAN
17 CORPORATE LOAN FUND, LLC; CASPIAN
18 CAPITAL PARTNERS, L.P.; CASPIAN SELECT
19 CREDIT MASTER FUND, LTD.; MARINER
20 LDC; CASPIAN ALPHA LONG CREDIT FUND,
21 L.P.; CASPIAN SOLITUDE MASTER FUND,
22 L.P.; OLYMPIC CLO I LTD.; SHASTA CLO I
23 LTD.; WHITNEY CLO I LTD.; SAN GABRIEL
24 CLO I LTD.; SIERRA CLO II LTD.; ING PRIME
25 RATE TRUST; ING SENIOR INCOME FUND;
26 ING INTERNATIONAL (II) - SENIOR LOANS;
27 ING INVESTMENT MANAGEMENT CLO I,
28 LTD.; ING INVESTMENT MANAGEMENT CLO
II, LTD.; ING INVESTMENT MANAGEMENT
CLO III, LTD.; ING INVESTMENT
MANAGEMENT CLO IV, LTD.; ING
INVESTMENT MANAGEMENT CLO V, LTD.;
PHOENIX CLO I, LTD.; PHOENIX CLO II, LTD.;
PHOENIX CLO III, LTD.; VENTURE II CDO
2002 LIMITED; VENTURE III CDO LIMITED;
VENTURE IV CDO LIMITED; VENTURE V
CDO LIMITED; VENTURE VI CDO LIMITED;
VENTURE VII CDO LIMITED; VENTURE VIII
CDO LIMITED; VENTURE IX CDO LIMITED;
VISTA LEVERAGED INCOME FUND; VEER
CASH FLOW, CLO, LIMITED; MONARCH
MASTER FUNDING LTD.; NORMANDY HILL
MASTER FUND, L.P.; GENESIS CLO 2007-1
LTD.; SCOGGIN CAPITAL MANAGEMENT II

Case No. A - 11 - 637835 - B

Dept. No. XI

**COMPLAINT AND JURY DEMAND
FOR FRAUD, BREACH OF
FIDUCIARY DUTY, NEGLIGENCE
AND CONSPIRACY**

BUSINESS COURT REQUESTED

1 LLC; SCOGGIN INTERNATIONAL FUND LTD;
2 SCOGGIN WORLDWIDE FUND LTD; SPCP
3 GROUP, LLC; SOLA LTD; SOLUS CORE
4 OPPORTUNITIES MASTER FUND LTD.;
5 STONE LION PORTFOLIO L.P.; VENOR
6 CAPITAL MASTER FUND, LTD.,

7 Plaintiffs,

8 vs.

9 FONTAINEBLEAU RESORTS, LLC;
10 TURNBERRY LTD.; TURNBERRY
11 RESIDENTIAL LIMITED PARTNER, L.P.;
12 TURNBERRY WEST CONSTRUCTION, INC.;
13 JEFFREY SOFFER; ANDREW KOTITE; RAY
14 PARELLO; BRUCE WEINER; GLENN
15 SCHAEFFER; JAMES FREEMAN; DEVEN
16 KUMAR; HOWARD KARAWAN; WHITNEY
17 THIER; UNION LABOR LIFE INSURANCE
18 COMPANY; CROWN LIMITED; CROWN
19 SERVICES (US) LLC; JAMES PACKER; and
20 DOES 1 through 20,

21 Defendants.

1 **COMPLAINT FOR MISREPRESENTATION, BREACH OF FIDUCIARY DUTY,**
2 **NEGLIGENCE AND CONSPIRACY**

3 Plaintiffs, by and through their undersigned counsel, allege upon personal knowledge as to
4 themselves and their own acts, and upon information and belief as to all other matters, as follows:

5 **I. INTRODUCTION**

6 1. This action seeks to recover for the misrepresentations, negligence and breaches of
7 fiduciary duties committed by Defendants on Plaintiffs and their predecessors-in-interest
8 (“Plaintiffs”).

9 2. Plaintiffs are lenders under a June 6, 2007 Credit Agreement (the “Credit Agreement”)
10 for the development and construction of the Fontainebleau Resort and Casino in Las Vegas, Nevada
11 (the “Project”). The Project was to include a sixty-three story glass skyscraper featuring over 3,800
12 guest rooms, suites and condominium units; a 100-foot high, three level podium complex housing
13 casino/gaming areas, restaurants and bars, a spa and salon, a live entertainment theater and rooftop
14 pools; a 353,000 square-foot convention center; a high-end retail space including shops and
15 restaurants; and a nightclub.

16 3. The borrowers under the Credit Agreement were Fontainebleau Las Vegas, LLC
17 (“FBLV”) and Fontainebleau Las Vegas II, LLC (the “Borrowers”). The Borrowers were wholly-
18 owned indirect subsidiaries of Defendant Fontainebleau Resorts, LLC (“FBR”), a company founded
19 and substantially owned by Defendant Jeffrey Soffer to develop and operate the Fontainebleau hotels
20 in Miami and Las Vegas. Soffer, FBR and the other individual Defendants who were officers,
21 directors and/or managers of FBR and FBLV (collectively, the “FBR Defendants”) directed and
22 controlled the activities of the Borrowers.

23 4. The general contractor responsible for the construction of the Project was Defendant
24 Turnberry West Construction (“TWC”), an affiliate of Defendant Turnberry Residential Limited
25 Partners, L.P. (“TRLP”). TWC and TRLP were also founded and substantially owned by Soffer and
26 controlled by Soffer, the FBR Defendants and the officers and the individual Defendants who were
27 officers, directors and/or managers of TWC and TRLP (the “Turnberry Defendants”).

28 5. Beginning in March 2007, Soffer and the FBR Defendants solicited Plaintiffs to

1 participate in the Credit Agreement. In various oral and written communications, Soffer and the FBR
2 Defendants repeatedly misrepresented the status of the Project and its anticipated costs. In particular,
3 Defendants represented that the Project budget provided to the lenders, including Plaintiffs,
4 accurately represented all of the anticipated costs to complete the Project, that the construction
5 drawings for the Project were substantially complete, and that Defendants had committed
6 construction contracts in hand for the majority of the work to complete the Project. In fact, none of
7 this was true. As Defendants knew but failed to disclose, their own internal budget for the Project
8 was nearly \$100 million more than what was reflected in the budgets provided to the Plaintiffs, the
9 construction drawings were not substantially complete (indeed were never complete), and that the
10 "committed contracts" provided to the Plaintiffs substantially understated the known costs for the
11 work. Had Plaintiffs known the true facts, they would not have agreed to participate in the Credit
12 Agreement.

13 6. Defendants' breaches of their duties to Plaintiffs continued after the Credit Agreement
14 closed. Defendants had a duty to exercise reasonable care to ensure that the Project was managed
15 competently, that it accurately reported the financial condition and progress of construction and that
16 the Project was completed in accordance with the budgets and cost reports provided to Plaintiffs.
17 Defendants did not do so. Instead, Defendants failed to oversee the Project and failed to ensure that
18 lenders received accurate information about its financial condition.

19 7. By 2008, Defendants knew or should have known that the actual cost to complete the
20 Project had escalated by hundreds of millions of dollars, well in excess of the financing available to
21 complete the Project. As Defendants knew, these cost overruns caused numerous conditions
22 precedent to disbursement of funds under the Credit Agreement to fail. Rather than apprise the
23 lenders of these cost overruns and thereby eliminate future funding, the FBR and Turnberry
24 Defendants and others, including defendants James Packer and his companies Crown Limited and
25 Crown Services (US) LLC (the "Packer Defendants"), conspired and agreed to keep this information
26 from the lenders. They accomplished this, in part, through false certifications to the lenders and an
27 elaborate set of double books that hid the true progress, scope and cost of the Project from the
28 lenders.

1 predecessors in interest.

2 15. Plaintiff Brigade Leveraged Capital Structures Fund, Ltd. is an exempted company
3 with limited liability incorporated under the laws of the Cayman Islands.

4 16. Plaintiff Battalion CLO 2007-I Ltd. is an exempted company with limited liability
5 incorporated under the laws of the Cayman Islands.

6 17. Plaintiff Canpartners Investments IV, LLC is a limited liability company formed
7 under the laws of California.

8 18. Plaintiff Canyon Special Opportunities Master Fund (Cayman), Ltd. is an exempted
9 company with limited liability incorporated under the laws of the Cayman Islands.

10 19. Plaintiff Caspian Corporate Loan Fund, LLC is a limited liability company formed
11 under the laws of Delaware.

12 20. Plaintiff Caspian Capital Partners, L.P. is a limited partnership formed under the laws
13 of Delaware.

14 21. Plaintiff Caspian Select Credit Master Fund, Ltd. is a company with limited liability
15 formed under the laws of the Cayman Islands.

16 22. Plaintiff Mariner LDC is company with limited duration formed under the laws of the
17 Cayman Islands.

18 23. Plaintiff Caspian Alpha Long Credit Fund, L.P. is a limited partnership formed under
19 the laws of Delaware.

20 24. Plaintiff Caspian Solitude Master Fund, L.P. is a limited partnership formed under the
21 laws of Delaware.

22 25. Plaintiff Olympic CLO I Ltd. is a company with limited liability incorporated under
23 the laws of the Cayman Islands.

24 26. Plaintiff Shasta CLO I Ltd. is a company with limited liability incorporated under the
25 laws of the Cayman Islands.

26 27. Plaintiff Whitney CLO I Ltd. is a company with limited liability incorporated under
27 the laws of the Cayman Islands.

28 28. Plaintiff San Gabriel CLO I Ltd. is a company with limited liability incorporated

1 under the laws of the Cayman Islands.

2 29. Plaintiff Sierra CLO II Ltd. is a company with limited liability incorporated under the
3 laws of the Cayman Islands.

4 30. Plaintiff ING Prime Rate Trust is a business trust formed under the laws of
5 Massachusetts.

6 31. Plaintiff ING Senior Income Fund is a statutory trust formed under the laws of
7 Delaware.

8 32. Plaintiff ING International (II) - Senior Loans is a SICAV (Société d'Investissement à
9 Capital Variable) formed under the laws of Luxembourg.

10 33. Plaintiff ING Investment Management CLO I, Ltd. is a company with limited liability
11 incorporated under the laws of the Cayman Islands.

12 34. Plaintiff ING Investment Management CLO II, Ltd. is a company with limited
13 liability incorporated under the laws of the Cayman Islands.

14 35. Plaintiff ING Investment Management CLO III, Ltd. is a company with limited
15 liability incorporated under the laws of the Cayman Islands.

16 36. Plaintiff ING Investment Management CLO IV, Ltd. is a company with limited
17 liability incorporated under the laws of the Cayman Islands.

18 37. Plaintiff ING Investment Management CLO V, Ltd. is a company with limited
19 liability incorporated under the laws of the Cayman Islands.

20 38. Plaintiff Phoenix CLO I, Ltd. is a company with limited liability incorporated under
21 the laws of the Cayman Islands.

22 39. Plaintiff Phoenix CLO II, Ltd. is a company with limited liability incorporated under
23 the laws of the Cayman Islands.

24 40. Plaintiff Phoenix CLO III, Ltd. is a company with limited liability incorporated under
25 the laws of the Cayman Islands.

26 41. Plaintiff Venture II CDO 2002 Limited is a company with limited liability
27 incorporated under the laws of the Cayman Islands.

28 42. Plaintiff Venture III CDO Limited is a company with limited liability incorporated

1 under the laws of the Cayman Islands.

2 43. Plaintiff Venture IV CDO Limited is a company with limited liability incorporated
3 under the laws of the Cayman Islands.

4 44. Plaintiff Venture V CDO Limited is a company with limited liability incorporated
5 under the laws of the Cayman Islands.

6 45. Plaintiff Venture VI CDO Limited is a company with limited liability incorporated
7 under the laws of the Cayman Islands.

8 46. Plaintiff Venture VII CDO Limited is a company with limited liability incorporated
9 under the laws of the Cayman Islands.

10 47. Plaintiff Venture VIII CDO Limited is a company with limited liability incorporated
11 under the laws of the Cayman Islands.

12 48. Plaintiff Venture IX CDO Limited is a company with limited liability incorporated
13 under the laws of the Cayman Islands.

14 49. Plaintiff Vista Leveraged Income Fund is a company with limited liability
15 incorporated under the laws of the Cayman Islands.

16 50. Plaintiff Veer Cash Flow, CLO, Limited is a company with limited liability
17 incorporated under the laws of the Cayman Islands.

18 51. Plaintiff Monarch Master Funding Ltd. is a company with limited liability
19 incorporated under the laws of the Cayman Islands.

20 52. Plaintiff Normandy Hill Master Fund, L.P. is an exempted limited partnership formed
21 under the laws of the Cayman Islands.

22 53. Plaintiff Genesis CLO 2007-1 Ltd. is a company with limited liability incorporated
23 under the laws of the Cayman Islands.

24 54. Plaintiff Scoggin Capital Management II LLC is a limited liability company formed
25 under the laws of Delaware.

26 55. Plaintiff Scoggin International Fund Ltd is a limited liability company formed under
27 the laws of the Cayman Islands.

28 56. Plaintiff Scoggin Worldwide Fund Ltd is a limited liability company formed under the

1 laws of the Cayman Islands.

2 57. Plaintiff SPCP Group, LLC is a limited liability company formed under the laws of
3 Delaware.

4 58. Plaintiff Sola Ltd is an exempted company with limited liability incorporated under
5 the laws of the Cayman Islands.

6 59. Plaintiff Solus Core Opportunities Master Fund Ltd. is an exempted company with
7 limited liability incorporated under the laws of the Cayman Islands.

8 60. Stone Lion Portfolio L.P. is a limited partnership formed under the laws of the
9 Cayman Islands.

10 61. Plaintiff Venor Capital Master Fund, Ltd. is a company with limited liability
11 incorporated under the laws of the Cayman Islands.

12 **B. Defendants**

13 62. Defendant Fontainebleau Resorts, LLC ("FBR") is a Delaware corporation with its
14 principal place of business in Florida.

15 63. Defendant Turnberry Residential Limited Partner, L.P. ("TRLP") is a Delaware
16 limited partnership.

17 64. Defendant Turnberry West Construction, Inc. ("TWC") is a Nevada corporation.

18 65. Defendant Turnberry Ltd. is a Florida limited partnership.

19 66. Defendant Jeffrey Soffer is a citizen of the State of Florida. Soffer was, at all relevant
20 times, the Chairman and CEO of FBR and a member of its Board of Managers. Soffer is also one of
21 two members of the Board of Directors of Fontainebleau Las Vegas Corp. Soffer owns or controls
22 the Turnberry companies. He was, at all relevant times, President, Treasurer, Secretary and Director
23 of TWC. Soffer is the manager of the general partner of both TRLP and Turnberry Ltd.

24 67. Defendant Albert Kotite is a citizen of the State of Florida. Kotite is the Executive
25 Director of FBR and a member of its Board of Managers. Kotite is also one of two members of the
26 Board of Directors of Fontainebleau Las Vegas Corp.

27 68. Defendant Ray Parello is a citizen of the State of Florida. Parello is a member of the
28 Board of Managers of FBR. Parello currently serves as Director of Finance for Turnberry

1 Associates.

2 69. Defendant Bruce Weiner is a citizen of the State of Florida. Weiner is a member of
3 the Board of Managers of FBR.

4 70. Defendant Glenn Schaeffer is a citizen of the State of Nevada. Schaeffer was a
5 member of its Board of Managers of FBR until May 2009.

6 71. Defendant James Freeman is a citizen of the State of Nevada. Freeman was the Senior
7 Vice President and Chief Financial Officer of FBR.

8 72. Defendant Deven Kumar is a citizen of Nevada. Kumar was the Senior Vice President
9 of Development and Finance at FBR.

10 73. Defendant Howard Karawan is a citizen of the State of Nevada. Karawan was the
11 Chief Operating Officer of FBR and was later Chief Restructuring Officer of FBLV.

12 74. Defendant Whitney Thier is a citizen of the State of Nevada. Thier was the general
13 counsel of FBR and later counsel to FBLV.

14 75. Defendants FBR, Soffer, Kotite, Parello, Weiner, Schaeffer, Freeman, Kumar,
15 Karawan and Thier are collectively referred to as the FBR Defendants.

16 76. Defendant Union Labor Life Insurance Company ("ULLICO") is a Maryland
17 Corporation, headquartered in Washington, DC.

18 77. Defendant Crown Limited ("Crown") is an Australian company.

19 78. Defendant Crown Services (US) LLC ("Crown Services") is a limited liability
20 company formed under the laws of Nevada. Defendant Crown controls Crown Services.

21 79. Defendant James Packer ("Packer") is a citizen of Australia. Packer is the Executive
22 Chairman of Crown and owns a controlling interest in Crown. Defendants Crown, Crown Services
23 and Packer are collectively referred to as the "Packer Defendants".

24 80. Each of the Defendants has directly or indirectly conducted substantial, continuous,
25 and systematic business in this district, and/or has caused or directed acts to occur in this district out
26 of which Plaintiffs' claims arise. The individual defendants personally participated in the unlawful
27 acts and misconduct asserted herein.

28 81. Plaintiffs are ignorant of the true names and capacities of Doe Defendants 1 through

1 25, inclusive, and therefore sue such defendants by such fictitious names. The Plaintiffs will amend
2 this Complaint to allege their true names and capacities when ascertained. Each of the fictitiously
3 named defendants is responsible in some manner for the occurrences herein alleged, and the
4 Plaintiffs' harm and damages as herein alleged was proximately caused by such defendants. Each of
5 the Doe Defendants is a joint venturer, co-conspirator, and/or participant in the violations and
6 unlawful and tortious actions alleged herein.

7 82. Each of the Defendants acted as the agent, co-conspirator and co-venture partner
8 and/or alter ego of each other Defendant in the furtherance of the joint venture, and each shared in the
9 control and management of the conspiracy alleged herein and in furtherance of the joint venture in a
10 common course of conduct alleged herein. Each Defendant was a direct, necessary and substantial
11 participant in the common enterprise and common course of conduct complained of herein and at all
12 relevant times knew (or was deliberately reckless in not knowing) of its overall contribution to, and
13 furtherance of, their illicit common enterprise, and acted within the scope of its agency as a co-
14 venturer. Each Defendant mutually agreed with every other Defendant on an objective, purpose and
15 course of action to accomplish the wrongful conduct set forth herein, with the intent of injuring
16 Plaintiffs, or with reckless disregard toward Plaintiffs, knowing that such injuries would certainly
17 result.

18 IV. THE FONTAINEBLEAU PROJECT AND ENTITIES

19 83. Defendant Soffer is the son of Donald Soffer, a prominent real estate developer who
20 developed, among other projects, the City of Aventura, Florida. In 2005, Soffer and his partners
21 purchased the iconic Fontainebleau Miami Hotel. Soffer conceived of The Fontainebleau Resort and
22 Casino in Las Vegas, Nevada as the first step in the development of upscale Fontainebleau resorts
23 throughout the world.

24 84. The Project was designed to be a destination casino-resort on the north end of the Las
25 Vegas Strip, situated on approximately 24.4 acres. It was to include a 63-story glass skyscraper
26 featuring over 3,800 guest rooms, suites and condominium units; a 100-foot high three-level podium
27 complex housing casino/gaming areas, restaurants and bars, a spa and salon, a live entertainment
28 theater and rooftop pools; a parking garage with space for more than 6,000 vehicles; and a 353,000

1 square-foot convention center. The Project also was to include approximately 286,500 square-feet of
2 retail space, including retail shops, restaurants, and a nightclub.

3 85. Soffer and Defendant Schaeffer founded FBR in 2005 to develop and operate the
4 Fontainebleau hotels in Miami and Las Vegas. FBR was controlled by a Board of Managers
5 consisting of Defendants Soffer, Schaeffer, Kotite, Parello and Weiner (the "FBR Board of
6 Managers"). The officers of FBR included Defendants Soffer, Freeman, Karawan, Kumar and Thier
7 (the "FBR Ds & Os" and, collectively with FBR and the FBR Board of Managers, the "FBR
8 Defendants").

9 86. FBR created several subsidiaries to develop the Project, including the Borrowers,
10 Fontainebleau Las Vegas Capital Corp. and Fontainebleau Las Vegas Holdings, LLC (the "Project
11 Entities"). Each of the Project Entities was wholly owned, directly or indirectly, by FBR and largely
12 controlled by the FBR Board of Managers. The board of directors of Fontainebleau Las Vegas
13 Capital Corp. consisted of Soffer and Kotite.

14 87. The general contractor for the Project was Defendant Turnberry West Construction
15 ("TWC"). TWC (collectively with TRLP and Turnberry Ltd., the "Turnberry Defendants") is an
16 affiliate of Defendants TRLP and Turnberry Ltd., and was created for the purpose of overseeing the
17 construction of the Project.

18 88. Through his position on the Board of Managers and in the Turnberry Defendants, as
19 well as his ownership interests in the Fontainebleau and Turnberry entities, Soffer personally
20 exercised substantial control over the Project, including decisions regarding Project development,
21 financing and construction.

22 V. THE CREDIT AGREEMENT FACILITY

23 89. The Project costs were funded primarily from cash provided by the developers of the
24 Project and the proceeds of three facilities: a \$1.85 billion bank financing (the "Credit Agreement
25 Facility"), a \$675 million 2nd Mortgage Note offering, and a \$315 million facility to finance
26 construction of the retail portion of the Project (the "Retail Facility"). Each of these facilities closed
27 in June 2007.

28 90. The Credit Agreement included the following commitments: a \$700 million initial

1 term loan facility (the "Initial Term Loan Facility"); a \$350 million delay draw term facility (the
2 "Delay Draw Facility," and together with the Initial Term Loan Facility, the "Term Loan Facility");
3 and an \$800 million revolving loan facility. Plaintiffs are each lenders under the Term Loan Facility
4 and are assignees (direct or indirect) of the original Term Lender, Bank of America, N.A. The Initial
5 Term Loan Facility was funded upon the closing of the Credit Agreement in June 2007.

6 91. The Credit Agreement and other loan documents created a two-step mechanism for
7 the Borrowers to obtain access to loan proceeds for the payment of "Project Costs" to construct the
8 Project. The Borrowers first were required to submit to the Administrative Agent a Notice of
9 Borrowing specifying the requested loans and designated borrowing date. A proper Notice of
10 Borrowing obligated the lenders to transfer the requested funds into a Bank Proceeds Account. In
11 order to access the funds in the Bank Proceeds Account to pay for the costs of the Project, the
12 Borrowers were required to submit an Advance Request to the Disbursement Agent pursuant to the
13 terms of a Master Disbursement Agreement, which was executed concurrently with the Credit
14 Agreement.

15 92. Each Advance Request was required to contain, among other things, certifications by
16 the Project Entities, TWC, and others attesting to the accuracy of various information and
17 representations, including: that there was no Default or Event of Default under any of the Financing
18 Agreements; that the Remaining Cost Report set forth all "reasonably anticipated Project Costs
19 required to" complete the Project; that the In Balance Test was satisfied, the critical calculation to
20 determine whether the Borrowers' available resources exceeded the remaining costs to complete the
21 Project, which was the primary security for the loans; that there had been no development or event
22 since the Closing Date that could reasonably be expected to have a Material Adverse Effect on the
23 Project; and that each of the Retail Lenders, including Lehman, had made all advances required of
24 them under the Retail Facility.

25 VI. DEFENDANTS' PRE-CLOSING MISREPRESENTATIONS AND OMISSIONS

26 93. In March 2007, Soffer and the other FBR Defendants approached Plaintiffs and their
27 predecessor lenders to secure their participation in the Credit Agreement Facility. In connection with
28 these efforts, Defendants repeatedly represented that (i) the Project budget provided to the lenders

1 was an accurate, good faith and conservative estimate of the amounts needed to complete the Project,
2 including all Project costs, and that the budget allowed for a financial cushion sufficient to complete
3 the Project even if debt and equity sources were insufficient; (ii) the Project Entities had “committed
4 construction contracts” for a large percentage of the work for the Project; and (iii) the construction
5 drawings for the Project, the documents that would define every aspect of the construction, were
6 substantially complete. Without the representations and assurances provided by the FBR Defendants,
7 Plaintiffs and their predecessor lenders never would have agreed to participate in the Credit
8 Agreement Facility.

9 94. Defendants knew or should have known that these representations were not true. The
10 FBR Defendants’ made these representations both orally and in writing, including in the following
11 written materials provided to prospective lenders, including Plaintiffs (collectively, the “Offering
12 Materials”):

- 13 • March 2007 Offering Memorandum. FBR and its arranging banks prepared and
14 provided to potential lenders, including Plaintiffs, a Confidential Offering
15 Memorandum outlining the material facts concerning the Project and related
16 financings. The Offering Memorandum included a letter from FBR, signed by its
17 Senior Vice President and Chief Financial Officer, Jim Freeman, stating in pertinent
18 part that “the information contained in the Confidential Offering Memorandum does
19 not contain any untrue statement of material fact or omit to state a material fact
20 necessary in order to make the statements contained therein, in light of the
21 circumstances under which they were made as part of the overall transaction, not
22 materially misleading.”
- 23 • March 6, 2007 Lender Presentation. On March 6, 2007, FBR and its arranging banks
24 held a Prospective Lenders Meeting at the Intercontinental The Barclay Hotel in New
25 York. The meeting was attended by, among others, Defendants Soffer, Schaeffer,
26 Kotite, Freeman and Weiner. During that meeting, Defendants described the Project
27 and the proposed financing to prospective lenders and provided a written Lender
28 Presentation to meeting participants.

1 95. Defendants knew or should have known that these representations were not true.

2 **A. Defendants Misrepresented that the Budget for the Project Was Sufficient to**
3 **Complete Construction**

4 96. In the Offering Materials, the FBR Defendants presented a budget for the hard and
5 soft costs to construct the Project of \$1.829 billion (the "Construction Budget"). Defendant Freeman
6 presented the Construction Budget at the Lender Meeting. FBR and Freeman represented that the
7 Construction Budget was sufficient to cover all anticipated construction costs, excluding the retail
8 components. FBR explained in the Offering Memorandum that the Construction Budget was the
9 product of "a detailed budgeting and design process" and represented that it was "conservative," with
10 substantial allowance for contingencies.

11 97. At the closing of the Credit Agreement Facility, the FBR Defendants caused FBLV to
12 deliver budgets, including the Construction Budget, to Plaintiffs and the other lenders. FBLV, as
13 directed by Defendants, repeatedly attested to the accuracy of these Budgets, including in the
14 Disbursement Agreement executed by FBLV, among others. Thus, Recital C of the Disbursement
15 Agreement states that the "Construction Budget includes the costs of all elements of the Project,"
16 with certain limited enumerated exceptions. The Disbursement Agreement further provides:

17 Each of the Budgets delivered on the Closing Date:

18 (a) are, to the Project Entities' [including FBLV's] knowledge, as of the date of their
19 delivery, based on reasonable assumptions as to all legal and factual matters material to the
20 estimates set forth therein;

21 (b) are, as of the date of their delivery, consistent with the provisions of the Operative
22 Documents in all material respects;

23 (c) set forth (for each Line Item Category, and in total), as of the date of their delivery, the
24 amount of all reasonably anticipated Project Costs required to achieve Final Completion;
25 and

26 (d) fairly represent, as of the date of their delivery, the Project Entities expectations as to
27 the matters covered thereby.

28 Disbursement Agreement, § 4.17.1.

98. The FBR Defendants also caused FBLV to deliver at closing a Remaining Cost Report
based upon the Construction Budget. The Remaining Cost Report, as defined in the Credit
Agreement and Disbursement Agreement, set forth, line by line, the anticipated budgets for the
construction of the Project. The Remaining Costs set forth in this Report provide a key input into the

1 “In Balance Test.”

2 99. The In Balance Test measures whether the Available Funds for the project exceed the
3 Remaining Costs. In other words, the In Balance Test establishes whether there are sufficient funds,
4 from cash on hand and funds available from the various loan facilities, to complete the Project. The
5 higher the anticipated costs to complete, as reflected in the Remaining Cost Report, the more cash or
6 financing would be needed to ensure that the In Balance Test did not fail. Thus, the Remaining Cost
7 Report was a crucial document that allowed lenders, including the Plaintiffs, to assess the financial
8 viability and progress of the Project. A failure of the In Balance Test meant that the Lenders’
9 primary source of security was impaired. Accordingly, satisfying the In Balance Test was a
10 condition precedent to Closing and to any Advances under the Disbursement Agreement.

11 100. At Closing and at the direction of the FBR Defendants, FBLV attested to the accuracy
12 of the Remaining Cost Report. Among other things, FBLV represented that:

- 13 • the budget line items included “for each Line Item Category, an amount no less than
14 the total anticipated Project Costs from the commencement through the completion of
15 the work contemplated by such Line Item Category, as determined by the Project
16 Entities”;
- 17 • the other line items included “the associated anticipated expenses through Final
18 Completion as determined by the Project Entities”;
- 19 • the listing of costs previously incurred “is true and accurate in all material respects”;
20 and
- 21 • the Construction Budget portion of the Remaining Cost Report “sets forth, as of the
22 date of their delivery, and based on reasonable assumptions as to all legal and factual
23 matters material to the estimates set forth therein, the amount of all reasonably
24 anticipated Project Costs required to achieve Final Completion.”

25 Disbursement Agreement, § 4.17.2.

26 101. Further, upon Closing, FBLV, at the direction of the FBR Defendants, submitted the
27 Project Entity Closing Certificate, which included similar representations, including:

- 28 • all of the representations FBLV had made in the financing documents, including the

1 Credit Agreement and the Disbursement Agreement, were true;

- 2 • “The Project Entities have made available to the Construction Consultant true, correct
3 and complete copies of” documents including the Budgets and Plans and that “[s]uch
4 documents contain all material information (and do not contain any misstatements of
5 material information) pertaining to the Project reasonably necessary for the
6 Construction Consultant” to evaluate the project and prepare its own closing
7 certificate;
- 8 • the Remaining Cost Report and other cost reports submitted by FBLV on Closing
9 “accurately reflect the status of the Project as of that date”; and
- 10 • “the In Balance Test is satisfied.”

11 102. Soffer and the other FBR Defendants were responsible for ensuring that these
12 representations were accurate and that there had been no change in the economic feasibility of
13 constructing and/or operating the Project, or in the financial condition, business or property of the
14 Project entities, any of which could reasonably be expected to have a material adverse effect on the
15 Project. They did not do so.

16 103. The FBR Defendants knew or should have known, but failed to disclose to the
17 Lenders, that the representations on Closing were false. Internal cost estimates available to the FBR
18 Defendants, including those set forth in a report FBR commissioned from Cummins LLC in late
19 2006, showed that the actual costs needed to construct the Project were at least \$100 million higher
20 than the budgets provided to the Lenders. The FBR Defendants internally referred to the budget
21 provided to the Lenders as the “Bank Budget” and the actual, higher budget that they hid from the
22 Lenders as “Jeff’s Budget,” “Soffer’s Budget,” or the “Real Budget.”

23 104. Soffer told the other FBR Defendants and the Turnberry Defendants that he intended
24 to raise additional equity at some point in the future to cover the anticipated \$100 million shortfall.
25 He said that he wanted to wait to do so, however, because he believed that it would be easier and less
26 dilutive of his own equity to raise funds after the financing deal had closed and substantial
27 construction on the Project had been completed.

28 105. Had the true costs of the Project been reflected in the Remaining Cost Report and the

1 In Balance Test, the Project would have been out of balance as of the Closing Date, and the Credit
2 Facility would not have closed.

3 **B. Defendants Misrepresented that the Construction Drawings for the Project Were**
4 **Substantially Complete.**

5 106. In the Offering Materials and at the Lender Meeting, Soffer and the other FBR
6 Defendants also made specific representations about the status of the construction drawings for the
7 Project. Construction drawings are architectural drawings that are used by the contractors to define
8 the work to be done. The drawings typically include renderings of all aspects of the project,
9 including mechanical, structural, electrical, and interior design elements. Construction drawings are
10 used, among other things, to obtain permits and other approvals. Because they define what will
11 actually be built, completed construction drawings is a critical step in the project budgeting and
12 development process. Construction drawings allow contractors to understand exactly what they will
13 be required to do and so ensure that the construction bids and contracts finalized on the basis of the
14 drawings are accurate and complete, which in turn reduces the likelihood of additional, unanticipated
15 costs. As Defendants knew, representing that the construction drawings were substantially complete
16 would give prospective lenders like Plaintiffs further comfort that the Project was well planned and
17 would stay on budget and on schedule.

18 107. The Offering Memorandum represented the construction drawings for the project as
19 substantially complete:

20 Construction Drawings ("CDs") at the Fontainebleau Las Vegas are
21 substantially complete with 80% CDs for tower and garage/convention
22 issued on February 1, 2007. 100% CDs for the tower are expected
23 March 12, 2007. 100% CDs for garage/convention are expected April
24 4, 2007 and 80% CDs for the podium are expected in April/May 2007.

25 108. At the March 6, 2007 lender presentation, Soffer and his team again represented that
26 the construction drawings were "substantially complete," with 80-100% of the drawings to be
27 completed before closing. A "Transaction Update" issued April 18, 2007 confirmed that
28 "Construction Drawings ("CDs")" were "substantially complete."

109. At the time of Closing, the FBR Defendants caused FBLV to make further
representations regarding the progress and accuracy of construction drawings:

The Plans and Specifications (a) are, to the Project Entities'
knowledge, based on reasonable assumptions as to all legal and factual

1 matters material thereto, (b) are, and except to the extent permitted
2 under Sections 6.1 and 6.2 will be from time to time, consistent with
3 the provisions of the Operative Documents in all material respects, (c)
4 have been prepared in good faith with due care, and (d) fairly represent
5 the Project Entities' expectation as to the matters covered thereby. The
6 Final Plans and Specifications (i) have been prepared in good faith with
7 due care, and (ii) are accurate in all material respects and fairly
8 represent the Project Entities' expectation as to the matters covered
9 thereby.

10 Disbursement Agreement, § 4.31.

11 110. Contrary to the repeated representations by the FBR Defendants, the construction
12 drawings were not "substantially complete." As the FBR Defendants knew or should have known,
13 delays in the design process prior to Closing caused significant delays in the preparation of
14 completed construction drawings. At the time the Offering Memorandum was issued, less than 50%
15 of the drawings for the podium portion of the Project were complete. Indeed, final construction
16 drawings were not complete even as late as 2009.

17 111. Instead of acknowledging the delay in development of final construction drawings, the
18 FBR Defendants directed the architect for the Project "to produce false sets of drawings to maintain
19 the permit process" so that Defendants "could commence construction in order to meet the opening
20 date of November 2009." According to the architects, Bergman, Walls and Associates, Ltd.
21 ("BWA"): "Extensive and useless hours were spent by BWA to create these false documents. For
22 more than 12 months BWA was updating and revising two separate and distinct sets of Construction
23 Documents thus doubling our man-hours. These sets consisted of false permit documents and
24 Construction Documents for the Contractor." The FBR Defendants knew or should have known, but
25 failed to disclose to the Lenders that the construction drawings presented to the Lenders were not the
26 actual construction drawings and that the actual construction drawings were not "substantially
27 complete."

28 **C. Defendants Misrepresented that they Had Substantial Committed Contracts for
the Construction of the Project.**

112. To provide further assurances that the Project would remain on budget and on
schedule, Soffer and the other FBR Defendants represented that the Project would enter into
"committed contracts" with subcontractors for large portions of the anticipated costs of the Project.
The existence of committed contracts was important to prospective lenders because committed

1 contracts reduce the risk of cost overruns by locking in the cost for those elements.

2 113. The Offering Materials stated that the Borrowers would “enter into committed
3 contracts totaling no less than 60% of hard costs prior to closing and 95% of hard costs and 50% of
4 certain FF&E costs prior to the initial advance under the Credit Facilities.” In the “Transaction
5 Update” issued April 18, 2007, Defendants again reiterated the promise to enter into committed
6 contracts “totaling no less than 60% of hard costs prior to closing and 95% of hard costs and 50% of
7 certain FF&E costs prior to the initial advance.”

8 114. The financing agreements repeated Defendants’ representations regarding the
9 committed contracts that the Borrower and its general contractor, Defendant TWC, had entered into.
10 Upon closing, Defendants provided a schedule of the contracts that showed committed contracts
11 totaling more than 60% of Total Hard Costs.

12 115. But as the FBR Defendants knew or should have known, but failed to disclose to the
13 Lenders, there were not committed contracts in place that covered 60% of the hard costs of the
14 Project, at the Closing Date or at any time prior.

15 116. For example, two of the largest contracts listed in the schedule of committed contracts
16 included with the Closing documents were with W & W Steel. W & W Steel had two large
17 subcontracts for steel for different parts of the Project, which, taken together, were worth \$231
18 million. Prior to the Closing Date, however, FBLV and TWC knew or should have known that W &
19 W Steel had made crucial miscalculations in the amount of steel needed for the Project, failing to
20 include in their bid ten thousand tons of structural steel needed for construction. Adding the cost of
21 that steel, which was a necessary component of the Project, raised the cost of the W & W Steel
22 contracts by tens of millions of dollars. The FBR Defendants and the Turnberry Defendants had a
23 duty to disclose this information to the lenders prior to Closing, but failed to do so.

24 VII. DEFENDANTS’ POST-CLOSING MISREPRESENTATIONS AND OMISSIONS

25 A. Defendants’ Scheme

26 117. After the Closing Date, the cost to complete the Project increased dramatically as a
27 result of Defendants’ unilateral and undisclosed decisions to upgrade and expand various aspects of
28 the Project. By mid-2008, Soffer, Kumar and others at FBR and TWC calculated the costs required

1 to complete the construction of the Project at more than \$300 million in excess of the Construction
2 Budget provided to the Lenders.

3 118. The FBR Board of Managers was aware of the substantial cost overruns and, in
4 November 2008, required Soffer to provide a "comfort letter" pursuant to which Soffer agreed (1) not
5 to transfer or dispose of specified assets prior to the completion of the Project, including a yacht
6 valued at \$178 million, a Boeing 737 jet valued at \$57 million and interests in various companies
7 valued at \$116 million, and (2) to invest, at the request of the Board of Managers, "in FBR or an
8 affiliate thereof, an aggregate amount [up to \$75 million], which investment shall be used solely to
9 fund the costs of [the Project]."

10 119. As a result of the cost overruns, the anticipated cost to fund the Project significantly
11 exceeded the funds available to pay these costs. Had these increases been disclosed to the Lenders, it
12 would have revealed, among other things, that the In Balance Test could not be satisfied. This would
13 have prevented Defendants from accessing any funds under the Credit Agreement and brought the
14 Project to an immediate halt. Instead, those funds would have remained in the Bank Proceeds
15 Account and ultimately been returned to the Plaintiffs and other Lenders who maintained a valid,
16 perfected priority lien on those funds while they remained on deposit.

17 120. Defendants knew or should have known about the substantial cost overruns.
18 Defendants kept the true cost of the Project from the Lenders through two sets of books: one for their
19 own internal use that allowed them to keep track of the actual progress, scope and cost of the Project;
20 and a second set for use with the Lenders that disclosed only the progress, scope and costs that would
21 cause the Project to appear "in balance." In this way, the Defendants were able to secure continued
22 funding under the Credit Agreement Facility while failing to inform the Lenders of the mounting cost
23 overruns.

24 121. Defendants' scheme involved, first and foremost, the manipulation of change orders
25 for the Project. Change orders are directions from a project owner or a general contractor to perform
26 work that is different from and/or in addition to the original scope. In the normal course, change
27 orders are formally approved and reflected in the project budget before the additional or revised work
28 is begun, and certainly before it is completed.

1 122. Defendants were required to inform the lenders of all approved change orders.
2 Accordingly, if Defendants formally approved the change orders required for the expanded Project,
3 the lenders would discover the enormous cost increases, and Defendants' scheme would be revealed.
4 Defendants knew or should have known, but failed to disclose to Plaintiffs, that there were hundreds
5 of millions of dollars of change orders for work required to complete the Project that were not
6 reflected in the various reports and certifications Defendants made to the lenders. Defendants
7 "pocketed" these change orders, prevailing upon subcontractors to perform the additional work
8 required to complete the Project before a formal change order was approved while, at the same time,
9 delaying the change order approval process so as not to alert the lenders to the additional scope and
10 costs.

11 123. Defendants failed to inform the Lenders of the actual scope and increased cost of the
12 Project by keeping a duplicate set of books and entries, one for their own internal use to track the
13 actual scope, progress and cost of the Project and another for presentation to the Lenders to secure
14 advances from the Credit Agreement Facility:

- 15 • Change Order Logs. Defendants maintained two sets of change order logs. One set
16 accurately tracked all change orders that Defendants had directed subcontractors to
17 execute, regardless of whether the change orders had been put through the formal
18 approval process (the "Actual Change Order Log"). The Actual Change Order Log
19 was used by the Defendants to plan and monitor the progress of the construction of the
20 Project. Defendants did not provide the Actual Change Order Log to the Lenders.
21 Instead, they provided the Lenders a partial change order log that included only those
22 change orders that would continue to misrepresent the Project to be in balance and
23 within the Bank Budget (the "Bank Change Order Log").
- 24 • Anticipated Cost Reports. To track the costs required to complete the Project,
25 Defendants maintained Anticipated Cost Reports ("ACRs"). As with the change order
26 logs, Defendants kept two sets of ACRs. The Real ACRs reflected all of the costs
27 Defendants knew would be required to complete the Project, including the "pocketed"
28 change orders. The Bank ACRs consisted of a subset of the Real ACRs.

- Budgets. The Defendants' manipulation of the change orders and ACRs carried over into their calculation of the Project budgets. The Bank Budget, based on the Bank ACRs, reflected the original budget presented to the Lenders, as modified by formally approved and disclosed change orders. The Soffer Budget or Real Budget, showed all of the items included in the Bank Budget, plus all of the "pocketed" change orders and real anticipated costs reflected in the Real ACR.

124. Defendants tracked the status of the change orders, anticipated costs and budgets in detailed Microsoft Excel spreadsheets. The spreadsheets showed, column by column: (i) the Bank Budget, including changes to the budget that had been formally approved by the lenders; (ii) the additional changes to the Bank Budget contemplated in the Soffer Budget and reflecting the "pocketed" change orders; and (iii) the difference between the two budgets.

B. Defendants' Misrepresentations and Omissions

125. Each month, to obtain release of funds, the Credit Agreement and other loan documents required the Borrower to submit to Plaintiffs' agent, BofA, a "Draw Request," which included budgets, cost reports and various certifications. If the materials provided in the Draw Request showed that the applicable conditions precedent for the advance of funds were satisfied, BofA, the Disbursement Agent, could (assuming it did not have contrary or inconsistent information) release the requested funds to the Borrower. (Disbursement Agreement, § 2.4.6).

126. Beginning no later than mid-2007, in connection with the Draw Requests, Defendants made material misrepresentations regarding the status of the Project and provided false, misleading and incomplete information about change order logs, cost reports and budgets, which they represented to be true and complete. These misrepresentations were contained in documents and reports including the following.

- Advance Request. The Advance Request was the Borrowers' formal request for funds under the financing agreements. Defendant Freeman executed the Advance Requests on behalf of the Borrowers. In the Advance Request, at the Defendants' direction, the Borrowers attested to the accuracy and completeness of the information regarding budgets and costs that were provided with the Draw Request, including the Remaining

1 Cost Reports, the In Balance Report and the General Contractor's Advance
2 Certificate. Because the information provided by the Borrowers did not disclose the
3 true anticipated costs and budgets for the Project but instead showed the incorrect cost
4 information reflected in the Bank Budget, the Bank Change Order Log and the Bank
5 ACR, Defendants' representations in the Advance Requests were false and omitted
6 material information about the Project.

- 7 • Remaining Cost Reports. The Remaining Cost Reports were spreadsheets that were
8 supposed to show the anticipated costs to complete the Project. The Remaining Cost
9 Reports did not reflect Defendants' true estimates of Project costs but instead reflected
10 the false information contained in the Bank Change Order Logs and the Bank ACR.
- 11 • In Balance Report. The In Balance Reports were supposed to show the difference
12 between funds available to the Project (from the Credit Agreement Facility and other
13 sources) and the anticipated remaining costs on the Project, as reflected in the
14 Remaining Cost Reports. Defendants submitted In Balance Reports that reflected
15 incorrect budgets and estimates of anticipated costs and failed to show the actual costs
16 Defendants knew would be needed to complete the Project. Accordingly, the In
17 Balance Reports continued to show that the Project was in balance when in fact the
18 anticipated costs greatly exceeded the available funds to pay for them.
- 19 • General Contractor Advance Certificate. In the General Contractor Advance
20 Certificates, which were submitted with each Draw Request, TWC certified that its
21 budgets were accurate and complete. Defendant Soffer executed the General
22 Contractor Advance Certificates for October and November 2008. The budgets TWC
23 submitted to the Lenders were based on Defendants' false change orders and cost
24 reports, and the General Contractor Advance Certificates were therefore false and
25 misleading.
- 26 • Budget Amendment Certificate. The Borrowers were required to request approval for
27 amendments to the Project budgets by submitting Budget Amendment Certificates.
28 The Budget Amendment Certificates, which Defendant Freeman signed, certified that

1 the budgets and cost estimates contained therein were accurate and complete, and
2 based on good faith assumptions. The Budget Amendment Certificates did not reflect
3 Defendants' real budgets (*i.e.*, the Soffer Budget) or their actual good faith estimates
4 of project costs but instead reflected the incorrect Bank Budgets, Bank Change Order
5 Logs and Bank ACRs. In fact, the Soffer Budget was hundreds of millions of dollars
6 higher than the budgets Defendants certified as correct in the Budget Amendment
7 Certificates.

- 8 • Lender Updates. Defendants periodically held conference calls with Plaintiffs and
9 other lenders in connection with the Draw Requests. On those calls, and in the written
10 "Lender Updates" that Defendants distributed to lenders, Defendants represented that
11 the Bank Budget was the actual budget and failed to inform the lenders of the
12 existence of the Soffer Budget and the fact that, according to Defendants' true cost
13 information, the Project had experienced hundreds of millions of dollars in
14 undisclosed change orders and cost overruns. On these calls, Defendants consistently
15 stated, incorrectly, that the Project was "on time and on budget."

16 127. If Defendants had incorporated accurate and complete information regarding the
17 budgets and costs to complete the Project into the materials submitted in connection with the Draw
18 Requests, they would have shown that the Project was well over budget and could not be completed
19 without significant additional funds. As a result, the In Balance Test would have failed and
20 Borrowers would not have been able to access additional funding under the Credit and Disbursement
21 Agreements.

22 **VIII. PACKER CONSPIRES WITH SOFFER TO CONCEAL THE COST OVERRUNS ON** 23 **THE PROJECT**

24 128. Defendant Crown is an Australian gaming and entertainment company that is
25 controlled by Defendant Packer, who is reported to be the wealthiest man in Australia. Defendant
26 Crown Services is a Nevada-based affiliate of Crown that acted on behalf of Crown in connection
27 with the Project. Todd Nisbet, the Executive Vice President for Design and Construction of Crown,
28 and a principal in Crown Services, along with Packer, had primary responsibility for the Packer

1 Defendants' participation in the Project and was involved on a regular basis in the management and
2 oversight of the Project.

3 129. In April 2007, Crown purchased a 19.6% interest in FBR for \$250 million.
4 Thereafter, the Packer Defendants learned that the Project was significantly over budget, that the
5 existing funding for the Project was insufficient to complete the Project and that the FBR and
6 Turnberry Defendants had been misrepresenting the facts concerning the actual status of the Project
7 to the Lenders in order to secure continued funding for the Project under the Loans. The Packer
8 Defendants recognized that if the Lenders learned the truth about the Project, the Lenders would
9 cease funding, and the value of Crown's investment in FBR would plummet.

10 130. Accordingly, in late 2007 or early 2008, the Packer Defendants, including Packer,
11 convened a meeting in Las Vegas with the FBR Defendants, including Soffer, to determine how
12 jointly to proceed. At that meeting and thereafter, and at the direction of Packer, the Packer
13 Defendants agreed and conspired with the FBR Defendants to continue to misrepresent the financial
14 status of the Project to the Lenders and to conceal from the Lenders, including the Plaintiffs, the truth
15 regarding the cost overruns on the Project in order to secure the continued financing for the Project.

16 131. Thereafter, the Packer Defendants continued their involvement in the management and
17 oversight of the Project, including efforts to reduce the cost of the known overruns that were being
18 concealed from the Lenders so as to help delay the Lenders' ultimate discovery of the true facts. As
19 a result, the Packer Defendants actively assisted the FBR Defendants and the Turnberry Defendants
20 in misrepresenting the true financial condition of the Project and in concealing from the lenders the
21 existence and magnitude of the Soffer Budget and the cost overruns.

22 IX. DEFENDANTS' SCHEME UNRAVELS

23 132. Without financing sufficient to pay for the true costs of constructing the Project, it was
24 only a matter of time before Defendants' scheme was exposed. Defendants forestalled this result by
25 delaying payment to subcontractors—in some cases until subcontractors threatened to walk off the
26 job—and by raising additional equity. By the summer of 2008, however, as Defendants knew or
27 should have known, the Project was facing a deficit of more than \$300 million dollars.

28 133. At a meeting at Soffer's home in Aspen, Colorado held in October 2008 and attended

1 by Kumar and TWC's Chief Executive Officer, Bob Ambridge, Soffer acknowledged that an
2 additional \$325 million above and beyond all existing financing and equity contributions would be
3 required to complete the Project. Kumar and Ambridge informed Soffer that they believed the
4 shortfall was much greater, as much as \$375 million.

5 134. Again, in January 2009, Soffer acknowledged the existence of the shortfall in a
6 telephone call with Ambridge and Kumar. By mid-February 2009, Kumar and Ambridge explained
7 to Soffer in a meeting in Las Vegas that the shortfall had increased by another \$100 million.

8 135. To make matters worse, in September 2008 Lehman Brothers Holdings, Inc.
9 ("Lehman") filed for bankruptcy protection. Lehman was the largest lender under the Retail Facility
10 that provided financing for the construction of the retail portion of the Project. Lehman's
11 bankruptcy, its resulting failure to pay its portion of draws under the Retail Facility as they came due
12 and the prospect that Lehman would fail to fund its remaining commitment under the Retail Facility
13 prevented satisfaction of numerous conditions precedent to the approval of Advance Requests and the
14 disbursement of funds under the Loans. Had disbursements stopped in September 2008, as they
15 should have, all or nearly all of the funds advanced by Plaintiffs would have remained safely in the
16 Bank Proceeds Account and ultimately been recovered.

17 136. Unfortunately, this did not happen. Bank of America ("BoFA") failed to take the steps
18 required of it as Administrative and Disbursement Agent under the Credit Agreement to ensure that
19 funding and disbursements did not continue in the face of Lehman's breaches and defaults. And
20 while BoFA's breaches were not thereby excused or mitigated, the FBR Defendants, aided by
21 ULLICO, actively concealed the full extent of Lehman's impact on the Project from the Lenders in
22 an effort to increase the likelihood that Loans would continue to be funded and disbursed.

23 137. In September 2008, the FBR Defendants caused FBR (or an affiliate) to pay Lehman's
24 portion of the September 2008 draw request under the Retail Facility. Defendants knew that payment
25 of Lehman's portion of draw requests by FBR would highlight the funding gap created by Lehman's
26 bankruptcy and increase the likelihood that the Lenders would refuse to continue funding.
27 Accordingly, although Freeman advised BoFA that FBR had funded Lehman's portion, Thier and the
28 other FBR Defendants took steps to ensure that documents filed publicly during that period,

1 including documents submitted in connection with the Lehman bankruptcy proceedings, concealed
2 that fact from the other lenders.

3 138. In December, Lehman notified the FBR Defendants that it would make no further
4 payments under the Retail Facility.

5 139. In order to further conceal FBR's payment of Lehman's draws, FBR initiated
6 discussions with ULLICO, one of the other lenders under the Retail Facility. ULLICO invested on
7 behalf of union interests and was committed "to serving the needs of unions, union leaders, union
8 employers and union members and their families." Thus, ULLICO's interest in the Project included
9 both its financial commitment as well as the preservation of the jobs of the 3,000 union members
10 working on the Project. Those jobs all would be lost if disbursements under the Loans ceased and the
11 Project was shut down. Although ULLICO was unwilling to take over Lehman's funding obligations
12 under the Retail Facility, in whole or in part, it was willing to make it appear that it had or would in
13 the hopes that BofA might thereby overlook Lehman's breaches and defaults and continue disbursing
14 funds for the Project.

15 140. In order to accomplish this scheme, beginning in December 2008, ULLICO entered
16 into a series of Guaranty Agreements with Soffer, FBR and TRLP. These agreements provided that
17 ULLICO would pay Lehman's portion of the Retail Facility in the first instance but that Soffer, FBR
18 and TRLP would guaranty such payments and reimburse ULLICO within 30 days. By "fronting"
19 payments on behalf of FBR and Soffer, ULLICO helped create a false impression that an existing,
20 institutional lender had or would be willing to step in to take over Lehman's commitment.

21 141. ULLICO fronted Lehman's draw obligations under the Retail Facility in December
22 2008, and January, February and March 2009. Defendants did not disclose the "fronting"
23 arrangement to the Plaintiffs and actively concealed the existence of the Guaranty Agreement from
24 them.

25 142. Had ULLICO, the FBR Defendants and the Turnberry Defendants disclosed the true
26 nature of their scheme to the Lenders, BofA could not have hidden from the conclusion that the
27 conditions precedent to funding under the Loans had not been satisfied, and the Borrowers would not
28 have been able to access Plaintiffs' funds.

1 143. By early 2009, Defendants were unable to access additional equity funding, and
2 subcontractors were in revolt over delayed payments for completed work. To access additional
3 needed funds, Defendants were forced to disclose some of the additional change orders they had
4 “pocketed” and kept from the Lenders. But while Defendants at this point revealed some of the
5 additional costs, they expressly decided not to expose what TWC’s Chief Executive Officer, Bob
6 Ambridge, characterized to Kumar as the “big lie,” namely that the Project was massively over
7 budget. Instead, Defendants informed the Lenders of only \$60 million in change orders and
8 additional costs and continued to conceal the remaining undisclosed change orders and additional
9 costs and to submit Draw Requests that they new to be materially false.

10 144. As 2009 wore on, however, Defendants could no longer conceal that the budgets were
11 inaccurate and that the costs to complete the Project were not in line with the incorrect estimates they
12 had provided to the Lenders. On April 13, 2009, the Borrowers advised the Lenders that they could
13 not meet the In Balance Test, based upon an increase of \$157 million in the figure they used to
14 calculate anticipated costs on the Project. On April 20, 2009, BofA, acting on behalf of certain of the
15 Lenders, declared a default under the financing agreements. The Borrowers and certain affiliates
16 filed for bankruptcy on June 10, 2009, which itself constitutes a default under the financing
17 agreements.

18 **COUNT I**

19 **Fraud/Aiding and Abetting Against the FBR Defendants and the Turnberry Defendants**

20 145. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

21 146. To induce Plaintiffs to provide funding for the Project and to enter into the Credit
22 Agreement and Disbursement Agreement, the FBR Defendants misrepresented facts and failed to
23 disclose material facts, as more fully described above. Among other things, the FBR Defendants
24 represented or permitted to be represented:

- 25 • that the Bank Budget was an accurate and good faith estimate of the costs the Project
- 26 would incur to completion and was a “conservative” estimate of such costs;
- 27 • that the Bank Budget would support payment of all anticipated construction costs for
- 28 the Project;

- 1 • that the construction drawings for the Project were accurate and “substantially
- 2 complete”; and
- 3 • that FBLV and TWC had entered into committed contracts for 60% of hard costs for
- 4 the Project.

5 147. These representations were false. The FBR Defendants omitted the true facts about
6 the Project, including those regarding the existence and nature of the Real Budget, the additional
7 anticipated costs they expected to incur in bringing the Project to completion, the delays in
8 completion of the construction drawings, the fact that the drawings presented to the Plaintiffs were
9 false drawings, and the additional costs that would be incurred under the so-called committed
10 contracts.

11 148. The Turnberry Defendants were aware of the misrepresentations and omissions made
12 by the FBR Defendants. The Turnberry Defendants intended to and did assist and provide material
13 assistance to the FBR Defendants in making misrepresentations and failing to disclose material facts
14 to Plaintiffs.

15 149. Unaware of the true facts, and in reliance on the misrepresentations and omissions of
16 the FBR Defendants and the Turnberry Defendants, Plaintiffs provided funding to the Project
17 pursuant to the Credit Agreement and Disbursement Agreement. If Plaintiffs had been aware of the
18 true facts, they would not have agreed to provide the funding and would not have executed the Credit
19 Agreement or the Disbursement Agreement.

20 150. As a direct and proximate result of the misrepresentations and omissions by the FBR
21 Defendants and the Turnberry Defendants’ assistance in these misrepresentations and omissions,
22 Plaintiffs have incurred and continue to incur damages in excess of \$10,000.

23 151. Defendants’ acts were performed with oppression, fraud and malice, thereby entitling
24 Plaintiffs to punitive damages in excess of \$10,000.

25 **COUNT II**

26 **Fraud/Aiding and Abetting Fraud Against the FBR Defendants, the Turnberry Defendants and**
27 **the Packer Defendants**

28 152. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

153. To induce Plaintiffs to provide funding for the Project through provision of Advances

1 in response to Notices of Borrowing and Draw Requests, the FBR Defendants and the Turnberry
2 Defendants made intentional misrepresentations of fact and failed to disclose material facts, as more
3 fully described above. Among other things, the FBR Defendants and the Turnberry Defendants
4 represented to Plaintiffs or their agents, in connection with Draw Requests and in other oral and
5 written communications, that:

- 6 • the Remaining Cost Reports submitted to lenders, including the Plaintiffs, accurately
7 presented all of the costs they expected the Project to incur to completion;
- 8 • they were not aware of additional anticipated costs on the Project;
- 9 • the In Balance Report was accurate and the In Balance Test was satisfied;
- 10 • the Bank Budget was the true budget that accurately presented the Defendants' good
11 faith estimate of all Project costs; and
- 12 • the Project was "on time and on budget."

13 These representations were false. The FBR Defendants and Turnberry Defendants omitted and
14 concealed the true facts regarding the existence and magnitude of the Real Budget, the additional
15 costs they incurred and expected to incur on the Project; and the existence and dollar value of change
16 orders that had been agreed to without formal approval or disclosure to the lenders, including
17 Plaintiffs.

18 154. Each of the FBR Defendants, the Turnberry Defendants and the Packer Defendants
19 was aware of the misrepresentations and omissions made by the other Defendants. Each of the FBR
20 Defendants, the Turnberry Defendants and the Packer Defendants intended to assist the others in
21 defrauding Plaintiffs and did in fact provide material assistance to them in making misrepresentations
22 and failing to disclose material facts to Plaintiffs.

23 155. Unaware of the true facts, and in reliance on the misrepresentations and omissions of
24 Defendants, Plaintiffs continued to provide funding to the Project through Advances pursuant to the
25 Credit Agreement and Disbursement Agreement. If at any time Plaintiffs and their agents had been
26 aware of the true facts, the conditions precedent to further Advances would not have been satisfied
27 and Plaintiffs would not have been required to provide further funds to the Project.

28 156. As a direct and proximate result of Defendants' fraud and aiding and abetting fraud,

1 Plaintiffs have incurred and continue to incur damages in excess of \$10,000.

2 157. Defendants' acts were performed with oppression, fraud and malice, thereby entitling
3 Plaintiffs to punitive damages in excess of \$10,000.

4 **COUNT III**

5 **Fraud/Aiding and Abetting Fraud Re Retail Facility Against the FBR Defendants, the**
6 **Turnberry Defendants and ULLICO**

7 158. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

8 159. To induce Plaintiffs to provide funding for the Project through provision of Advances
9 in response to Notices of Borrowing and Draw Requests, the FBR Defendants and the Turnberry
10 Defendants made intentional misrepresentations of fact and failed to disclose material facts regarding
11 the funding of Lehman's portion of the Retail Facility, as more fully described above. Among other
12 things, ULLICO, the FBR Defendants and the Turnberry Defendants or their agents represented that
13 ULLICO funded the Lehman portion of the Retail Facility. These representations were false.

14 160. ULLICO, the FBR Defendants and the Turnberry Defendants omitted and concealed
15 the fact that, through the "fronting" arrangement, FBR and Soffer were funding Lehman's portion of
16 the Retail Facility while making it appear that ULLICO was providing such funding.

17 161. ULLICO, the FBR Defendants and the Turnberry Defendants were aware of the
18 misrepresentations and omissions made by each other. Each ULLICO, the FBR Defendants and the
19 Turnberry Defendants intended to assist each other in defrauding Plaintiffs and did in fact provide
20 material assistance to them in making misrepresentations and failing to disclose material facts to
21 Plaintiffs.

22 162. Unaware of the true facts, and in reliance on the misrepresentations and omissions of
23 Defendants, Plaintiffs continued to provide funding to the Project through Advances pursuant to the
24 Credit Agreement and disbursement continued to be made under the Disbursement Agreement. If at
25 any time Plaintiffs and their agents had been made aware of the true facts, the conditions precedent to
26 further Advances would not have been satisfied and Plaintiffs would not have provided further funds
27 to the Project.

28 163. As a direct and proximate result of Defendants' fraud and aiding and abetting fraud,
Plaintiffs have incurred and continue to incur damages in excess of \$10,000.

1 164. Defendants' acts were performed with oppression, fraud and malice, thereby entitling
2 Plaintiffs to punitive damages in excess of \$10,000.

3 **COUNT IV**

4 **Negligent Misrepresentation Against All Defendants**

5 165. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

6 166. In making the representations described above, and in failing to disclose the material
7 information, Defendants acted with the intent to induce, and did induce, Plaintiffs to provide funding
8 to the Project, to enter into the Credit Agreement and the Disbursement Agreement, and to continue
9 to provide funding pursuant to Advances.

10 167. Defendants made the representations negligently and recklessly, with no reasonable
11 grounds for believing the statements to be true.

12 168. As a direct result of Defendants' negligent and reckless misrepresentations, Plaintiffs
13 have incurred and continue to incur damages in excess of \$10,000.

14 169. Defendants' acts were performed with oppression, fraud and malice, thereby entitling
15 Plaintiffs to punitive damages in excess of \$10,000.

16 **COUNT V**

17 **Negligence Against the FBR Defendants and the Turnberry Defendants**

18 170. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

19 171. Defendants were responsible for ensuring that the terms and conditions precedent to
20 funding were being met, that the Project was being managed and administered such that the cost of
21 work would not exceed what was budgeted and financially available, and that the Project would be
22 completed within the approved schedule.

23 172. Defendants also had a duty to ensure that the Project progress was accurately reported,
24 both in terms of cost and schedule, and that the projected cost to complete the work was accurately
25 reflected in the reports to lenders, including the Plaintiffs. Defendants had a duty to ensure accurate
26 reflection of any cost increases or change orders in the various reports provided to Plaintiffs in
27 connection with Draw Requests.

28 173. Defendants failed to exercise reasonable or ordinary care in the discharge of their

1 duties in connection with the Project, and, in fact, were negligent and/or reckless in the performance
2 of their duties and/or acted in bad faith.

3 174. As described in more detail above, among other things, Defendants:

- 4 • Failed to ensure that the statements made to Plaintiffs in connection with Draw
5 Requests were accurate and complete;
- 6 • Failed to accurately monitor and report on project budgets and costs;
- 7 • Failed to ensure the timely reporting of changes to the Project and change orders;
- 8 • Failed to monitor subcontractors;
- 9 • Failed to exercise reasonable diligence, oversight, monitoring and review of TWC's
10 project administration and management;
- 11 • Failed to ensure that Project drawings and plans were substantially complete and
12 updated and that the plans were sufficient to build the Project in accordance with the
13 existing budgets; and
- 14 • Failed to ensure that the Project had committed contracts as represented to Plaintiffs,
15 and that the committed contracts were in fact "committed."

16 175. As a direct and proximate result of Defendants failure to exercise due care, Plaintiffs
17 have been damaged in an amount in excess of \$10,000.

18 **COUNT VI**

19 **Conspiracy to Commit Fraud/Aiding and Abetting Fraud Against All Defendants**

20 176. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

21 177. Beginning in 2007, Defendants entered into a conspiracy in which they agreed to
22 misrepresent and omit material facts regarding the Project, and to conceal the true facts. Pursuant to
23 that conspiracy, Defendants engaged in the misrepresentations, omissions and other wrongful
24 conduct, as set out above. Each of the Defendants had knowledge of the object and purpose of the
25 conspiracy and intended to and did materially assist the conspiracy.

26 178. As co-conspirators, Defendants are jointly and severely liable for the damages
27 incurred by Plaintiffs as a result of their conduct, in an amount in excess of \$10,000.

28 179. Defendants' acts were performed with oppression, fraud and malice, thereby entitling

1 Plaintiffs to punitive damages in excess of \$10,000.

2 **COUNT VII**

3 **Breach of Fiduciary Duty – Duty of Loyalty Against the FB D&O Defendants**

4 180. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

5 181. Defendants Soffer, Kotite, Parello, Weiner, Schaeffer, Freeman, Kumar, Karawan and
6 Thier (“FB D&O Defendants”) were directors, managers and/or senior executive officers of the
7 Resort Entities, with management responsibility for those entities. As managers, directors and/or
8 senior executive officers of the Resort Entities, the FB D&O Defendants owed fiduciary duties to the
9 Resort Entities, which fiduciary duties included the duty of loyalty. Additionally, as the Resort
10 Entities were insolvent or within the zone of insolvency, these defendants also owed fiduciary duties
11 to the Resort Entities’ creditors, including Plaintiffs.

12 182. As fiduciaries, the FB D&O Defendants were obligated by their duty of loyalty to act
13 in a manner consistent with the best interests of the Resort Entities and its creditors, and with the
14 highest degree of good faith. By virtue of the acts and omissions described herein, the FB D&O
15 Defendants failed to act honestly and in good faith, thereby violating the duty of loyalty to the Resort
16 Entities. Among other things, the FB D&O Defendants misrepresented the financial condition of the
17 Resort Entities, misstated the budgets and anticipated costs of the Project, and concealed the true
18 facts about the budgets and financial condition of the Project.

19 183. As a direct and proximate result of the FB D&O Defendants’ actions and omissions,
20 the Plaintiffs have been injured and suffered damages in an amount in excess of \$10,000. The FB
21 D&O Defendants are jointly and severally liable for Plaintiffs’ losses.

22 184. Defendants’ acts were performed with oppression, fraud and malice, thereby entitling
23 Plaintiffs to punitive damages in excess of \$10,000.

24 **COUNT VIII**

25 **Breach of Fiduciary Duty – Duty of Care Against the FB D&O Defendants**

26 185. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set out.

27 186. The FB D&O Defendants were directors, managers and/or senior executive officers of
28 the Resort Entities, with management responsibility for those entities. As managers, directors and/or

1 senior executive officers of the Resort Entities, the FB D&O Defendants owed fiduciary duties to the
2 Resort Entities, which fiduciary duties included the duty of care. Additionally, as the Resort Entities
3 were insolvent or within the zone of insolvency, these defendants also owed fiduciary duties to the
4 Resort Entities' creditors, including Plaintiffs.

5 187. As fiduciaries, these defendants were obligated by their duty of care to act at all times
6 on an informed basis, using the amount of care that a reasonable person would use under similar
7 circumstances, and to act with the highest degree of good faith. The FB D&O Defendants failed to
8 exercise the care, diligence, and skill that reasonable persons would exercise under comparable
9 circumstances, and instead acted in a grossly negligent manner, thereby violating their fiduciary
10 duties to the Resort Entities. Among other things, the FB D&O Defendants: failed to oversee the
11 construction of the Project in a manner that contained cost overruns; approved and allowed TWC and
12 others to approve, informally and without proper oversight or disclosure, changes to the Project that
13 greatly increased the Resort Entities' liabilities; operated the Project in accordance with the
14 undisclosed Real Budget, which was hundreds of millions of dollars higher than what was presented
15 to the Plaintiffs and the other lenders, thus making it virtually impossible for the Project to be
16 completed with the funds that were available; and repeatedly misrepresented and omitted material
17 facts regarding budgets, cost overruns and anticipated costs to completion.

18 188. As a direct and proximate result of the FB D&O Defendants' actions and omissions,
19 the Plaintiffs have been injured and suffered damages in an amount in excess of \$10,000. The FB
20 D&O Defendants are jointly and severally liable for Plaintiffs' losses.

21 189. Defendants' acts were performed with oppression, fraud and malice, thereby entitling
22 Plaintiffs to punitive damages in excess of \$10,000.

23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiffs pray that this Court enter judgment in favor of Plaintiffs and
25 against Defendants, and each of them, as follows:

- 26 (a) For damages in excess of \$10,000.
27 (b) For punitive damages in excess of \$10,000.
28 (c) For prejudgment interest.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


- (d) For an award of the costs of suit including attorneys' fees to the extent available.
- (e) For any further relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury for all issues so triable.

DATED this 25th day of March, 2011.

Respectfully submitted,

By. 

TAYLOR L. RANDOLPH
Bar No. 10194
RANDOLPH LAW FIRM, P.C.
2045 Village Center Circle, Suite 100
Las Vegas, Nevada 89134
Tel. (702) 233-5597
tr@randolphlawfirm.com
Attorney for Plaintiffs