

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	CHAPTER 11
)	
KG WINDDOWN, LLC, <i>et al.</i> , ¹)	
)	CASE NO. 20-11723 (MG)
Debtors.)	
)	(Jointly Administered)

**STIPULATION AND ORDER BETWEEN
THE DEBTORS AND FORUM SHOPS, LLC**

This Stipulation and Order (the “**Stipulation and Order**”) is entered by and between KG Winddown, LLC and its affiliated debtors and debtors in possession (each a “**Debtor**” and collectively, the “**Debtors**”) and Forum Shops, LLC, (the “**Forum**,” together with the Debtors, the “**Parties**”), with respect to the following:

RECITALS

WHEREAS, on July 28, 2020 (the “**Petition Date**”), each Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code. An additional Debtor, IM Payroll, LLC filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code on July 31, 2020; and

WHEREAS, the Debtor IM Las Vegas, LLC (“**IM Las Vegas**”), as tenant, entered into that certain Lease dated as of February 27, 2004 with Forum (including any and all exhibits, supplements, amendments, and other documents, collectively, the “**Las Vegas Lease**”), for the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number (if any), include: KG Winddown, LLC (8556); KG USA Winddown, LLC (1682); KG III Winddown, LLC (2613); KG LV Winddown, LLC (9805); KG Florida Winddown, LLC (9385); KG Puerto Rico Winddown, LLC (0901); KG AC Winddown, LLC (5082); KG Products Winddown, LLC (0303); KG LI Restaurant Group Winddown, LLC (1623); KG LI Winddown, LLC (1488); KG Franchise Winddown, LLC (0565); KG 60th St Holdings Winddown, LLC (9997); KG Broadway Winddown, LLC (4335); KG Hamptons Winddown, LLC (0423) and KG Payroll Winddown, LLC (0807). For the purpose of these chapter 11 cases, the service address for the Debtors is: 12 Penns Trail, Suite 125, Newton, PA 18940.

lease of premises located in a shopping complex located in the Forum Shops at Caesars, 3500 Las Vegas Blvd S., Las Vegas, Nevada 89109 (the “**Leased Premises**”); and

WHEREAS, on December 14, 2020, the Debtors filed their *Motion for Entry of an Order Authorizing Rejection of Certain Unexpired Nonresidential Real Property Leases Effective as of December 14, 2020* [Docket No. 368]; and

WHEREAS, the Las Vegas Lease was rejected effective as of December 14, 2020, pursuant to the *Stipulation and Order Authorizing Rejection of Certain Unexpired Nonresidential Real Property Lease Effective as of December 14, 2020* [Docket No. 437]; and

WHEREAS, Forum filed proofs of claim in these chapter 11 cases, as set forth on **Exhibit A**, which were assigned proof of claim number C 723-22 (“**POC C 723-22**”), proof of claim number C 723-32 (“**POC C 723-32**”), and proof of claim number C 723-33 (“**POC C 723-33**,” together with POC C723-22 and POC C 723-22, the “**Proofs of Claim**”); and

WHEREAS, on December 14, 2020, Forum filed POC C 723-22 against the Debtors asserting (i) a general unsecured claim in the amount of \$247,987.09; and (ii) an administrative expense priority claim in the amount of \$247,368.29; and

WHEREAS, on January 29, 2021, Forum filed POC C 723-32 against the Debtors asserting (i) a general unsecured claim in the amount of \$1,019,430.16; and (ii) an administrative expense priority claim in the amount of \$247,368.29; and

WHEREAS, on January 29, 2021 Forum filed POC C 723-33 against the Debtors asserting an administrative expense priority claim in the amount of \$495,366.38; and

WHEREAS, the Debtors included certain amounts that were due and owing to Forum in the Schedules of Assets and Liabilities as identified on Exhibit A annexed hereto (“**Scheduled Claims**”); and

WHEREAS, the Parties desire, and by this Stipulation and Order, intend to resolve the Proofs of Claim and Scheduled Claims related thereto.

ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. The recitals form an integral part of this Stipulation and Order and are incorporated fully herein.

2. POC C 723-32 is hereby reduced and allowed as (i) a general unsecured claim in the amount of \$839,988.17; and (ii) an administrative priority claim in the amount of \$166,321.17.

3. Upon approval of this Stipulation and Order by the Court, POC C 723-22 and POC C 723-33 shall each be deemed disallowed and expunged.

4. Upon approval of this Stipulation and Order by the Court, the Scheduled Claims (S2057, S4354 and S4355) shall each be deemed disallowed and expunged.

5. This Stipulation and Order is subject to approval by the Court. In the event that the Court does not approve this Stipulation and Order: (a) nothing contained herein shall be deemed to be a waiver of any claims or an admission of liability by any Party hereto; and (b) this Stipulation shall be null and void, and all rights to the Parties prior to this Stipulation and Order shall be preserved.

6. This Stipulation and Order fully and finally resolves any all claims (as such term is defined in section 101(5) of the Bankruptcy Code) that Forum may hold against the Debtors in these cases in connection the Las Vegas Lease including the administrative expense claims, and general unsecured claims asserted in the Proofs of Claim.

7. This Stipulation and Order shall not affect or impair any of the rights of Forum under the Guaranty of the Las Vegas Lease attached as Exhibit "A" to the Eleventh Lease

Amendment dated April 1, 2018, and shall have no effect on the obligations and liabilities pursuant to the Guaranty and Forum's reservation of all rights there under.

8. The Debtors' claims and noticing agent is authorized to take all actions necessary to expunge Proofs of Claims and Scheduled Claims from the official claims register in accordance with this Stipulation and Order.

9. This Stipulation and Order sets forth the entire agreement and understanding by any among the Parties with respect to this subject matter hereof.

10. This Stipulation and Order may not be modified, altered, amended or vacated in any way except by a writing signed by all Parties hereto.

11. This Stipulation and Order may be executed simultaneously in one or more counterparts, and by different parties hereto in separate counterparts, and with facsimile signatures being deemed originals, each of which when executed shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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12. This Court shall retain jurisdiction with respect to any and all matters arising from or relating to the implementation or interpretation of this Stipulation and Order.

Dated: March 10, 2021

<p><u>/s/ Ronald M. Tucker</u> SIMON PROPERTY GROUP, INC. As Managing Agent for Forum Shops, LLC Ronald M. Tucker, Esq. 225 West Washington Street Indianapolis, IN 46204 Telephone: (317) 263-2346 <i>Attorney for Simon Property Group, Inc.</i></p>	<p><u>/s/ William Hao</u> ALSTON & BIRD LLP Gerard S. Catalanello William Hao 90 Park Avenue New York, NY 10016 Telephone: (212) 210-9400 Gerard.Catalanello@alston.com William.Hao@alston.com <i>Counsel to the Debtors and Debtors in Possession</i></p>
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SO ORDERED.

Dated: March 25, 2021
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

EXHIBIT A

Summary of Scheduled Claims and Filed Proofs of Claim

Claim #	Claimant	Claim Type	Debtor Entity	Asserted or Scheduled Amounts				
				Secured	Administrative	Priority	Unsecured	Total
S2057	1144 Forum Shops, LLC	Scheduled Claim	KG LV Winddown, LLC f/k/a/ IMNYLV, LLC				\$180,217.09	\$180,217.09
S4354	Forum Shops, LLC	Scheduled Claim	KG LV Winddown, LLC f/k/a/ IMNYLV, LLC				\$53,584.68	\$53,584.68
S4355	Forum Shops, LLC	Scheduled Claim	KG LV Winddown, LLC f/k/a/ IMNYLV, LLC				\$185,123.00	\$185,123.00
C 723-22	Forum Shops, LLC	Proof of Claim	KG Winddown, LLC, f/k/a K.G. IM, LLC		\$247,368.29		\$247,987.09	\$495,355.38
C 723-32	Forum Shops, LLC	Proof of Claim	KG Winddown, LLC, f/k/a K.G. IM, LLC		\$247,368.29		\$1,019,430.16	\$1,266,798.45
C 723-33	Forum Shops, LLC	Proof of Claim	KG Winddown, LLC, f/k/a K.G. IM, LLC		\$495,366.38			\$495,366.38