



Entered on Docket
September 09, 2011

Hon. Bruce A. Markell
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

| | | |
|-----------------------------|---|-----------------------------|
| In re: |) | Case No.: BK-S-10-10464-BAM |
| |) | |
| LAS VEGAS MONORAIL COMPANY, |) | Chapter 11 |
| |) | |
| Debtor. |) | |
| |) | Date: September 16, 2011 |
| |) | Time: 9:30 a.m. |
| |) | Courtroom: 3 |

ORDER REGARDING UPCOMING CONFIRMATION HEARING

As previously set forth in the court’s Order Approving Adequacy of Disclosure Statement to Accompany Debtor’s Third Amended Plan of Reorganization and Setting Hearing on Confirmation of Plan, Dkt. No. 886, a confirmation hearing will be held in the above-captioned bankruptcy case on September 16, 2011 at 9:30 a.m.

The court has concerns about feasibility, among other things. In particular, the court has concerns as to: whether Debtor will likely obtain financing, financing without which, as Debtor indicates in its Disclosure Statement to Accompany Debtor’s Third Amended Plan of Reorganization, Dkt. No. 886, Ex. 1 at 90, Debtor will be unable to satisfy debt obligations and meet CapEx needs; what steps, if any, Debtor has taken, or plans to take, in assessing the terms pursuant to which it may obtain such financing; and how, if at all, the rights and obligations arising out of any potential financing agreements fit into Debtor’s most current proposed plan. See, e.g., *Save Our Springs (S.O.S.) Alliance, Inc. v. WSI (II)-COS, LLC*, 632 F.3d 168, 173 (5th Cir. 2011) (affirming

1 denial of plan confirmation where debtor offered evidence of voluntary donations and oral pledges,
2 not firm commitments); *In re Repurchase Corp.*, 332 B.R. 336, 343 (Bankr. N.D. Ill. 2005)
3 (uncorroborated testimony of contributing source for needed capital and prospective sharing
4 agreements was mere speculation and wishful thinking); *In re Made in Detroit, Inc.*, 299 B.R. 170,
5 180 (Bankr. E.D. Mich. 2003) (denying confirmation where proposed financing was based on
6 contingencies, at best conditional, and thus, not feasible); *In re Atrium High Point Ltd. P'ship*, 189
7 B.R. 599, 610 (Bankr. M.D.N.C. 1995) (debtor's plan to obtain refinancing was speculative where
8 industry standard was to refinance 75%-80% of the value of the property, which amount would be
9 insufficient to meet plan obligations); *In re Haardt*, 65 B.R. 697, 702 (Bankr. E.D. Penn. 1986)
10 (finding no reasonable chance of refinancing where debtor offered no credible evidence as to why it
11 had been unable to obtain refinancing during the two years since filing bankruptcy, no evidence as to
12 the value of the properties, and no evidence as to its general financial situation and prospects).

13 **At the confirmation hearing, counsel should be prepared to address the court's concerns with**
14 **admissible evidence that demonstrates** Debtor's Third Amended Plan of Reorganization, Dkt. No.
15 870, satisfies 11 U.S.C. § 1129(a)(11), that is, **that "[c]onfirmation of the plan is not likely to be**
16 **followed by the liquidation, or the need for further financial reorganization, of the debtor or any**
17 **successor to the debtor** under the plan, unless such liquidation or reorganization is proposed in the
18 plan." 11 U.S.C. § 1129(a)(11).

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20 **IT IS SO ORDERED.**
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