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8 UNITED STATES BANKRUPTCY COURT  
9 DISTRICT OF NEVADA

10 In re:	)	Case no: BK-N-10-54013-GWZ
	)	Jointly Administered Chapter 11's
11 <b>HI-FIVE ENTERPRISES, LLC</b> , a	)	
Cal. limited liability company,	)	
12 <b>SOUTH LAKE STREET, LLC</b> , a	)	<b>US TRUSTEE'S MOTION TO CONVERT</b>
Nevada limited liability co., and	)	<b>CASES TO CHAPTER 7'S</b>
13 <b>WILD GAME NG, LLC</b> , a	)	
Nevada limited liability co. d/b/a	)	
14 The Siena Hotel Spa & Casino,	)	Hearing Date: February 8, 2011
	)	Hearing Time: 2:00 p.m.
15 Debtors.	)	Est. Time Req.: 10 min.

16 THE ACTING UNITED STATES TRUSTEE ("US Trustee"), hereby moves to convert  
17 these cases to chapter 7 cases, for cause, including without limitation the Debtors'  
18 continuing failure to meet the responsibilities of a chapter 11 debtor, including filing  
19 accurate schedules and statements, and filing monthly operating reports and to attend the  
20 continued 341 Meeting. 11 U.S.C. § 1112(b)(4).

21 This Motion is made pursuant to 28 U.S.C. § 586(a)(7) and (8) and 11 U.S.C. §  
22 1112(b)(4), the following points and authorities, all pleadings and papers on file herein and  
23 any argument to be presented at the hearing on this matter.

24 **POINTS AND AUTHORITIES**

25 **Relevant Facts:**

26 1. The cases were filed as voluntary chapter 11's on July 21, 2010. Docket # 3.  
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28

1 2. Although the Debtors filed schedules and statements, they are not accurate  
2 and need amendment, by the Debtors' own admissions.

3 3. Although the Debtors attended the 341 Meeting in Oakland, CA, it was  
4 continued and has been continued several times because the Debtors have not  
5 appeared. Docket #'s 2, 35, 82, 130, 131, 132, 184, 218, and 220.

6 4. The Debtors have not timely filed monthly operating reports ("MOR's"):  
7 August 2010, last MOR for Wild Game Ng, LLC; no MOR's for Hi-Five Enterprises, LLC  
8 or One South Lake Street, LLC.

9 5. Quarterly fees are past due for the Debtors.

10 **Authorities:**

11 The US Trustee, pursuant to the provisions of 28 U.S.C. § 586(a)(7) and (8),  
12 shall apply promptly upon finding material grounds for any relief under Section 1112.

13 The Bankruptcy Code at 11 U.S.C. § 1112(b) provides that, absent a showing of  
14 unusual circumstances, the Court shall convert or dismiss a case when "cause" has  
15 been shown. Section 1112(b)(4) provides that "cause" for dismissal of a case  
16 "includes—

17 (A) substantial or continuing loss to or diminution of the estate and the absence  
18 of a reasonable likelihood of rehabilitation; ...

19 (F) unexcused failure to satisfy timely any filing or reporting requirement  
20 established by this title or by any rule applicable to a case under this chapter;

21 (G) failure to attend the meeting of creditors ... without good cause shown by the  
22 debtor; [and]

23 (H) failure timely to provide information or attend meetings reasonably requested  
24 by the United States trustee."

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1 **Application of Relevant Facts To Authorities**

2 These cases have been pending since July 21, 2010, over six months and the  
3 341 meetings have not been concluded because the Debtors have not appeared for the  
4 repeatedly continued hearings. Docket #'s 2, 35, 82, 130, 131, 132, 184, 218, and 220.  
5 Local claimants have appeared repeatedly to question the Debtors.

6 Therefore, cause exists to convert these cases for the Debtors' failures to appear  
7 at the 341 Hearings. 11 U.S.C. § 1112(b)(4)(G).

8 The Debtors' operating business has been sold and the proceeds do not appear  
9 to meet the substantial secured claims and administrative priority claims. It appears  
10 that these cases are administratively insolvent. Therefore, cause exists to convert  
11 these cases for continuing loss to the estate and the absence of a reasonable likelihood  
12 of rehabilitation. 11 U.S.C. §1112(b)(4)(A). A Chapter 7 trustee is necessary to  
13 complete the cases and distribute the sales proceeds from the sale of unencumbered  
14 assets.

15 Pursuant to Section 521, the Debtors are required to make numerous filings of  
16 lists, forms, schedules and statements. Although the Debtors filed schedules and  
17 statements, they are not accurate and need amendment, by the Debtors' own  
18 admissions. See, Docket #74.

19 Pursuant to Section 704(a)(8) of the Bankruptcy Code, made applicable herein  
20 pursuant to 11 U.S.C. Sections 1107(a) and 1106(a)(1), and FRBP 2015, a debtor is  
21 required to file monthly operating reports with the Court. In addition, pursuant to  
22 Section 4.5 of the United States Trustee Program Guidelines, a debtor is required to  
23 provide the US Trustee with monthly operating reports no later than the twentieth day  
24 following the end of each calendar month for every calendar month or partial month  
25 following the commencement of the case until a plan of reorganization is confirmed or  
26 the case is dismissed or converted.

1 The Debtors have not filed the MOR's.

2 Therefore, cause exists to convert these cases for the Debtors' unexcused  
3 failure to satisfy timely any filing or reporting requirement. 11 U.S.C. § 1112(b)(4)(F).

4 **CONCLUSION**

5 Wherefore, the US Trustee moves for conversion of these cases pursuant to 11  
6 U.S.C. § 1112(b)(4), and for such other and further relief as is appropriate.

7 DATED this 11<sup>th</sup> day of January, 2011.

8 Respectfully submitted,

9 Nicholas Strozza  
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11 William B. Cossitt  
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15 (775) 784-5335

16 **/s/ WILLIAM B. COSSITT**

17 \_\_\_\_\_  
18 Attorneys for Acting United States  
19 Trustee  
20 August B. Landis

**CERTIFICATE OF SERVICE**

1. On January 11, 2011 I served the foregoing US Trustee's Motion To Convert

2. I served the above-named document(s) by the following means to the persons as listed below:

**a. ECF System** (attach Notice of Electronic Filing or list of persons & addresses):

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**b. U.S. Mail, postage fully prepaid** (list persons and addresses):

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**I declare under penalty of perjury that the foregoing is true and correct.**

Signed: January 11, 2010.

**/s/ Robbin Little** \_\_\_\_\_  
ROBBIN LITTLE