

In re: FIFTH TASTE CONCEPTS LAS OLAS, LLC, d/b/a THE BRASSERIE, Debtor.

CASE NO.: 04-26622-BKC-PGH

The Landlord of real property leased by the Debtor did not object to the Debtor's Motion to Assume Lease, but did object to the Debtor's attempt to assume the Lease with the option to renew contained within the Lease remaining in force. The Debtor had previous defaults under the Lease, and the Debtor's ability to exercise the option provision was contingent on an absence of defaults. The Court held that the policies of the Bankruptcy Code and 11 U.S.C. § 365 favoring reorganization allowed the Debtor to assume the Lease with the option provision still in force. The Court conditioned the Debtor's ability to exercise the option upon the Debtor's assuming the Lease and then curing its prepetition defaults.