

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

CCHG Liquidation Co.,

Debtor

CHAPTER 11

Case No. 12-01220

Substantively Consolidated

CCHG Liquidation Co.,

Movant,

v.

Contested Matter

**Worthington Hyde Partners-II, LP, - Claim Nos.
1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202
and 1203**

Respondent

**AMENDED OBJECTION TO THE ALLOWANCE OF CLAIM NOS. 1195, 1196, 1197,
1198, 1199, 1200, 1201, 1202 AND 1203 FILED BY WORTHINGTON HYDE PARTNERS-
II, LP**

COMES NOW CCHG Liquidation Co., the above-captioned substantively consolidated debtor (the “Debtor”), and hereby objects (this “Objection”) to the allowance of claims filed by Worthington Hyde Partners-II, LP (“Worthington”) in the chapter 11 cases of The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors.¹ In support of this Objection, the Debtor shows the Court as follows:

¹ The debtors (now substantively consolidated as the single Debtor), followed by the last four digits of their respective taxpayer identification numbers and chapter 11 case numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. n/k/a CCHG Liquidation Co. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC n/k/a CCHG Liquidation Co. II, LLC (2842) (12-01225);

(footnote continued on next page)

I. Relief Requested

1. By this Objection, the Debtor respectfully requests the entry of an order, pursuant to Section 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007, disallowing claims filed by Worthington.

II. Jurisdiction

2. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. Venue of this proceeding is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

III. Background

3. On February 28, 2012 (the "Petition Date"), The Cliffs Club & Hospitality Group, Inc. and its above-shown affiliated debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

4. On March 12, 2012, the United States Trustee appointed the Official Committee of Unsecured Creditors (the "Committee") pursuant to that certain Fourth Amended Appointment of Committee of Unsecured Creditors [Docket Entry No. 141]. No trustee or examiner has been appointed.

(footnote continued from previous page)

The Cliffs at Keowee Vineyards Golf & Country Club, LLC n/k/a CCHG Liquidation Co. III, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC n/k/a CCHG Liquidation Co. IV, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC n/k/a CCHG Liquidation Co. V, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC n/k/a CCHG Liquidation Co. VI, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC n/k/a CCHG Liquidation Co. VII, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC n/k/a CCHG Liquidation Co. VIII, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC n/k/a CCHG Liquidation Co. IX, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC n/k/a CCHG Liquidation Co. X, LLC (9665) (12-01237).

5. On April 10, 2012, the Court established May 31, 2012 (the “Claims Bar Date”) as the deadline for non-governmental-entity creditors wishing to assert pre-petition claims against the debtors to file their proofs of claim with BMC Group, Inc., the claims and noticing agent (the “Claims Agent”) [Docket Entry No. 278].

6. On or about May 31, 2012, Worthington filed nine (9) functionally identical unsecured non-priority claims against the Debtors, each in the amount of \$2,962,500.00. The claims were assigned as claim numbers 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202 and 1203 by the Claims Agent (collectively, the “Worthington Claims”). Worthington claims that, with respect to 237 parcels of real property it owns, it is entitled to a 25% discount on the membership initiation price in the debtors’ golf and country clubs with respect to each parcel, pursuant to an agreement enclosed with the Worthington Claims. Worthington calculates its \$2,962,500.00 claim on the basis of 237 parcels multiplied by 25% of \$50,000 (the current price of a full golf membership in the debtors’ clubs) -- *i.e.*, $237 * \$12,500 = \$2,962,500.00$.

7. On July 2, 2012, the debtors filed their First Amended and Restated Joint Chapter 11 Plan filed by the Debtors and the Plan Sponsor dated June 30, 2012, as amended [Docket Entry No. 616, Ex. A] (the “Plan”) and the First Amended and Restated Disclosure Statement to Accompany the First Amended and Restated Joint Chapter 11 Plan filed by the Debtors and the Plan Sponsor [Docket Entry No. 480] (the “Disclosure Statement”).

8. On August 17, 2012, this Court entered that certain Order Confirming First Amended and Restated Joint Chapter 11 Plan filed by the Debtors and the Plan Sponsor (the “Confirmation Order”).

9. On August 31, 2012, the debtors filed that certain Notice of Occurrence of Effective Date of Chapter 11 Plan; Limitation of Notice; and Related Matters, reflecting that the Effective Date of the Plan occurred on August 23, 2012.

10. On October 1, 2012, this Court entered that certain Order Pursuant To Confirmed Plan Amending Case Dockets To Reflect Amended Corporate Names Of Debtors And Closing Substantively Consolidated Cases.

11. The Debtor has the authority to pursue claims litigation with respect to claims filed in the debtors' bankruptcy cases. The Debtor has reviewed proofs of claim filed in the debtors' bankruptcy cases. This Objection is the result of the Debtor's review.

IV. Basis for Relief Requested

12. First, claim numbers 1196, 1197, 1198, 1199, 1200, 1201, 1202 and 1203 are duplicative of claim number 1195. The duplicative claims are unenforceable against the debtors, and should be disallowed, particularly in light of the fact that the debtors have been substantively consolidated into the single Debtor in accordance with the confirmed Plan. Unless the claims that duplicate claim number 1195 are disallowed, Worthington may receive a larger recovery than that to which it is entitled.

13. Second, the documents and materials submitted with the Worthington Claims reflect that none of the debtors is liable to Worthington with respect to the asserted claims, and that, at best, third party non-debtor entities may be liable to Worthington. The books and records of the debtors do not reflect any such obligation owing to Worthington; in fact, the debtors' schedules reflect that the debtors dispute any claims that Worthington may assert against the debtors. Specifically, the Debtor submits the agreement enclosed with the Worthington Claims

(the Agreement Regarding Memberships, the “Worthington Agreement”) as evidence to rebut the prima facie validity of the Worthington Claims. None of the debtors was a party to the Worthington Agreement. (Worthington Agreement, p. 1). Instead, the debtors merely indicated their consent and agreement to the terms and provisions of the Worthington Agreement. (*Id.*, pp. 5-7). The Debtor disputes the enforceability of any such consent or agreement by the debtors to any obligations sought to be imposed upon them by such a third party agreement between Worthington and non-debtor entities. Accordingly, the Worthington Claims are unenforceable against the debtors, and should be disallowed. Unless the Worthington Claims are disallowed, Worthington may receive a larger recovery than that to which it is entitled.

14. Third, the documents and materials submitted with the Worthington Claims reflect that Worthington is not entitled to its asserted claim by the very terms of the Worthington Agreement. The clear and unambiguous provisions of the Worthington Agreement require that Worthington foreclose on the subject property in order for any membership discount rights to arise. (*Id.*, pp. 1-2, ¶ 2). Worthington has not foreclosed on the subject property; instead, Worthington purchased the subject property from Keowee Falls Investment Group, LLC pursuant to an Order of this Court under Section 363 of the Bankruptcy Code. (*In re: Keowee Falls Investment Group, LLC*, Chapter 11 Case No. 12-01399, United States Bankruptcy Court for the District of South Carolina, Docket Entry No. 122-2). Worthington cannot foreclose on property that it now owns; therefore, it is impossible for Worthington to satisfy a necessary condition precedent to trigger any rights to the membership discounts on which its claim is based. Moreover, even if Worthington could establish that it has foreclosed, or could foreclose, on the subject property, Worthington does not possess the right to assert any claim based on such membership discounts. The clear and unambiguous terms of the Worthington Agreement

provide that purchasers of parcels of the subject property from Worthington (or from an affiliate of Worthington) would have the right to the membership discount. (Worthington Agreement, p. 1, ¶ 2). The Worthington Agreement simply provides no basis for Worthington to assert a right to any membership discount for its own benefit. Any such right, if it existed (which the Debtor contests), would belong entirely to a purchaser of a parcel, and not Worthington. Accordingly, the Worthington Claims are unenforceable, and should be disallowed. Unless the Worthington Claims are disallowed, Worthington may receive a larger recovery than that to which it is entitled.

15. Fourth, the documents and materials submitted with the Worthington Claims reflect that the claims are entirely speculative, contingent, and improperly calculated. Worthington asserts that it is entitled to a claim of \$2,962,500.00 based on the following speculative and contingent presumptions: (i) that it will sell all of the subject 237 parcels of real property; (ii) that every one of the purchasers of such property would have elected to join the debtors' clubs as full golfing members; and (iii) that the price of full golf memberships in the debtors' clubs will remain at \$50,000.00 per membership. Worthington cannot demonstrate that even one of those presumptions is valid, has not provided any reliable timeframe in which it might be able to sell the subject parcels, and has not discounted its claim to present value with respect to any such timeframe of future sales.

16. Finally, to the extent that claim number 1195 is allowed in any amount, then claim number 1195 should be allowed as a Class 7 claim under the Plan. Class 7 of the Plan governs the treatment of a "Club Member Claim," which includes "any Claim of whatever nature held by any other person with respect to a discounted or free membership in any of the Clubs or access to any of the Clubs." (Plan, Art. I, Sec. 1.01). Worthington's claim with respect to a

discounted membership in any of the clubs is directly contemplated by the Plan's definition of a "Club Member Claim," which claim is a Class 7 claim under the Plan, the treatment of which is governed by the Plan.

V. Reservation of Rights

17. The Debtor reserves the right to supplement this Objection and to subsequently object to the Worthington Claims on any other appropriate ground, whether or not stated herein. In addition, the Debtor reserves the right to object to any and all other claims filed in the debtors' cases, and any other claims asserted by Worthington.

VI. Notice

18. Notice of this Objection has been provided to Worthington and each other party entitled to notice, as listed in the certificate of service filed in connection herewith. In light of the nature of the relief requested, the Debtor submits that no other or further notice is necessary.

WHEREFORE, the Debtor respectfully requests that this Court:

1. enter the proposed order attached hereto as Exhibit "A";
2. disallow the Worthington Claims; and
3. grant the Debtor such other and further relief as is just and proper.

This 4th day of February, 2013.

/s/ Däna Wilkinson
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EXHIBIT "A"

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

Case No. 12-01220

**ORDER APPROVING AMENDED OBJECTION
TO THE ALLOWANCE OF CLAIM NOS. 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202
AND 1203 FILED BY WORTHINGTON HYDE PARTNERS-II, LP**

The relief set forth on the following pages, for a total of 4 pages including this page, is hereby ORDERED.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

CCHG Liquidation Co.,

Debtor

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**ORDER APPROVING AMENDED OBJECTION
TO THE ALLOWANCE OF CLAIM NOS. 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202
AND 1203 FILED BY WORTHINGTON HYDE PARTNERS-II, LP**

Upon the Objection (Docket Entry # _____) (the "Objection") of CCHG Liquidation Co., the above-captioned substantively consolidated debtor (the "Debtor"), requesting the entry of an order disallowing claims filed by Worthington Hyde Partners-II, LP in the above-styled cases, the Court having jurisdiction to consider the Objection and the relief requested therein; a hearing having been held on _____, 2013 to consider the Objection; due notice of the Objection and hearing having been given to all parties entitled thereto, as listed in the certificate of service attached to the Objection and filed with the Court; it appearing that no other or further notice need be provided; no objections having been filed or asserted; the Court having

determined that the relief sought in the Objection is in the best interests of the Debtor's substantively consolidated bankruptcy estate, its creditors, and all parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED as follows:

1. The Objection is GRANTED.
2. Claim number 1195 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
3. Claim number 1196 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
4. Claim number 1197 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
5. Claim number 1198 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
6. Claim number 1199 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
7. Claim number 1200 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
8. Claim number 1201 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
9. Claim number 1202 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.
10. Claim number 1203 filed by Worthington Hyde Partners-II, LP in the above-styled cases is disallowed.

11. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

AND IT IS SO ORDERED.

PREPARED AND PRESENTED BY:

/s/ Däna Wilkinson
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