

**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**

**Keowee Falls Investment Group, LLC, - Claim  
Nos. 1254 and 1261**

**Respondent**

**DEBTOR'S RESPONSE IN OPPOSITION TO  
MOTION OF KEOWEE FALLS INVESTMENT GROUP, LLC FOR RELIEF FROM  
AN ORDER OF THIS COURT AND RECONSIDERATION OF ITS CLAIMS**

COMES NOW CCHG Liquidation Co., the above-captioned substantively consolidated debtor (the "Debtor"), and hereby responds (this "Response") in opposition to the motion [Docket Entry No. 1121] (the "Motion") filed by Keowee Falls Investment Group, LLC ("KFIG") seeking relief from an Order [Docket Entry No. 944] of this Court and reconsideration of KFIG's claims filed in the chapter 11 cases of The Cliffs Club & Hospitality

Group, Inc. and its affiliated debtors.<sup>1</sup> In support of this Response, the Debtor shows the Court as follows:

### **JURISDICTION AND VENUE**

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

### **FACTUAL BACKGROUND**

2. On February 28, 2012 (the “Petition Date”), the debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

3. 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 [Docket Entry No. 278].

4. On May 31, 2012, KFIG filed claim numbers 1254 and 1261 in the debtors' bankruptcy cases, asserting claims in the amount of \$450.00 and \$16,669,860.00, respectively (collectively, the “KFIG Claims”).

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<sup>1</sup> 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); 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 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”).

6. On July 12, 2012, the debtors filed that certain First Omnibus Objection to the Allowance of Claim Nos. 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262, 1263, 1268, 1270, 1271, 1272, 1273, and 1274 filed by Cliffs Development Company Affiliates (the “DevCo Claims Objection”), which included objections to the KFIG Claims [Docket Entry Nos. 528 and 532]. As set forth in the DevCo Claims Objection, the claims filed by non-debtor affiliates of the debtors based merely on accounting journal entries reflecting intercompany payables are not truly debt obligations of the debtors, but rather should be recharacterized as equity interests in the debtors. Accordingly, such obligations (including the KFIG Claims) are unenforceable as claims against the debtors.

7. KFIG has never filed a response to the objections to its claims; instead: (i) on July 16, 2012, KFIG filed a motion [Docket Entry No. 559] pursuant to Bankruptcy Rule 3018(a) (the “KFIG 3018 Motion”) requesting the entry of an order temporarily allowing the KFIG Claims for the purpose of allowing KFIG to vote on the Plan; and (ii) on August 1, 2012, KFIG filed an objection [Docket Entry No. 627] to confirmation of the Plan (the “KFIG Plan Confirmation Objection”).

8. In response, on August 3, 2012, the debtors filed: (i) a response in opposition to the KFIG 3018 Motion [Docket Entry No. 638]; and (ii) a response in opposition to the KFIG Plan Confirmation Objection [Docket Entry No. 639].

9. On August 6, 2012, this Court conducted a hearing on the confirmation of the Plan, at which counsel for KFIG presented arguments in support of the KFIG 3018 Motion and the KFIG Plan Confirmation Objection.

10. On August 9, 2012, this Court entered an Order [Docket Entry No. 664] denying the KFIG 3018 Motion.

11. On August 17, 2012, this Court entered an Order confirming the Plan, pursuant to which, among other things, this Court denied the KFIG Plan Confirmation Objection.

12. Following confirmation of the Plan, the Debtor and the Liquidation Trustee appointed pursuant to the Plan continued the efforts to analyze the claims filed in the debtors' bankruptcy cases, and to continue to prepare and serve all necessary claims objections in light of that analysis. KFIG is correct that this Court's Order denying the KFIG 3018 Motion stated, "This Order shall not operate as a grant or denial of the KFIG Claims Objections. All rights of KFIG, the Debtors, and any other party in interest regarding the ultimate allowance or disallowance of the KFIG Claims as debt claims against the Debtors, and the prosecution and defense of the KFIG Claims Objections, are expressly preserved." In accordance with that language, the Debtor continued the prosecution of the objections to the KFIG Claims. On February 4, 2013, the Debtor mailed to KFIG hard copies of the objections to the KFIG Claims, as well as a copy of that certain Notice Of Objections To Claims And Opportunity For Hearing [Docket Entry No. 783] (the "Notice of Opportunity For Hearing"). True and correct copies of the documents mailed to KFIG at its address listed on its claims is attached hereto as **Exhibit A**, as evidenced by the certificate of service [Docket Entry No. 783, pp. 11-2] (the "Certificate of Service") filed in connection with such service. A true and correct copy of the Certificate of Service is attached hereto as **Exhibit B**. In accordance with Local Rule 9013-4

and Rule 3007(a) of the Federal Rules of Bankruptcy Procedure, the Notice of Opportunity For Hearing afforded KFIG thirty (30) days to submit a response to the claims objections.

13. Additionally, on February 6, 2013, the Debtor mailed to Geoff Levy, Esq., counsel for KFIG, hard copies of the objections to the KFIG Claims, as well as a copy of the Notice of Opportunity For Hearing (the same documents attached hereto as **Exhibit A**), as evidenced by the Certificate of Service [Docket Entry No. 783, p. 13] attached hereto as **Exhibit B**. Additionally, Mr. Levy receives CM/ECF notification via e-mail of all filings in this case, including electronic copies of all such documents.

14. The Notice of Opportunity For Hearing that KFIG and Mr. Levy received stated that an objection had been filed to one or more claims of the recipient of the notice, and included bolded language in a large text box in the center of the front page that stated, "**YOU SHOULD CAREFULLY REVIEW EXHIBIT A TO THIS NOTICE TO LOCATE YOUR NAME AND CLAIMS LISTED THEREON.**" Exhibit A to the notice included an alphabetical listing of all claimants with claims subject to an objection, and listed the claim numbers subject to objection. "Keowee Falls Investment Group, LLC" and its corresponding claims numbered 1254 and 1261 were clearly listed in Exhibit A to the notice. The notice further included bolded language that there was an opportunity for a hearing on **April 23, 20:13 at 10:30 A.M.** in Columbia, South Carolina.

15. Neither KFIG nor its counsel deny receiving these documents; however, KFIG did not file any response to the objections to the KFIG Claims. Therefore, on March 28, 2013 (well after the expiration of the thirty (30) day response deadline), the Debtor filed a proposed order [Docket Entry No. 803] approving the DevCo Claims Objection, thereby disallowing the KFIG Claims, among others.

16. On April 2, 2013, this Court entered an Order [Docket Entry No. 944] approving the DevCo Claims Objection, thereby disallowing the KFIG Claims, among others.

17. Forty-one (41) days later, on May 13, 2013, KFIG filed its Motion seeking: (i) relief from this Court's Order disallowing the KFIG Claims, and (ii) reconsideration of the KFIG Claims. KFIG seeks such relief solely for itself, and does not seek relief on behalf of any other entity affected by the Order granting the DevCo Claims Objection.

**RELIEF REQUESTED**

18. KFIG's Motion should be denied, and this Court's Order granting the objections to the KFIG Claims should stand as a final Order of this Court. To this day, despite numerous opportunities and ample notice, KFIG has never filed a substantive response to the objections to the KFIG Claims. KFIG was provided a specific opportunity for a hearing on April 23, 2012. KFIG merely needed to file a substantive response to the objections to its claims, but KFIG failed to file any response at all, either through an affirmative choice or through inadvertence. Accordingly, this Court appropriately entered an Order disallowing the KFIG Claims, which Order is now a final Order of this Court. KFIG now asserts that it should be relieved of this Court's Order based on its (and its counsel's) inadvertence, surprise, or excusable neglect. For the reasons set forth below, the Debtor respectfully submits that KFIG cannot meet its considerable burden to show the exceptional circumstances required to prevail on its Motion; therefore, KFIG's Motion for relief from this Court's final Order should be denied.

**A. KFIG has not made, and cannot make, the showing of exceptional circumstances necessary for this Court to afford the extraordinary relief provided under Rule 60(b) relieving KFIG of a final Order of this Court.**

19. Rule 3008 of the Federal Rules of Bankruptcy Procedure provides, "A party in interest may move for reconsideration of an order ... disallowing a claim against the estate." Rule 9024 of the Federal Rules of Bankruptcy Procedure applies to motions filed pursuant to

Rule 3008.<sup>2</sup> Rule 9024 incorporates Rule 60(b) of the Federal Rules of Civil Procedure, which provides, in pertinent part, "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect ...." Rule 60(b), F.R.Civ.P.

20. The remedy provided by Rule 60(b) "is extraordinary and is only to be invoked upon a showing of exceptional circumstances." *Compton v. S.S. Alton Co., Inc.*, 608 F.2d 96, 102 (4<sup>th</sup> Cir. 1979). "To be eligible for relief under Rule 60(b), the movant must make a showing of timeliness, a meritorious defense, a lack of unfair prejudice to the opposing party, and exceptional circumstances." *Sloan v. Bertelsmann Music Grp., Inc.*, 7 F.3d 226, 1993 WL 359470 (4<sup>th</sup> Cir. 1993). "Once the movant has made such a showing, he must proceed to satisfy one or more of the rule's six grounds for relief from judgment, which include 'mistake, inadvertence, surprise, or excusable neglect.'" *Werner v. Carbo*, 731 F.2d 204, 207 (4<sup>th</sup> Cir. 1984).

21. As a threshold matter, KFIG wholly failed in its Motion to present any evidence or arguments regarding the initial requirements of timeliness, a meritorious defense, a lack of unfair prejudice to the Debtor, and exceptional circumstances. KFIG's Motion should be denied on that basis alone (see section A.iii. *infra.*), but the Debtor will first address the substantive arguments KFIG did make.

22. KFIG asserts two principal arguments in support of its Motion. First, KFIG incorrectly asserts that the language of this Court's Order denying the KFIG 3018 Motion provides an affirmative basis for KFIG to be granted a hearing on the objections to its claims,

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<sup>2</sup> Bankruptcy Rule 9023 also applies to motions under Rule 3008, but because KFIG filed its Motion forty one (41) days after entry of the subject Order, KFIG was ineligible to move under Rule 9023 (to alter or amend the Order) because a motion under Rule 9023 must be filed within fourteen (14) days after the entry of the subject order.

thereby excusing KFIG's failure to file a response to the claim objections. Motion, ¶ 11. Second, KFIG asserts that it should be excused from its failure to file a response to the claims objections by the applicable response deadline because KFIG incorrectly alleges that such notice was delivered to KFIG and its counsel "mixed in with dozens of other claims objections." Motion, ¶ 12. For the reasons set forth below, this Court should reject both of KFIG's arguments and deny the Motion.

- i. **This Court should deny KFIG's Motion because the language of the Order denying the KFIG 3018 Motion does not provide an affirmative basis for KFIG to be granted a hearing on the objections to its claims.**

23. The language of this Court's Order denying the KFIG 3018 Motion does not provide an affirmative basis for KFIG to be granted a hearing on the objections to its claims. KFIG cites to the following language from that Order in support of its argument: "This Order shall not operate as a grant or denial of the KFIG Claims Objections. All rights of KFIG, the Debtors, and any other party in interest regarding the ultimate allowance or disallowance of the KFIG Claims as debt claims against the Debtors, and the prosecution and defense of the KFIG Claims Objections, are expressly preserved." [Docket Entry No. 664, ¶ 3]. That language merely preserved all parties' rights regarding the prosecution and defense of the objections to the KFIG Claims. In accordance therewith, the Debtor continued the prosecution of the objections, and afforded KFIG and its counsel (via the Notice of Opportunity For Hearing) clear notice of: (i) a specific deadline to submit substantive responses to the objections; and (ii) an opportunity to have a hearing on the objections on April 23, 2013. Contrary to KFIG's argument, the Order denying the KFIG 3018 Motion simply did not contemplate affirmatively granting KFIG a hearing on the claims objections. Accordingly, KFIG cannot rely on the terms of that Order to excuse KFIG's failure to file responses to the objections to the KFIG



Claims by the response deadline established by the Notice of Opportunity For Hearing in accordance with Local Rule 9013-4 and Bankruptcy Rule 3007(a). Therefore, KFIG's first argument in support of its Motion should be rejected, and KFIG's Motion should be denied.

- ii. **This Court should deny KFIG's Motion because KFIG has wholly failed to present the exceptional circumstances necessary to excuse the failure of KFIG and its counsel to review and comply with the Notice of Opportunity For Hearing.**

24. Neither KFIG nor its counsel denies receiving the Notice of Opportunity For Hearing, but instead they claim that they failed to comply with the notice due to their inadvertence, surprise and excusable neglect on the basis that KFIG's "counsel was reasonably relying on receipt of a notice of hearing on its claims, not objections to its claims mixed in with dozens of other claim objections." Motion, ¶ 12-13. First, KFIG's counsel in fact received what he claims to have been looking for – a notice of an opportunity for a hearing on the objections to the KFIG Claims. Second, the notice that KFIG's counsel received was **not** “mixed in with dozens of other claim objections.” Therefore, KFIG's arguments have no merit, and should be rejected.

25. In early February 2013, both KFIG and its counsel received hard copies via mail of the documents attached hereto as **Exhibit A**, specifically: (i) the objections to the KFIG Claims; and (ii) the Notice of Opportunity For Hearing. While the Debtor in fact filed numerous other claims objections around the same time period, the Debtor only served KFIG and its counsel with hard copies of the documents relevant to the objections to the KFIG Claims. The Debtor did not serve KFIG and its counsel with hard copies of the numerous other claims objections filed by the Debtor. Rather, as is evidenced by the Certificate of Service attached hereto as **Exhibit B**, each claimant subject to a claim objection received only a copy of the objection to that claimant's specific claim(s), along with a copy of the Notice of Opportunity

For Hearing. While KFIG's counsel certainly received numerous e-mail notifications (through the Court's CM/ECF system) of the other claims objections filed by the Debtor, it is disingenuous for Mr. Levy to insinuate that the Debtor buried the Notice of Opportunity For Hearing in a mountain of paper served on him. That just is not the case – he received one piece of mail containing information directly relevant to his client's claims.

26. The Debtor acknowledges that KFIG shares a mailing address with the other parties subject to the DevCo Claims Objection, such that a representative of those parties at that address would have received several copies of the DevCo Claims Objection along with the Notice of Opportunity For Hearing. But that just means that such representative of those parties (and KFIG) received numerous copies of the Notice of Opportunity For Hearing, which was affixed to the top of each document served. Moreover, that is precisely the reason why the Debtor separately served Mr. Levy with a single piece of mail containing only the documents relevant to his client. (**Exhibit B**, Certificate of Service [Docket Entry No. 783, p. 13]). Hence, it is simply incorrect for KFIG to assert that its counsel received the relevant documents "mixed in with dozens of other claim objections." Accordingly, this Court should flatly reject KFIG's argument that it is entitled to relief under Rule 60(b) due to inadvertence, surprise and excusable neglect. KFIG has not presented, and cannot show, facts sufficient for such relief.

27. It is likely that, in a perhaps laudable attempt to reduce the economic burden on the KFIG bankruptcy estate, Mr. Levy chose not to review every CM/ECF notification he received relating to this case. While that may have been reasonable from an economic perspective, that decision does not provide a basis for excusable neglect when it results in missing a properly noticed response deadline. Even if this Court determines that it is excusable for Mr. Levy to have not reviewed the voluminous e-mail notifications, certainly it is not

excusable for him to have failed to review the one piece of mail that he received in February 2013 in connection with the objections to the KFIG Claims. It is unclear what else KFIG's counsel could reasonably have expected to receive in the way of a notice of a hearing.

28. On these facts, KFIG cannot meet its considerable burden under Rule 60(b) to demonstrate exceptional circumstances establishing that it is entitled to relief from this Court's Order based on inadvertence, surprise and excusable neglect. KFIG's basis for inadvertence, surprise and excusable neglect is that its attorney was overwhelmed by the volume of paperwork and e-mail notifications he received, such that he ignored or missed the notice of KFIG's opportunity for a hearing on the objections to the KFIG Claims. The Fourth Circuit has ruled that a movant's "attorney's errors do not qualify as excusable neglect." *Sloan*, 1993 WL 359470, \*1 (citing *Nemaizer v. Baker*, 793 F.2d 58, 62 (2d Cir. 1986)(internal citations omitted)). In *Sloan*, counsel failed to respond to a motion for summary judgment, and indicated that, similar to KFIG's counsel, he expected to receive a notice of hearing in connection with the motion. *Id.* After the court granted the summary judgment motion without a hearing, the affected party sought relief from the order pursuant to Rule 60(b), on the basis of counsel's error. *Id.* The Fourth Circuit affirmed the trial court's denial of the Rule 60(b) motion, citing to *Nemaizer* for the proposition that "[W]e have consistently declined to relieve a client under [Rule 60(b)(1)] of the 'burdens of a final judgment entered against him due to the mistake or omission of his attorney by reason of the latter's ignorance of the law or other rules of the court, or his inability to efficiently manage his caseload.'" *Id.* Here, it is undisputed that KFIG and its counsel actually received notice of the opportunity for a hearing. If the Fourth Circuit in *Sloan* reasoned that denial of the Rule 60(b) was appropriate when counsel expected to receive notice of a hearing, and received nothing, then certainly denial of the instant Motion is appropriate when

counsel expected to receive notice of a hearing, and actually received such notice, but just failed to comply with it.

29. The Fourth Circuit has further reasoned that “a lawyer’s ignorance or carelessness do not present cognizable grounds for relief under [Rule] 60(b).” *Evans v. United Life & Accident Ins. Co.*, 871 F.2d 466, 472 (4<sup>th</sup> Cir. 1989); *see also Robinson v. Wix Filtration Corp., LLC*, 599 F.3d 403, 413 (4<sup>th</sup> Cir. 2010) (“attorney inattentiveness toward the pending litigation is not excusable under Rule 60(b)” (citations omitted)). Even if KFIG’s counsel asserts that KFIG’s failure to respond was not due to his carelessness or inattentiveness, but instead due to an affirmative decision not to burden the KFIG estate by the costs of his reviewing voluminous e-mail notifications of filings in this case, the *Nemaizer* court instructs that “Mere dissatisfaction in hindsight with choices deliberately made by counsel is not grounds for finding the mistake, inadvertence, surprise or excusable neglect necessary to justify Rule 60(b)(1) relief.” 793 F.2d at 62. No matter the basis for KFIG’s failure to respond to the objections to its claims, KFIG’s Motion should be denied because KFIG has not, and cannot demonstrate the exceptional circumstances necessary for relief under Rule 60(b)(1).

**iii. This Court should deny KFIG's Motion because KFIG cannot show that it has a meritorious claim, and its Motion is unfairly prejudicial to the Debtor and its legitimate creditors.**

30. KFIG cannot make the necessary showing of either a “meritorious defense” or “lack of unfair prejudice,” both of which are threshold requirements for relief under Rule 60(b). First, KFIG does not have a legitimate claim against the debtors; therefore, ultimately there is no basis for the Court to allow the KFIG Claims on reconsideration. The Debtor hereby incorporates the DevCo Claims Objection and the response filed in opposition to the KFIG 3018 Motion. As is more fully set forth therein, courts (including the Fourth Circuit in *In re Dornier Aviation*, 453 F.3d 225, 233 (4<sup>th</sup> Cir. 2006)) apply an eleven factor test to determine

whether a particular obligation with respect to a debtor is a debt claim against the debtor or an equity interest in the debtor. Applying the facts of this case to that eleven factor test, it is clear that the KFIG Claims should properly be recharacterized to equity interests in the debtors, which interests are not entitled to any distribution under the Plan. In fact, at the confirmation hearing conducted in this case on August 6, 2012, KFIG's counsel conceded that each of those factors has been satisfied in this case. His sole argument in support of KFIG having any claim against the debtors was an equitable argument, based on the totality of the circumstances, that it is unfair for KFIG's unsecured creditors to receive no distributions from the KFIG bankruptcy case while the debtors' unsecured creditors will receive some level of distributions in this case. That argument was insufficient to prevail on the KFIG 3018 Motion, and it is insufficient to prevail on any argument that KFIG is entitled to a claim against the debtors even on reconsideration. Rather, application of the eleven factor test used in *Dornier* clearly shows that KFIG has no legitimate claims against the debtors. Accordingly, this Court should find that KFIG has failed to establish the threshold requirement that it has a meritorious claim worthy of reconsideration, and therefore deny the Motion.

31. Second, this Court should deny KFIG's Motion because it is unfairly prejudicial to the debtors' legitimate creditors. As set forth in the Plan and Disclosure Statement, a discrete sum of money totaling \$2,861,601 will be distributed to holders of legitimate allowed Class 5 vendor claims against the debtors, net of the expenses of administration of such claims filed. As set forth in the Disclosure Statement, the debtors estimated that the total sum of legitimate pre-petition vendor claims owing by the debtors was approximately \$4 million. The assertion and continued prosecution of illegitimate claims against the debtors requires that the Debtor and the Liquidation Trustee incur costs to object to such claims. That cost is borne by the holders of

legitimate vendor claims against the debtors, by the reduction of their ultimate distribution from the estate. KFIG and its counsel are fully aware of the tenuous basis on which KFIG can assert any claim against the debtors. Accordingly, it seems that KFIG would rather subject the Debtor to the prospect of an expensive hearing (likely just in an effort to extract a settlement), than present any substantive response to the objections to its claims. The Debtor respectfully submits that, even though it is confident that it would prevail on the merits of its objections to the KFIG Claims, such a strategy by KFIG inevitably operates to the material detriment of the debtors' legitimate trade vendors. If KFIG is permitted to exercise this strategy (through the approval of its Motion), then the Debtor and the Liquidation Trustee will either decide to settle with KFIG to avoid litigation expense and/or risks, or more likely they will incur material litigation costs to continue the prosecution of the objections. Either way, the debtors' legitimate trade claimants will bear the cost through reduced distributions. The Debtor respectfully submits that this Court should not permit KFIG the opportunity to exercise such a strategy. This Court has entered a final Order on the objection to the KFIG Claims, on notice and opportunity for a hearing. To allow the reconsideration of that Order is unfairly prejudicial to the interests of the debtors' legitimate trade creditors. KFIG has presented no arguments to satisfy its burden to show a lack of unfair prejudice; therefore, KFIG's Motion should be denied.

32. The Debtor acknowledges that denying KFIG's Motion will result in the conclusive determination that KFIG has no claim in the debtors' bankruptcy cases, and that KFIG's creditors in its bankruptcy case will be affected by such determination. However, in light of the highly specious nature of KFIG's claims, the Debtor respectfully submits that this Court should balance any prejudice in favor of the debtors' creditors, and therefore deny KFIG's Motion on the basis that it is unfairly prejudicial to the debtors' legitimate trade creditors.

### **CONCLUSION**

33. The method employed by the Debtor to continue the prosecution of the objections to the KFIG Claims was perfectly appropriate. By the filing and service of the Notice of Opportunity For Hearing on February 4, 2013 and February 6, 2013, KFIG and its counsel were afforded a specific opportunity to respond to the objections to the KFIG Claims. KFIG failed to comply with the direct notice of an opportunity for a hearing, or otherwise respond in any way to the service of the objections and the Notice of Opportunity For Hearing, resulting in the entry of an Order denying the KFIG Claims.

34. KFIG has failed to present any evidence that facts exist to meet the stringent standards for relief under Rule 60(b) for inadvertence, surprise or excusable neglect. Accordingly, the Debtor respectfully submits that this Court should deny KFIG's Motion, thereby allowing this Court's Order [Docket Entry No. 944] to stand as a final Order of this Court.

35. At the very least, if this Court is inclined to grant KFIG relief from the Order disallowing its claims, and to provide KFIG the further opportunity to prove that it has a legitimate claim against the debtors, then the Debtor respectfully requests that this Court enter an order requiring that KFIG submit a substantive response to the objections to the KFIG Claims well prior to any hearing on the claims objections. In that event, the Debtor submits that the parties should meet and confer regarding an appropriate discovery and briefing schedule, and should present a proposed scheduling order and pre-trial order to the Court.

### **NOTICE**

36. Notice of this Response has been provided to KFIG, its counsel, 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 KFIG's Motion be denied, and that this Court grant such other and further relief as the Court may deem just and proper.

Dated: May 28, 2013

Respectfully submitted,

/s/ Däna Wilkinson

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**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

In re:

CCHG Liquidation Co.,

Debtor.

CHAPTER 11

Case No. 12-01220

Substantively Consolidated

**NOTICE OF OBJECTIONS TO CLAIMS AND OPPORTUNITY FOR HEARING**

PLEASE TAKE NOTICE that CCHG Liquidation Co., the above-captioned substantively consolidated debtor (the "Debtor"), has filed objections to certain claims asserted in the above-captioned case.<sup>1</sup> If your claim is listed on **Exhibit A** to this notice, then the Debtor has asserted an objection to one or more claims that you filed in the above-captioned case.

**YOU SHOULD CAREFULLY REVIEW EXHIBIT A TO  
THIS NOTICE TO LOCATE YOUR NAME AND  
CLAIM(S) LISTED THEREON.**

PLEASE TAKE FURTHER NOTICE that copies of the objections may be inspected in the offices of the Clerk of the Bankruptcy Court during normal business hours or downloaded from the Bankruptcy Court's website at <http://www.scb.uscourts.gov>. Please note that prior registration with the PACER Service Center and payment of a fee may be required to access such documents. Additionally, copies of the objections are available for free download via an unofficial version of the case docket accessible through the claims, noticing and balloting agent, BMC Group, Inc., at <http://www.bmcgroup.com/cliffs>. Requests for copies of the objections may also be made to undersigned counsel at the contact information shown below.

PLEASE TAKE FURTHER NOTICE that any response, return, and/or objection to the objections must be filed with the Court no later than **30 days** following the date of this notice.

PLEASE TAKE FURTHER NOTICE that no hearing will be held on the objections, except at the direction of the Judge, unless a response, return, and/or objection is timely filed and served, in which case the Court will conduct a hearing at **J. Bratton Davis United States**

<sup>1</sup> Certain of the objections were filed by The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors prior to the confirmation of the 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], pursuant to which the debtors were substantively consolidated. The substantively consolidated Debtor is continuing to pursue those objections.

**Bankruptcy Courthouse, 1100 Laurel Street, Columbia, South Carolina 29201-2423 on April 23, 2013 at 10:30 A.M.** No further notice of this hearing will be given.

Any party that has filed and served a response, return, and/or objection to any of the objections, and that fails to appear at the time and place above noticed to prosecute that response, return, and/or objection, may not have such response, return, or objection considered. If the party filing the document referred to above has not served the document as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, the filing party is hereby notified that, at the hearing above referenced, the Court may give notice of the possible imposition of sanctions against the filing party pursuant to Rule 9011 of the Federal Rules of Bankruptcy Procedure for failure to effect service.

**NOTICE IS HEREBY GIVEN** this 4th day of February, 2013.

Respectfully submitted,

/s/ Däna Wilkinson  
\_\_\_\_\_  
Däna Wilkinson  
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-and-

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\_\_\_\_\_  
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*Attorneys for the Debtor*

## **Exhibit A**

**CLAIMANTS RECEIVING THIS NOTICE SHOULD LOCATE THEIR NAMES AND CLAIMS LISTED BELOW**

<b>Claimant</b>	<b>Claim Number(s)</b>
932 S MAIN II LLC AKA GP & PHMP, LLC	1046, 1077
ACCURATE DRILLING AND BLASTING, INC.	520, 730
ADDINGTON, JEANIE	928
ARMSTRONG, JEFF	725, 727
ARMSTRONG, JEFFREY	726
ATLAS ENVIRONMENTAL, INC.	1361
BAUMGARDT, JAMES R	393
CAPSTONE FILTER SERVICES, LLC	899
CARL R & CAROLYN S RENFRO REVOCABLE LIVING TRUST	1032
CARLILE JT WROS, STEVE & PENNY	1169
CARLILE JT WROS, STEVE B & PENNY	1163, 1164, 1168
CARLILE, STEVE B & PENNY	1165, 1166, 1167, 1170, 1171, 1172
CARLTON, JONATHAN SCOTT	1222
CASAMENTO, SAM	635
CASTELLANOS, ELIAS	683, 684
CHARLES T MEYER III (REV TRUST)	243
CIGNA HEALTH AND LIFE INSURANCE COMPANY	559
CLAGGET, EDWARD R	645
CLIFFS MANAGEMENT SERVICES, LLC	1268, 1274
COX, GEORGE D. AND BETTY H.	714, 715
CRAWFORD, JEFFREY AND GUILLERMO RODRIGUEZ	1304, 1305
CROSSROADS ENVIRONMENTAL, LLC	544
CURRIE, ROSS	1161, 1162
DEJIACOMO, DAN	1115
DUTT, ASHOKE	1284
E&S SOIL AND PEAT INDUSTRIES, INC.	8
EMEDIA GROUP, INC.	261, 262
ENDRY, JOSEPH M	665, 692
ENIGMA CORPORATION	1047, 1076
ENVIRONMENTAL LEASING, INC.	1273
FLETCHER, DONALD	585
FRANCIS, WILLIAM	908
FRANCIS, WILLIAM R	1223
FREEMAN, JAMES W & JEAN P	1114
FRIEDMAN FAMILY PARTNERSHIP, LLP, THE	833, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882
FRUCHTER, MARC A & SAUNDRA D	549

GE CAPITAL INFORMATION TECHNOLOGY SOLUTIONS INC. D/B/A IKON FINANCIAL SERVICES	552
GEORGIA BRIDGE & DOCK, INC.	913
GOLDY, SUSAN E	799, 800
GRANT, CHUCK	1084
GUERRIERI, DR. JAMES & CARLA	837
HAMER, DOUGLAS W	924, 1350
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HAMMOND, WILLIAM STEWART & JULIE ANNE	92
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HAWKINS NURSERY, INC.	604
HEADLEY, RICHARD	1328
HOCKEMEIER, CURT	660
HODGES III, GENOUS S	594
HOFFMAN, DAVID	606
HOLMAN, EDWIN	354
HUNTER, MICHAEL KELLY	829
IMPERIAL IPFS	753
JONES, WILLIAM B	551
JORDAN, ROBERT B	798
KEOWEE FALLS INVESTMENT GROUP, LLC	1254, 1261
KEOWEE INVESTMENT GROUP, LLC	1252
KRUEGER, ANDREW AND HILARY	696
KUCHARIK, JOHN M & GAIL M	101, 102
LABASTIDE MANAGEMENT GROUP, LLC	1253, 1270, 1271
LAPELLA, MICHAEL	702
LBI US, LLC	677
LIPOMI, LOUIS	902
LOGAN, A SCOTT	1227
LUNN, ROB	741
LUNN, ROBERT AND NORMA	740
MACKEY OLIVER, CONSTANCE C	113
MARTINEZ, RAFAEL & JEANNE	94
MAUGERI, RONALD & THESESA	861
MEDALIST GOLF, INC.	762
MILLER, MERION ZOE	127, 294
MINTON, GARY L	31, 177
MOLENKAMP, JACK	900
MORRISS, THOMAS W	1158, 1159
NEWLIFE TURF, INC.	1156
NORTON, WILLIAM D & NANCY H	722
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PORTER, PATRICIA A AND ROBERT P	248
POWELL, H ROBERT	709
PRAGADA, ROBERT	1039, 1040, 1041
RADEKEVICH, SALLY A & ROMAN M	363
RALSTON, NANCY K	643
RATHGEBER, DAVID K	958
REID, STEPHEN	1292
RODGERS, PETER J and BARBARA R WATKINS	816
RODRIGUEZ, GUILLERMO AND JEFFREY CRAWFORD	1304, 1305
RUCKER, CRAIG	278
SCHMALTZ, JOSEPH MARTIN & ANNE V	110, 111
SCHNEIDER, ROBERT A.	834, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892
SCHWARTZ, DONALD	1149
SECOR JR, JTWROS, ALLEN F & JANET H	10
SHANLEY, BEN AND JO ANN	996
SHAW, WILLIAM A & FLONNIE B	44, 51, 53, 97
SHERRILL, ALAN AND JANA	1028, 1029
SKAWINSKI, STANLEY E	4
SKELTON, BRADLEY ALLAN	368
STEPHEN P GRAYSON, A PROFESSIONAL CORPORATION	849
STORM, ALAN L & DARY M	1311
STORZ, CAROL	823
STORZ, LOUIS F & CAROL L	822
STRAUS FAMILY LIMITED PARTNERSHIP	1151
THE CLIFFS AT GLASSY, INC. (VALLEY)	1251, 1272
THE CLIFFS AT KEOWEE SPRINGS, LLC	1255, 1263
THE CLIFFS AT MOUNTAIN PARK, LLC	1258, 1262
THE CLIFFS AT WALNUT COVE, LLC	1259
THOMASON, MARVIN	640
THOMPkins, SANDRA P	126
TOWE, MARK	831, 832
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UPSTATE MORTGAGE	1204
VAUGHN, FLOYD	590
WATKINS, BARBARA R and PETER J RODGERS	816
WEST HAVEN PROPERTIES, LLC	1000
WILLIAMS MD, JACK OWEN	219
WILSON, GREGORY	543
WILSON, GREGORY M & LAURA L	542
WORTHINGTON HYDE PARTNERS-II, LP	1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203
WYCHE PROFESSIONAL ASSOCIATION	907, 1383
ZEBEK, RONALD	291, 292

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The  
Cliffs Golf & Country Club,

Debtors

The Cliffs Club & Hospitality Group, Inc., *et al.*, d/b/a The  
Cliffs Golf & Country Club,

Movant,

v.

The Cliffs at Glassy Inc. (Valley) - Claim No. 1251;  
Keowee Investment Group, LLC - Claim No. 1252;  
LaBastide Management Group, LLC - Claim No. 1253;  
Keowee Falls Investment Group, LLC - Claim No. 1254;  
The Cliffs at Keowee Springs, LLC - Claim No. 1255;  
The Cliffs at Mountain Park, LLC - Claim No. 1258;  
The Cliffs at Mountain Park, LLC - Claim No. 1259;  
Keowee Falls Investment Group, LLC - Claim No. 1261;  
The Cliffs at Mountain Park, LLC - Claim No. 1262;  
The Cliffs at Keowee Springs, LLC - Claim No. 1263;  
Cliffs Management Services, LLC - Claim No. 1268;  
LaBastide Management Group, LLC - Claim No. 1270;  
LaBastide Management Group, LLC - Claim No. 1271;  
The Cliffs at Glassy Inc. (Valley) - Claim No. 1272;  
Environmental Leasing, LLC - Claim No. 1273; and  
Cliffs Management Services, LLC - Claim No. 1274;

Respondents

CHAPTER 11

Case No. 12-01220

Jointly Administered

Contested Matter

<sup>1</sup> The Debtors, 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. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC (2842) (12-01225); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC (9665) (12-01237).



**DEBTORS' FIRST OMNIBUS OBJECTION TO THE ALLOWANCE OF CLAIM NOS. 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262, 1263, 1268, 1270, 1271, 1272, 1273, AND 1274 FILED BY CLIFFS DEVELOPMENT COMPANY AFFILIATES**

COME NOW The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors-in-possession (the "Debtors") and hereby file an omnibus objection (the "Objection") to the allowance of the claims filed by The Cliffs at Glassy Inc. (Valley) - Claim No. 1251; Keowee Investment Group, LLC - Claim No. 1252; LaBastide Management Group, LLC - Claim No. 1253; Keowee Falls Investment Group, LLC - Claim No. 1254; The Cliffs at Keowee Springs, LLC - Claim No. 1255; The Cliffs at Mountain Park, LLC - Claim No. 1258; The Cliffs at Mountain Park, LLC - Claim No. 1259; Keowee Falls Investment Group, LLC - Claim No. 1261; The Cliffs at Mountain Park, LLC - Claim No. 1262; The Cliffs at Keowee Springs, LLC - Claim No. 1263; Cliffs Management Services, LLC - Claim No. 1268; LaBastide Management Group, LLC - Claim No. 1270; LaBastide Management Group, LLC - Claim No. 1271; The Cliffs at Glassy Inc. (Valley) - Claim No. 1272; Environmental Leasing, LLC - Claim No. 1273; and Cliffs Management Services, LLC - Claim No. 1274 (collectively, the "Cliffs Development Company Affiliates"). In support of this Objection, the Debtors show the Court as follows:

**I. Relief Requested**

1. By this Objection, the Debtors respectfully request the entry of an order, pursuant to Section 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007, disallowing the claims filed by the Cliffs Development Company Affiliates in the above-styled case.

## **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 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”) in these Chapter 11 cases pursuant to that certain Fourth Amended Appointment of Committee of Unsecured Creditors [Docket Entry No. 141]. No trustee or examiner has been appointed in these Chapter 11 cases.

5. The Debtors are authorized to operate their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

6. 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 Debtors’ claims and noticing agent [Docket Entry No. 278].

7. On May 31, 2012, the Cliffs Development Company Affiliates filed unsecured claims against the Debtors as follows (collectively, the “Cliffs Development Company Affiliates Claims”):

<b>Claim Number</b>	<b>Name of Cliffs Development Company Affiliate</b>	<b>Name of Debtor</b>	<b>Proof of Claim Amount</b>
1251	The Cliffs at Glassy, Inc. (Valley)	The Cliffs at Mountain Park Golf & Country Club, LLC	\$35,000.00
1252	Keowee Investment Group, LLC	The Cliffs at Keowee Vineyards Golf & Country Club, LLC	\$12,780,399.00
1253	LaBastide Management Group, LLC	The Cliffs at Keowee Vineyards Golf & Country Club	\$98,089.00
1254	Keowee Falls Investment Group, LLC	The Cliffs at Keowee Vineyards Golf & Country Club	\$450.00
1255	The Cliffs at Keowee Springs, LLC	The Cliffs at Keowee Vineyards Golf & Country Club	\$1,247.00
1258	The Cliffs at Mountain Park, LLC	The Cliffs at Walnut Cove Golf & Country Club, LLC	\$50,000.00
1259	The Cliffs at Mountain Park, LLC	The Cliffs at Walnut Cove Golf & Country Club, LLC	\$15,704,833.00
1261	Keowee Falls Investment Group, LLC	The Cliffs at Keowee Falls Golf & Country Club, LLC	\$16,669,860.00
1262	The Cliffs at Mountain Park, LLC	The Cliffs at Keowee Falls Golf & Country Club	\$517,812.00
1263	The Cliffs at Keowee Springs, LLC	The Cliffs at Keowee Falls Golf & Country Club	\$80.48
1268	Cliffs Management Services, LLC	The Cliffs at Keowee Springs Golf & Country Club, LLC	\$8,887,017.00
1270	LaBastide Management Group, LLC	The Cliffs at Glassy Golf & Country Club, LLC	\$855,693.00
1271	LaBastide Management Group, LLC	The Cliffs Valley Golf & Country Club, LLC	\$75,635.00
1272	The Cliffs at Glassy, Inc. (Valley)	The Cliffs Valley Golf & Country Club, LLC	\$86,617.00
1273	Environmental Leasing,	Cliffs Club & Hospitality	\$778.00

	Inc.	Service Company, LLC	
1274	Cliffs Management Services, LLC	Cliffs Club & Hospitality Service Company, LLC	<u>\$38,916,334.00</u>
		<b>Total</b>	<b>\$94,679,844.48</b>

8. The Debtors have reviewed the proofs of claim filed by the Cliffs Development Company Affiliates in these cases and their books and records, including without limitation the Cliffs Communities, Inc. 2012 Consolidated Trial Balance showing intercompany balances among the DevCos and the ClubCos (as defined below) as of February 29, 2012. This Objection is the result of the Debtors' review.

#### IV. Basis for Relief Requested

9. The books and records of the Debtors indicate that the Cliffs Development Company Affiliates Claims are not truly debt obligations. None of them are evidenced by any debt instruments. At most, they are reflected by accounting journal entries as intercompany payables. Accordingly, the claims are unenforceable against the Debtors, and should be disallowed or recharacterized as equity in the Debtors. Unless the Cliffs Development Company Affiliates Claims are disallowed as general unsecured claims and recharacterized as equity interests in the Debtors, these affiliates of the Debtors will receive a larger recovery than that to which they should be entitled.

10. Each of the Debtors is owned, directly or indirectly, by Cliffs Communities, Inc. ("CCI"). CCI has other subsidiaries and affiliates that on the Petition Date were dedicated to the development and sale of residential real estate, unimproved company lots and finished homes at a number of Cliffs communities. CCI and these non-debtor affiliates of the Debtors are generally referred to as "DevCos" while the Debtors are generally referred to as "ClubCos." Each of the

Cliffs Development Company Affiliates is a DevCo. As of the Petition Date, CCI was a subchapter S corporation and substantially all of its subsidiaries are disregarded entities for corporate tax purposes. James B. Anthony owns 79.12% of the equity of CCI.

11. The Debtors' books and records when presented on a consolidated basis net intercompany payables between the ClubCos and the DevCos and show a balance due by the DevCos and James B. Anthony to the ClubCos of **\$42,234,326.04**. When presented on an unconsolidated basis, the ClubCos intercompany payables journal indicates a ClubCo balance to the DevCos totaling \$94,679,844.48 and a balance from James B. Anthony and the DevCos to the ClubCos totaling \$136,914,170.52. The Cliffs Development Company Affiliates balance owed to the Debtors is composed of the following entries:

<b>Name of Debtor</b>	<b>Name of Cliffs Development Company Affiliate</b>	<b>Intercompany Balance Owing to Debtor</b>
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs Management Service Co.	\$15,367,523.69
The Cliffs at Valley Golf & Country Club, LLC	Cliffs Management Service Co.	\$13,439,087.35
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs Management Service Co.	\$25,336,881.26
The Cliffs at Keowee Falls Golf & Country Club, LLC	Cliffs Management Service Co.	\$9,591,193.31
The Cliffs at Walnut Cove Golf & Country Club, LLC	Cliffs Management Service Co.	\$16,483,104.26
The Cliffs at Mountain Park Golf & Country Club, LLC	Cliffs Management Service Co.	\$7,292,597.54
The Cliffs at High Carolina Golf & Country Club, LLC	Cliffs Management Service Co.	\$2,430,864.58
The Cliffs at Glassy Golf &	Cliffs Real Estate	\$2,612,715.99

Country Club, LLC		
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs Real Estate	\$2,290,853.70
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs Comm. Holding	\$162.98
The Cliffs Valley Golf & Country Club, LLC	Cliffs Property Management Group	\$2,151,567.67
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs Property Management Group	\$110,415.52
The Cliffs at Walnut Cove Golf & Country Club, LLC	Cliffs Property Management Group	\$20,279.71
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs Property Management Group	\$80,141.70
Cliffs Club & Hospitality Service Company, LLC	Cliffs Property Management Group	\$817.76
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs at Walnut Cove	\$1,048,576.49
The Cliffs at Keowee Falls Golf & Country Club, LLC	Cliffs at High Carolina	\$10,170.11
The Cliffs at Walnut Cove Golf & Country Club, LLC	Cliffs at Keowee Springs	\$64.20
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs at Walnut Cove	\$70,000.00
The Cliffs at Mountain Park Golf & Country Club, LLC	Cliffs at Mountain Park	\$4,203,082.80
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs at Glassy	\$24,495,066.53
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs at Glassy	\$3,098,935.67
The Cliffs at Glassy Golf & Country Club, LLC	Keowee Investment Group	\$150,687.50

The Cliffs at Keowee Falls Golf & Country Club, LLC	LaBastide Management Group	\$394.00
The Cliffs at Walnut Cove Golf & Country Club, LLC	LaBastide Management Group	\$1,995.87
Cliffs Club & Hospitality Service Company, LLC	LaBastide Management Group	\$219,852.33
ClubCos	James B. Anthony	\$5,707,138.00
ClubCos	James B. Anthony	\$700,000.00
	<b>Total</b>	<b>\$136,914,170.52</b>

12. While the Bankruptcy Code does not expressly provide for the recharacterization of debt to equity, most of the appellate courts that have considered the issue, including the Fourth Circuit Court of Appeals, have determined that bankruptcy courts have the power to recharacterize what is ostensibly debt to equity based on their equitable authority under Bankruptcy Code Section 105 in a manner consistent with the priority scheme for the distribution of the debtor's assets found in Bankruptcy Code Section 726. The Fourth Circuit precedent is *In re Dornier Aviation*, 453 F.3d 225 (4th Cir. 2006) (Implementation of the Code's priority scheme requires a determination of whether a particular obligation is debt or equity and given the broad language of section 105(a) and the larger purpose of the Bankruptcy Code, a bankruptcy court's power to recharacterize is essential to the proper and consistent application of the Code.) and *In the Matter Of: Lothian Oil Inc. v. Lothian Oil Inc.*, 650 F.3d 539 (4th Cir., 2011) (recharacterization extends beyond insiders and is part of the bankruptcy courts' authority to allow and disallow claims under 11 U.S.C. § 502). *See also, In re Tiger Aircraft, LLC*, 2010 Bankr. LEXIS 2353, 7-13 (Bankr. N.D. W. Va. 2010); *Vieira v. AGM II, LLC (In re Worldwide Wholesale Lumber, Inc.)*, 378 B.R. 120, 125 (Bankr. D.S.C. 2007); *but see Carolina Shores, LLC*

*v. Dixon (In re Daufuskie Island Props., LLC)*, 431 B.R. 649, 655-56 (Bankr. D.S.C. 2010) (recharacterization denied where debtor had executed a note with a fixed maturity date and other factors demonstrated denial was proper).

13. The Fourth Circuit has joined other circuits that use an eleven factor test, stating, “None of these factors is dispositive and their significance may vary depending upon circumstances.” *In re Dornier*, at page 233. The factors that a court may consider in determining whether it should recharacterize a claim include:

(1) the names given to the instruments, if any, evidencing the indebtedness; (2) the presence or absence of a fixed maturity date and schedule of payments; (3) the presence or absence of a fixed rate of interest and interest payments; (4) the source of repayments; (5) the adequacy or inadequacy of capitalization; (6) the identity of interest between the creditor and the stockholder; (7) the security, if any, for the advances; (8) the corporation’s ability to obtain financing from outside lending institutions; (9) the extent to which the advances were subordinated to the claim of outside creditors; (10) the extent to which the advances were used to acquire capital assets; (11) the presence or absence of a sinking fund to provide repayments. *AutoStyle Plastics*, 269 F.3d at 749-506. These factors all speak to whether the transaction ‘appears to reflect the characteristics of ... an arm’s length negotiation.’ *Id.* at 750 (quoting *Cold Harbor*, 204 B.R. at 915) (amendment in original). This test is a highly fact-dependent inquiry that will vary in application from case to case.

14. The application of these eleven factors to the Cliffs Development Company Affiliate claims reveals that all of the factors support the recharacterization of these claims to equity. For example, none of the Cliffs Development Company Affiliates Claims is based upon debt instruments, there is no maturity date, no security, no interest payments have ever been made, no interest accrued, and there exist no principal or interest repayment terms. The Cliffs Development Company Affiliates’ claims are more properly considered equity investments among affiliates of the Debtors whose ultimate owner, James B. Anthony, moved cash and capital assets between his various subsidiaries without documenting the transfers as loans.



15. Alternatively, as is demonstrated by the charts above indicating the level of overlapping claims of the ClubCos and the DevCos, the Debtors seek to offset the intercompany claims.

16. Alternatively, the Debtors seek to “equitably subordinate” these claims. See, Bankruptcy Code Section 510(c). *See, In re ASI Reactivation, Inc.*, 934 F.2d 1315 (4th Cir. 1991) (“Generally, equitable subordination involves a number of inquiries: 1) whether the claimant engaged in fraudulent conduct, 2) whether the conduct resulted in injury to creditors and 3) whether subordination would be consistent with other bankruptcy law.”)

17. Alternatively, the Debtors seek to “equitably disallow” these claims. *See, Adelphia Communications Corp. v. Bank of America NA (In re Adelphia Communications Corp.)*, 365 B.R. 24, 71-73 (Bankr. S.D.N.Y. 2007) *aff’d in relevant part*, 390 B.R. 64, 74-76 (S.D.N.Y. 2008) (equitable disallowance of claims is “permissible in those extreme circumstances – perhaps very rare – where it is necessary as a remedy”); *In re Washington Mutual Inc.*, 461 B.R. 200, 257 (Bankr. D. Del. 2011) (accepting rationale of Adelphia), *vacated in relevant part on nonsubstantive grounds*, 2012 WL 1563880, pages 31-35, Case No. 08-12229 (Bankr. D. Del. Feb. 24, 2012).

## **V. Reservation of Rights**

18. The Debtors reserve the right to supplement this Objection and to subsequently object to the Cliffs Development Company Affiliates Claims on any other appropriate ground, whether or not stated herein. In addition, the Debtors reserve the right to object to any and all other claims filed in the Debtors’ cases, and any other claims asserted by the Cliffs Development Company Affiliates.

## VI. Notice

19. Notice of this Objection has been provided to the Cliffs Development Company Affiliates 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 Debtors submit that no other or further notice is necessary.

**WHEREFORE**, the Debtors respectfully request that this Court:

1. enter the proposed order attached hereto as Exhibit "A";
2. recharacterize the Cliffs Development Company Affiliates Claims as equity interests in the Debtors;
3. disallow or set off the Cliffs Development Company Affiliates Claims;
4. equitably subordinate the Cliffs Development Company Affiliates Claims;
5. equitably disallow the Cliffs Development Company Affiliates Claims; and
6. grant the Debtors such other and further relief as is just and proper.

*[signature follows]*

This 12th day of July, 2012.

/s/ Däna Wilkinson  
Däna Wilkinson  
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*Counsel for the Debtors in Possession*

EXHIBIT "A"

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

Case No. 12-01220

**ORDER APPROVING DEBTORS' FIRST OMNIBUS OBJECTION TO THE  
ALLOWANCE OF CLAIM NOS. 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262,  
1263, 1268, 1270, 1271, 1272, 1273, AND 1274 FILED BY CLIFFS DEVELOPMENT  
COMPANY AFFILIATES**

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:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The  
Cliffs Golf & Country Club,

Debtors

The Cliffs Club & Hospitality Group, Inc., *et al.*, d/b/a The  
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The Cliffs at Glassy Inc. (Valley) - Claim No. 1251;  
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LaBastide Management Group, LLC - Claim No. 1253;  
Keowee Falls Investment Group, LLC - Claim No. 1254;  
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The Cliffs at Mountain Park, LLC - Claim No. 1258;  
The Cliffs at Mountain Park, LLC - Claim No. 1259;  
Keowee Falls Investment Group, LLC - Claim No. 1261;  
The Cliffs at Mountain Park, LLC - Claim No. 1262;  
The Cliffs at Keowee Springs, LLC - Claim No. 1263;  
Cliffs Management Services, LLC - Claim No. 1268;  
LaBastide Management Group, LLC - Claim No. 1270;  
LaBastide Management Group, LLC - Claim No. 1271;  
The Cliffs at Glassy Inc. (Valley) - Claim No. 1272;  
Environmental Leasing, LLC - Claim No. 1273; and  
Cliffs Management Services, LLC - Claim No. 1274;

Respondents

CHAPTER 11

Case No. 12-01220

Jointly Administered

Contested Matter

<sup>1</sup> The Debtors, 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. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC (2842) (12-01225); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC (9665) (12-01237).

**ORDER APPROVING DEBTORS' FIRST OMNIBUS OBJECTION TO THE  
ALLOWANCE OF CLAIM NOS. 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262,  
1263, 1268, 1270, 1271, 1272, 1273, AND 1274 FILED BY CLIFFS DEVELOPMENT  
COMPANY AFFILIATES**

Upon the Objection (Docket Entry # \_\_\_\_\_) (the "Objection") of The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors-in-possession (the "Debtors"), requesting the entry of an order disallowing the claims filed by the Cliffs Development Company Affiliates in the above-styled cases, the Court having jurisdiction to consider the Objection and the relief requested therein; a hearing having been held on \_\_\_\_\_, 2012 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 bankruptcy estates, their 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 numbers 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262, 1263, 1268, 1270, 1271, 1272, 1273, and 1274 filed by the Cliffs Development Company Affiliates in the above-styled cases are disallowed as unsecured claims and are recharacterized as equity interests in the Debtors.
3. 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/ Dána Wilkinson  
Dána Wilkinson  
District Court I.D. No. 4663  
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/s/ J. Michael Levensgood  
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*Counsel for the Debtors in Possession*



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The  
Cliffs Golf & Country Club,

Debtors

The Cliffs Club & Hospitality Group, Inc., *et al.*, d/b/a The  
Cliffs Golf & Country Club,

Movant,

v.

The Cliffs at Glassy Inc. (Valley) - Claim No. 1251;  
Keowee Investment Group, LLC - Claim No. 1252;  
LaBastide Management Group, LLC - Claim No. 1253;  
Keowee Falls Investment Group, LLC - Claim No. 1254;  
The Cliffs at Keowee Springs, LLC - Claim No. 1255;  
The Cliffs at Mountain Park, LLC - Claim No. 1258;  
The Cliffs at Mountain Park, LLC - Claim No. 1259;  
Keowee Falls Investment Group, LLC - Claim No. 1261;  
The Cliffs at Mountain Park, LLC - Claim No. 1262;  
The Cliffs at Keowee Springs, LLC - Claim No. 1263;  
Cliffs Management Services, LLC - Claim No. 1268;  
LaBastide Management Group, LLC - Claim No. 1270;  
LaBastide Management Group, LLC - Claim No. 1271;  
The Cliffs at Glassy Inc. (Valley) - Claim No. 1272;  
Environmental Leasing, LLC - Claim No. 1273; and  
Cliffs Management Services, LLC - Claim No. 1274;

Respondents

CHAPTER 11

Case No. 12-01220

Jointly Administered

Contested Matter

<sup>1</sup> The Debtors, 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. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC (2842) (12-01225); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC (9665) (12-01237).

**DEBTORS' FIRST OMNIBUS OBJECTION TO THE ALLOWANCE OF CLAIM NOS. 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262, 1263, 1268, 1270, 1271, 1272, 1273, AND 1274 FILED BY CLIFFS DEVELOPMENT COMPANY AFFILIATES**

COME NOW The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors-in-possession (the "Debtors") and hereby file an omnibus objection (the "Objection") to the allowance of the claims filed by The Cliffs at Glassy Inc. (Valley) - Claim No. 1251; Keowee Investment Group, LLC - Claim No. 1252; LaBastide Management Group, LLC - Claim No. 1253; Keowee Falls Investment Group, LLC - Claim No. 1254; The Cliffs at Keowee Springs, LLC - Claim No. 1255; The Cliffs at Mountain Park, LLC - Claim No. 1258; The Cliffs at Mountain Park, LLC - Claim No. 1259; Keowee Falls Investment Group, LLC - Claim No. 1261; The Cliffs at Mountain Park, LLC - Claim No. 1262; The Cliffs at Keowee Springs, LLC - Claim No. 1263; Cliffs Management Services, LLC - Claim No. 1268; LaBastide Management Group, LLC - Claim No. 1270; LaBastide Management Group, LLC - Claim No. 1271; The Cliffs at Glassy Inc. (Valley) - Claim No. 1272; Environmental Leasing, LLC - Claim No. 1273; and Cliffs Management Services, LLC - Claim No. 1274 (collectively, the "Cliffs Development Company Affiliates"). In support of this Objection, the Debtors show the Court as follows:

**I. Relief Requested**

1. By this Objection, the Debtors respectfully request the entry of an order, pursuant to Section 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007, disallowing the claims filed by the Cliffs Development Company Affiliates in the above-styled case.

## **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 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”) in these Chapter 11 cases pursuant to that certain Fourth Amended Appointment of Committee of Unsecured Creditors [Docket Entry No. 141]. No trustee or examiner has been appointed in these Chapter 11 cases.

5. The Debtors are authorized to operate their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

6. 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 Debtors’ claims and noticing agent [Docket Entry No. 278].

7. On May 31, 2012, the Cliffs Development Company Affiliates filed unsecured claims against the Debtors as follows (collectively, the “Cliffs Development Company Affiliates Claims”):

<b>Claim Number</b>	<b>Name of Cliffs Development Company Affiliate</b>	<b>Name of Debtor</b>	<b>Proof of Claim Amount</b>
1251	The Cliffs at Glassy, Inc. (Valley)	The Cliffs at Mountain Park Golf & Country Club, LLC	\$35,000.00
1252	Keowee Investment Group, LLC	The Cliffs at Keowee Vineyards Golf & Country Club, LLC	\$12,780,399.00
1253	LaBastide Management Group, LLC	The Cliffs at Keowee Vineyards Golf & Country Club	\$98,089.00
1254	Keowee Falls Investment Group, LLC	The Cliffs at Keowee Vineyards Golf & Country Club	\$450.00
1255	The Cliffs at Keowee Springs, LLC	The Cliffs at Keowee Vineyards Golf & Country Club	\$1,247.00
1258	The Cliffs at Mountain Park, LLC	The Cliffs at Walnut Cove Golf & Country Club, LLC	\$50,000.00
1259	The Cliffs at Mountain Park, LLC	The Cliffs at Walnut Cove Golf & Country Club, LLC	\$15,704,833.00
1261	Keowee Falls Investment Group, LLC	The Cliffs at Keowee Falls Golf & Country Club, LLC	\$16,669,860.00
1262	The Cliffs at Mountain Park, LLC	The Cliffs at Keowee Falls Golf & Country Club	\$517,812.00
1263	The Cliffs at Keowee Springs, LLC	The Cliffs at Keowee Falls Golf & Country Club	\$80.48
1268	Cliffs Management Services, LLC	The Cliffs at Keowee Springs Golf & Country Club, LLC	\$8,887,017.00
1270	LaBastide Management Group, LLC	The Cliffs at Glassy Golf & Country Club, LLC	\$855,693.00
1271	LaBastide Management Group, LLC	The Cliffs Valley Golf & Country Club, LLC	\$75,635.00
1272	The Cliffs at Glassy, Inc. (Valley)	The Cliffs Valley Golf & Country Club, LLC	\$86,617.00
1273	Environmental Leasing,	Cliffs Club & Hospitality	\$778.00

	Inc.	Service Company, LLC	
1274	Cliffs Management Services, LLC	Cliffs Club & Hospitality Service Company, LLC	<u>\$38,916,334.00</u>
		<b>Total</b>	<b>\$94,679,844.48</b>

8. The Debtors have reviewed the proofs of claim filed by the Cliffs Development Company Affiliates in these cases and their books and records, including without limitation the Cliffs Communities, Inc. 2012 Consolidated Trial Balance showing intercompany balances among the DevCos and the ClubCos (as defined below) as of February 29, 2012. This Objection is the result of the Debtors' review.

#### IV. Basis for Relief Requested

9. The books and records of the Debtors indicate that the Cliffs Development Company Affiliates Claims are not truly debt obligations. None of them are evidenced by any debt instruments. At most, they are reflected by accounting journal entries as intercompany payables. Accordingly, the claims are unenforceable against the Debtors, and should be disallowed or recharacterized as equity in the Debtors. Unless the Cliffs Development Company Affiliates Claims are disallowed as general unsecured claims and recharacterized as equity interests in the Debtors, these affiliates of the Debtors will receive a larger recovery than that to which they should be entitled.

10. Each of the Debtors is owned, directly or indirectly, by Cliffs Communities, Inc. ("CCI"). CCI has other subsidiaries and affiliates that on the Petition Date were dedicated to the development and sale of residential real estate, unimproved company lots and finished homes at a number of Cliffs communities. CCI and these non-debtor affiliates of the Debtors are generally referred to as "DevCos" while the Debtors are generally referred to as "ClubCos." Each of the

Cliffs Development Company Affiliates is a DevCo. As of the Petition Date, CCI was a subchapter S corporation and substantially all of its subsidiaries are disregarded entities for corporate tax purposes. James B. Anthony owns 79.12% of the equity of CCI.

11. The Debtors' books and records when presented on a consolidated basis net intercompany payables between the ClubCos and the DevCos and show a balance due by the DevCos and James B. Anthony to the ClubCos of **\$42,234,326.04**. When presented on an unconsolidated basis, the ClubCos intercompany payables journal indicates a ClubCo balance to the DevCos totaling \$94,679,844.48 and a balance from James B. Anthony and the DevCos to the ClubCos totaling \$136,914,170.52. The Cliffs Development Company Affiliates balance owed to the Debtors is composed of the following entries:

<b>Name of Debtor</b>	<b>Name of Cliffs Development Company Affiliate</b>	<b>Intercompany Balance Owing to Debtor</b>
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs Management Service Co.	\$15,367,523.69
The Cliffs at Valley Golf & Country Club, LLC	Cliffs Management Service Co.	\$13,439,087.35
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs Management Service Co.	\$25,336,881.26
The Cliffs at Keowee Falls Golf & Country Club, LLC	Cliffs Management Service Co.	\$9,591,193.31
The Cliffs at Walnut Cove Golf & Country Club, LLC	Cliffs Management Service Co.	\$16,483,104.26
The Cliffs at Mountain Park Golf & Country Club, LLC	Cliffs Management Service Co.	\$7,292,597.54
The Cliffs at High Carolina Golf & Country Club, LLC	Cliffs Management Service Co.	\$2,430,864.58
The Cliffs at Glassy Golf &	Cliffs Real Estate	\$2,612,715.99

Country Club, LLC		
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs Real Estate	\$2,290,853.70
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs Comm. Holding	\$162.98
The Cliffs Valley Golf & Country Club, LLC	Cliffs Property Management Group	\$2,151,567.67
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs Property Management Group	\$110,415.52
The Cliffs at Walnut Cove Golf & Country Club, LLC	Cliffs Property Management Group	\$20,279.71
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs Property Management Group	\$80,141.70
Cliffs Club & Hospitality Service Company, LLC	Cliffs Property Management Group	\$817.76
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs at Walnut Cove	\$1,048,576.49
The Cliffs at Keowee Falls Golf & Country Club, LLC	Cliffs at High Carolina	\$10,170.11
The Cliffs at Walnut Cove Golf & Country Club, LLC	Cliffs at Keowee Springs	\$64.20
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs at Walnut Cove	\$70,000.00
The Cliffs at Mountain Park Golf & Country Club, LLC	Cliffs at Mountain Park	\$4,203,082.80
The Cliffs at Glassy Golf & Country Club, LLC	Cliffs at Glassy	\$24,495,066.53
The Cliffs at Keowee Vineyards Golf & Country Club, LLC	Cliffs at Glassy	\$3,098,935.67
The Cliffs at Glassy Golf & Country Club, LLC	Keowee Investment Group	\$150,687.50

The Cliffs at Keowee Falls Golf & Country Club, LLC	LaBastide Management Group	\$394.00
The Cliffs at Walnut Cove Golf & Country Club, LLC	LaBastide Management Group	\$1,995.87
Cliffs Club & Hospitality Service Company, LLC	LaBastide Management Group	\$219,852.33
ClubCos	James B. Anthony	\$5,707,138.00
ClubCos	James B. Anthony	\$700,000.00
	<b>Total</b>	<b>\$136,914,170.52</b>

12. While the Bankruptcy Code does not expressly provide for the recharacterization of debt to equity, most of the appellate courts that have considered the issue, including the Fourth Circuit Court of Appeals, have determined that bankruptcy courts have the power to recharacterize what is ostensibly debt to equity based on their equitable authority under Bankruptcy Code Section 105 in a manner consistent with the priority scheme for the distribution of the debtor's assets found in Bankruptcy Code Section 726. The Fourth Circuit precedent is *In re Dornier Aviation*, 453 F.3d 225 (4th Cir. 2006) (Implementation of the Code's priority scheme requires a determination of whether a particular obligation is debt or equity and given the broad language of section 105(a) and the larger purpose of the Bankruptcy Code, a bankruptcy court's power to recharacterize is essential to the proper and consistent application of the Code.) and *In the Matter Of: Lothian Oil Inc. v. Lothian Oil Inc.*, 650 F.3d 539 (4th Cir., 2011) (recharacterization extends beyond insiders and is part of the bankruptcy courts' authority to allow and disallow claims under 11 U.S.C. § 502). *See also, In re Tiger Aircraft, LLC*, 2010 Bankr. LEXIS 2353, 7-13 (Bankr. N.D. W. Va. 2010); *Vieira v. AGM II, LLC (In re Worldwide Wholesale Lumber, Inc.)*, 378 B.R. 120, 125 (Bankr. D.S.C. 2007); *but see Carolina Shores, LLC*



*v. Dixon (In re Daufuskie Island Props., LLC)*, 431 B.R. 649, 655-56 (Bankr. D.S.C. 2010) (recharacterization denied where debtor had executed a note with a fixed maturity date and other factors demonstrated denial was proper).

13. The Fourth Circuit has joined other circuits that use an eleven factor test, stating, “None of these factors is dispositive and their significance may vary depending upon circumstances.” *In re Dornier*, at page 233. The factors that a court may consider in determining whether it should recharacterize a claim include:

(1) the names given to the instruments, if any, evidencing the indebtedness; (2) the presence or absence of a fixed maturity date and schedule of payments; (3) the presence or absence of a fixed rate of interest and interest payments; (4) the source of repayments; (5) the adequacy or inadequacy of capitalization; (6) the identity of interest between the creditor and the stockholder; (7) the security, if any, for the advances; (8) the corporation’s ability to obtain financing from outside lending institutions; (9) the extent to which the advances were subordinated to the claim of outside creditors; (10) the extent to which the advances were used to acquire capital assets; (11) the presence or absence of a sinking fund to provide repayments. *AutoStyle Plastics*, 269 F.3d at 749-506. These factors all speak to whether the transaction ‘appears to reflect the characteristics of ... an arm’s length negotiation.’ *Id.* at 750 (quoting *Cold Harbor*, 204 B.R. at 915) (amendment in original). This test is a highly fact-dependent inquiry that will vary in application from case to case.

14. The application of these eleven factors to the Cliffs Development Company Affiliate claims reveals that all of the factors support the recharacterization of these claims to equity. For example, none of the Cliffs Development Company Affiliates Claims is based upon debt instruments, there is no maturity date, no security, no interest payments have ever been made, no interest accrued, and there exist no principal or interest repayment terms. The Cliffs Development Company Affiliates’ claims are more properly considered equity investments among affiliates of the Debtors whose ultimate owner, James B. Anthony, moved cash and capital assets between his various subsidiaries without documenting the transfers as loans.

15. Alternatively, as is demonstrated by the charts above indicating the level of overlapping claims of the ClubCos and the DevCos, the Debtors seek to offset the intercompany claims.

16. Alternatively, the Debtors seek to “equitably subordinate” these claims. See, Bankruptcy Code Section 510(c). *See, In re ASI Reactivation, Inc.*, 934 F.2d 1315 (4th Cir. 1991) (“Generally, equitable subordination involves a number of inquiries: 1) whether the claimant engaged in fraudulent conduct, 2) whether the conduct resulted in injury to creditors and 3) whether subordination would be consistent with other bankruptcy law.”)

17. Alternatively, the Debtors seek to “equitably disallow” these claims. *See, Adelphia Communications Corp. v. Bank of America NA (In re Adelphia Communications Corp.)*, 365 B.R. 24, 71-73 (Bankr. S.D.N.Y. 2007) *aff’d in relevant part*, 390 B.R. 64, 74-76 (S.D.N.Y. 2008) (equitable disallowance of claims is “permissible in those extreme circumstances – perhaps very rare – where it is necessary as a remedy”); *In re Washington Mutual Inc.*, 461 B.R. 200, 257 (Bankr. D. Del. 2011) (accepting rationale of Adelphia), *vacated in relevant part on nonsubstantive grounds*, 2012 WL 1563880, pages 31-35, Case No. 08-12229 (Bankr. D. Del. Feb. 24, 2012).

## **V. Reservation of Rights**

18. The Debtors reserve the right to supplement this Objection and to subsequently object to the Cliffs Development Company Affiliates Claims on any other appropriate ground, whether or not stated herein. In addition, the Debtors reserve the right to object to any and all other claims filed in the Debtors’ cases, and any other claims asserted by the Cliffs Development Company Affiliates.

## VI. Notice

19. Notice of this Objection has been provided to the Cliffs Development Company Affiliates 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 Debtors submit that no other or further notice is necessary.

**WHEREFORE**, the Debtors respectfully request that this Court:

1. enter the proposed order attached hereto as Exhibit "A";
2. recharacterize the Cliffs Development Company Affiliates Claims as equity interests in the Debtors;
3. disallow or set off the Cliffs Development Company Affiliates Claims;
4. equitably subordinate the Cliffs Development Company Affiliates Claims;
5. equitably disallow the Cliffs Development Company Affiliates Claims; and
6. grant the Debtors such other and further relief as is just and proper.

*[signature follows]*

This 12th day of July, 2012.

/s/ Däna Wilkinson  
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J. Michael Levengood  
Georgia Bar No. 447934  
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*Counsel for the Debtors in Possession*

EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

Case No. 12-01220

**ORDER APPROVING DEBTORS' FIRST OMNIBUS OBJECTION TO THE  
ALLOWANCE OF CLAIM NOS. 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262,  
1263, 1268, 1270, 1271, 1272, 1273, AND 1274 FILED BY CLIFFS DEVELOPMENT  
COMPANY AFFILIATES**

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:

The Cliffs Club & Hospitality Group, Inc., *et al.*,<sup>1</sup> d/b/a The  
Cliffs Golf & Country Club,

Debtors

The Cliffs Club & Hospitality Group, Inc., *et al.*, d/b/a The  
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The Cliffs at Glassy Inc. (Valley) - Claim No. 1251;  
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The Cliffs at Glassy Inc. (Valley) - Claim No. 1272;  
Environmental Leasing, LLC - Claim No. 1273; and  
Cliffs Management Services, LLC - Claim No. 1274;

Respondents

CHAPTER 11

Case No. 12-01220

Jointly Administered

Contested Matter

<sup>1</sup> The Debtors, 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. (6338) (12-01220); CCHG Holdings, Inc. (1356) (12-01223); The Cliffs at Mountain Park Golf & Country Club, LLC (2842) (12-01225); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319) (12-01226); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879) (12-01227); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230) (12-01229); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898) (12-01230); The Cliffs at High Carolina Golf & Country Club, LLC (7576) (12-01231); The Cliffs at Glassy Golf & Country Club, LLC (6559) (12-01234); The Cliffs Valley Golf & Country Club, LLC (6486) (12-01236); and Cliffs Club & Hospitality Service Company, LLC (9665) (12-01237).

**ORDER APPROVING DEBTORS' FIRST OMNIBUS OBJECTION TO THE  
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1263, 1268, 1270, 1271, 1272, 1273, AND 1274 FILED BY CLIFFS DEVELOPMENT  
COMPANY AFFILIATES**

Upon the Objection (Docket Entry # \_\_\_\_\_) (the "Objection") of The Cliffs Club & Hospitality Group, Inc. and its affiliated debtors in the above-captioned Chapter 11 cases, as debtors and debtors-in-possession (the "Debtors"), requesting the entry of an order disallowing the claims filed by the Cliffs Development Company Affiliates in the above-styled cases, the Court having jurisdiction to consider the Objection and the relief requested therein; a hearing having been held on \_\_\_\_\_, 2012 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 bankruptcy estates, their 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 numbers 1251, 1252, 1253, 1254, 1255, 1258, 1259, 1261, 1262, 1263, 1268, 1270, 1271, 1272, 1273, and 1274 filed by the Cliffs Development Company Affiliates in the above-styled cases are disallowed as unsecured claims and are recharacterized as equity interests in the Debtors.
3. 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/ Dána Wilkinson  
Dána Wilkinson  
District Court I.D. No. 4663  
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-and-

/s/ J. Michael Levensgood  
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*Counsel for the Debtors in Possession*

**EXHIBIT B**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

In re:

CCHG Liquidation Co.,

Debtor.

CHAPTER 11

Case No. 12-01220

Substantively Consolidated

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that, on February 4, 2013, he caused to be served true and correct copies of objections to claims filed in the above-captioned case [**Docket Entry Nos. 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 546, 547, 550, 567, 568, 569, 570, 571, 572, 573, 574, 575, 587, 589, 590, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781 and 782**], along with the notice of possible hearing regarding such objections [**Docket Entry No. 783**], upon the claimants listed on Exhibit "B," via first class mail, postage prepaid. Each claimant received a copy of the objection to the claimant's specific claim(s), along with the notice of possible hearing. Undersigned counsel hereby further certifies that, on February 6, 2013, he caused to be served true and correct copies of such documents via electronic mail to the parties listed on Exhibit "A."

This 6th day of February, 2013.

MCKENNA LONG & ALDRIDGE LLP

s/ Bryan E. Bates

Bryan E. Bates

Georgia Bar No. 140856

303 Peachtree Street, Suite 5300

Atlanta, Georgia 30308

404-527-4000 (phone)

404-527-4198 (fax)

bbates@mckennalong.com

*Counsel for the Debtor*

**EXHIBIT "A"**

***VIA E-MAIL***

Katie Goodman, Liquidation Trustee  
GGG Partners LLC  
5883 Glenridge Drive, Suite 160  
Atlanta, GA 30328  
Eml: kgoodman@gggmgt.com

***VIA E-MAIL***

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John J Monaghan, Esq.  
Alan Weiss, Esq.  
10 St James Ave  
Boston, MA 02116  
Eml: john.monaghan@hklaw.com  
Eml: alan.weiss@hklaw.com

***VIA E-MAIL***

Wells Fargo Corporate Trust Service  
Michael G. Slade  
MAC #N9311-115  
625 Marquette Avenue, 11<sup>th</sup> Floor  
Minneapolis, MN 55479  
Eml: Michael.G.Slade@wellsfargo.com

***VIA E-MAIL***

McNair Law Firm, P.A.  
Michael M. Beal  
P.O. Box 11390  
Columbia, SC 29211  
Eml: mbeal@mcnair.net

***VIA E-MAIL***

Office of The United States Trustee  
Linda Barr  
1835 Assembly Street  
Suite 953  
Columbia, SC 29201  
Eml: linda.k.barr@usdoj.gov

***VIA E-MAIL***

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Julio E Mendoza Jr, Esq.  
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1230 Main St; Ste 700 (29201)  
Columbia, SC 29202  
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***VIA E-MAIL***

McNair Law Firm, P.A.  
Elizabeth J. Philp  
P. O. Box 141  
Charleston, SC 29402  
Eml: lphilp@mcnair.net

***VIA E-MAIL***

Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.  
Daniel S. Bleck  
Charles W. Azano  
One Financial Center  
Boston, MA 02111  
Eml: DSbleck@mintz.com  
Eml: CWAzano@mintz.com

**EXHIBIT "B"**

**RECEIVED DOCKET ENTRY NO: 782**

ARMSTRONG, JEFF  
360 ELDEN DR NE  
ATLANTA, GA, 30342-2032

**RECEIVED DOCKET ENTRY NO: 782**

BAUMGARDT, JAMES R  
912 SEAGRAPE LANE  
VERO BEACH, FL, 32963

**RECEIVED DOCKET ENTRY NO: 782**

CARLILE JT WROS, STEVE B & PENNY  
C/O BILL ROTHSCHILD  
OGIER ROTHSCHILD & ROSENFELD PC  
170 MITCHELL ST, SW  
ATLANTA, GA, 30303-3424

**RECEIVED DOCKET ENTRY NO: 782**

CASAMENTO, SAM  
PO BOX 396  
SKYLAND, NC, 28776

**RECEIVED DOCKET ENTRY NO: 782**

CHARLES T MEYER III (REV TRUST)  
7 LONGFELLOW CIRCLE  
LITTLE ROCK, AR, 72207

**RECEIVED DOCKET ENTRY NO: 782**

ARMSTRONG, JEFFREY  
360 ELDEN DR NE  
ATLANTA, GA, 30342-2032

**RECEIVED DOCKET ENTRY NO: 782**

CARL R & CAROLYN S RENFRO  
REVOCABLE LIVING TRUST  
CARL R RENFRO, TRUSTEE  
JAMES M BAILEY  
PO BOX 1069  
PONCA CITY, OK, 74602

**RECEIVED DOCKET ENTRY NO: 782**

CARLILE, STEVE B & PENNY  
C/O BILL ROTHSCHILD  
OGIER ROTHSCHILD & ROSENFELD PC  
170 MITCHELL ST, SW  
ATLANTA, GA, 30303-3424

**RECEIVED DOCKET ENTRY NO: 782**

CASTELLANOS, ELIAS  
7445 E WEAVER WAY  
PRESCOTT VALLEY, AZ, 86314-1428

**RECEIVED DOCKET ENTRY NO: 782**

CLAGGETT, EDWARD R  
140 SUNBLEST TRAIL  
SIX MILE, SC, 29682

**RECEIVED DOCKET ENTRY NO: 782**

CURRIE, ROSS  
SHUMAKER LOOP & KENDRICK LLP  
ATTN: D MATTHEWS  
128 S TRYON ST STE 1800  
CHARLOTTE, NC, 28202

**RECEIVED DOCKET ENTRY NO: 782**

DEJIACOMO, DAN  
11118 BIG CANOE  
JASPER, GA, 30143-5101

**RECEIVED DOCKET ENTRY NO: 782**

DUTT, ASHOKE  
2615 SADDLEBROOK DRIVE  
NAPERVILLE, IL, 60564

**RECEIVED DOCKET ENTRY NO: 782**

ENDRY, JOSEPH M  
4403 SOUNDSIDE DR  
GULF BREEZE, FL, 3256

**RECEIVED DOCKET ENTRY NO: 782**

FLETCHER, DONALD  
39 THE CLIFFS PARKWAY  
LANDRUM, SC, 29356

**RECEIVED DOCKET ENTRY NO: 782**

FRANCIS, WILLIAM  
18 B INTERCHANGE BLVD  
GREENVILLE, SC, 29607

**RECEIVED DOCKET ENTRY NO: 782**

FREEMAN, JAMES W & JEAN P  
30 HEATHWOOD CIRCLE  
COLUMBIA, SC, 29205

**RECEIVED DOCKET ENTRY NO: 782**

FRUCHTER, MARC A & SAUNDRA D  
119 GASCONY DR  
GREENVILLE, SC, 29609

**RECEIVED DOCKET ENTRY NO: 782**

GOLDY, SUSAN E  
109 SHELLEY LANE  
YARDLEY, PA, 19067

**RECEIVED DOCKET ENTRY NO: 782**

GRANT, CHUCK  
935 MEARNs ROAD  
WARMINSTER, PA, 18974

**RECEIVED DOCKET ENTRY NO: 782**

HAMER, DOUGLAS W  
216 CAREFREE LN  
MOREHEAD CITY, NC, 28557

**RECEIVED DOCKET ENTRY NO: 782**

HAMMOND, WILLIAM STEWART & JULIE  
ANNE  
4278 E BROOKHAVEN DR NE  
ATLANTA, GA, 30319

**RECEIVED DOCKET ENTRY NO: 782**

HAMMOND, STEWART  
4278 E BROOKHAVEN DR NE  
ATLANTA, GA, 30319

**RECEIVED DOCKET ENTRY NO: 782**

HARKER, RUSSELL  
4 FOGGY RIDGE WAY  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 782**

HEADLEY, RICHARD  
811 DOGWOOD TRAIL  
HIAWASSEE, GA, 30546

**RECEIVED DOCKET ENTRY NO: 782**

HOCKEMEIER, CURT  
2505 DELLWOOD DRIVE NW  
ATLANTA, GA, 30305

**RECEIVED DOCKET ENTRY NO: 782**

HODGES III, GENOUS S  
10 MANNINGFIELD DR  
FLETCHER, NC, 28732

**RECEIVED DOCKET ENTRY NO: 782**

HOFFMAN, DAVID  
804 HIDDEN KNOLL WAY  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 782**

JONES, WILLIAM B  
104 HEARTHSTONE LANE  
GREENVILLE, SC, 29615

**RECEIVED DOCKET ENTRY NO: 782**

JORDAN, ROBERT B  
401 CHAMBLEE BLVD  
GREENVILLE, SC, 29615

**RECEIVED DOCKET ENTRY NO: 782**

KUCHARIK, JOHN M & GAIL M  
7101 BRAMSHILL CIR  
CHAGRIN FALLS, OH, 44023

**RECEIVED DOCKET ENTRY NO: 782**

LAPELLA, MICHAEL  
151 WEST FAWSETT ROAD  
WINTER PARK, FL, 32789

**RECEIVED DOCKET ENTRY NO: 782**

LIPOMI, LOUIS  
1321 PANTHER PARK TRAIL  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 782**

LOGAN, A SCOTT  
PO BOX 1489  
SANIBEL, FL, 33957

**RECEIVED DOCKET ENTRY NO: 782**

LUNN, ROBERT AND NORMA  
1980 HIGHWAY 11  
LANDRUM, SC, 29356

**RECEIVED DOCKET ENTRY NO: 782**

LUNN, ROB  
1980 HIGHWAY 11  
LANDRUM, SC, 29356

**RECEIVED DOCKET ENTRY NO: 782**

MACKEY OLIVER, CONSTANCE C  
1510 31ST ST SW  
NAPLES, FL, 34117

**RECEIVED DOCKET ENTRY NO: 782**

MARTINEZ, RAFAEL & JEANNE  
1119 FAIRFIELD MEADOWS DR  
WESTON, FL, 33327

**RECEIVED DOCKET ENTRY NO: 782**

MAUGERI, RONALD & THESESA  
130 BLOSSOM HILL TRAIL  
SUNSET, SC, 29685

**RECEIVED DOCKET ENTRY NO: 782**

MINTON, GARY L  
2116 8TH ST DR NW  
HICKORY, NC, 28601

**RECEIVED DOCKET ENTRY NO: 782**

MOLENKAMP, JACK  
10908 LAKEN WOODS DRIVE  
BUMPASS, VA, 23024

**RECEIVED DOCKET ENTRY NO: 782**

MORRISS, THOMAS W  
227 INDIAN WELLS DRIVE  
SPARTANBURG, SC, 29306

**RECEIVED DOCKET ENTRY NO: 782**

NORTON, WILLIAM D & NANCY H  
13306 BEAVER DAM ROAD  
HUNT VALLEY, MD, 21030

**RECEIVED DOCKET ENTRY NO: 782**

ORSON, TIM  
61 BROMPTON ROAD  
ARDEN, NC, 28704

**RECEIVED DOCKET ENTRY NO: 782**

PARSONS, JOAN M & DAVID J  
127 BUTTON BUSH TRAIL  
SIX MILE, SC, 29682

**RECEIVED DOCKET ENTRY NO: 782**

PETER J RODGERS & BARBARA R  
WATKINS  
2800 HORSESHOE TRAIL  
CHESTER SPRINGS, PA, 19425



**RECEIVED DOCKET ENTRY NO: 782**

PATRICIA A AND ROBERT P PORTER  
5 LONG SHADOW LANE  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 782**

POWELL, H ROBERT  
23 DELEGAL ROAD  
SAVANNAH, GA, 31411

**RECEIVED DOCKET ENTRY NO: 782**

PRAGADA, ROBERT  
1 FAIRHILL CIRCLE  
RADNER, PA, 19087

**RECEIVED DOCKET ENTRY NO: 782**

RADEKEVICH, SALLY A & ROMAN M  
16 GREY ROCK RIDGE RD  
LANDRUM, SC, 29356

**RECEIVED DOCKET ENTRY NO: 782**

RALSTON, NANCY K  
1 MAY APPLE WAY  
LANDRUM, SC, 29356

**RECEIVED DOCKET ENTRY NO: 782**

RATHGEBER, DAVID K  
2360 TELEGRAPH RD  
BANNOCKBURN, IL, 60015

**RECEIVED DOCKET ENTRY NO: 782**

RUCKER, CRAIG  
6897 INDIAN HILL PL  
CINCINNATI, OH, 45227

**RECEIVED DOCKET ENTRY NO: 782**

SCHMALTZ, JOSEPH MARTIN & ANNE V  
1570 PALMER AVE  
WINTER PARK, FL, 32789

**RECEIVED DOCKET ENTRY NO: 782**

SCHWARTZ, DONALD L  
191 PARK AVENUE  
GLENCOE, IL, 60022

**RECEIVED DOCKET ENTRY NO: 782**

SECOR JR, JTWROS, ALLEN F & JANET H  
11 FLINT HILL LN  
LANDRUM, SC, 29356

**RECEIVED DOCKET ENTRY NO.: 782**

SHAW, WILLIAM A & FLONNIE B  
243 HORSESHOE LAKE DR  
SPARTANBURG, SC, 29306

**RECEIVED DOCKET ENTRY NO: 782**

SKAWINSKI, STANLEY E  
23 CARRIER BLUFF  
OKATIE, SC, 29909

**RECEIVED DOCKET ENTRY NO: 782**

SKELTON, BRADLEY ALLAN  
3 BEN ST  
GREENVILLE, SC, 29601-3703

**RECEIVED DOCKET ENTRY NO: 782**

STEPHEN P GRAYSON, A PROFESSIONAL  
CORPORATION  
10850 WILSHIRE BLVD SUITE 400  
LOS ANGELES, CA, 90024

**RECEIVED DOCKET ENTRY NO: 782**

STORM, ALAN L & DARY M  
10760 HARPERS FERRY ROAD  
PURCELLVILLE, VA, 20132

**RECEIVED DOCKET ENTRY NO: 782**

STORZ, LOUIS F & CAROL L  
144 SUNBLEST TRAIL  
SIX MILE, SC, 29682

**RECEIVED DOCKET ENTRY NO: 782**

STORZ, CAROL L  
144 SUNBLEST TRAIL  
SIX MILE, SC, 29682

**RECEIVED DOCKET ENTRY NO: 782**

THOMASON, MARVIN  
19 HIDDEN MOUNTAIN WAY  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 782**

THOMPSON, SANDRA P  
4171 PARKMAN RD  
SOUTHINGTON, OH, 44470

**RECEIVED DOCKET ENTRY NO: 782**

TOWE, MARK  
970 FENIMORE CIRCLE  
ATLANTA, GA, 30350

**RECEIVED DOCKET ENTRY NO: 782**

TUCKER, TOM AND DEBORAH  
2061 SEAVIEW AVENUE  
DEL MAR, CA, 92014

**RECEIVED DOCKET ENTRY NO: 782**

UPSTATE MORTGAGE  
C/O VALERIE LEE  
8 MCKENNA COMMONS CT  
GREENVILLE, SC, 29615

**RECEIVED DOCKET ENTRY NO: 782**

VAUGHN, FLOYD  
545 MIDWAY CIRCLE  
BRENTWOOD, TN, 37027

**RECEIVED DOCKET ENTRY NO: 782**

WILLIAMS MD, JACK OWEN  
BERKLEY HALL  
10 CLARENDON LANE  
BLUFFTON, SC, 29909

**RECEIVED DOCKET ENTRY NO: 782**

WILSON, GREGORY M & LAURA L  
112 UPPER RIDGE WAY  
TRAVELERS REST, SC, 29690-3913

**RECEIVED DOCKET ENTRY NO: 782**

WILSON, GREGORY M  
112 UPPER RIDGE WAY  
TRAVELERS REST, SC, 29690-3913

**RECEIVED DOCKET ENTRY NO: 782**

ZEBEK, RONALD  
4658 CARLTON DUNES DRIVE #14  
AMELIA ISLAND, FL, 32034

**RECEIVED DOCKET ENTRY NO: 567**

GE CAPITAL INFORMATION  
TECHNOLOGY SOLUTIONS INC  
DBA IKON FINANCIAL SERVICES  
PO BOX 740540  
ATLANTA, GA, 30374-0540

**RECEIVED DOCKET ENTRY NO: 568**

ACCURATE DRILLING & BLASTING INC  
ROE CASSIDY COATES & PRICE PA  
PO BOX 10529  
GREENVILLE, SC, 29603

**RECEIVED DOCKET ENTRY NO: 569**

932 S MAIN II LLC AKA GP & PHMP, LLC  
PO BOX 6104  
GREENVILLE, SC, 29606

**RECEIVED DOCKET ENTRY NO: 570**

GUILLERMO RODRIGUEZ & JEFFREY  
CRAWFORD  
DOUGLAS J TATE  
PO BOX 3180  
ASHEVILLE, NC, 28802

**RECEIVED DOCKET ENTRY NO: 571**

COX, GEORGE D & BETTY H  
151 BANKS ROAD  
EASLEY, SC, 29640

**RECEIVED DOCKET ENTRY NO: 572**

ENIGMA CORPORATION  
PO BOX 8624  
GREENVILLE, SC, 29604

**RECEIVED DOCKET ENTRY NO: 573**

LBI US, LLC  
LBI ATLANTA, LLC  
1888 EMERY ST, STE 400  
ATLANTA, GA, 30318

**RECEIVED DOCKET ENTRY NO: 574**

SHANLEY, BEN & JO ANN  
2055 SUGARLOAF CLUB DR  
DULUTH, GA, 30097

**RECEIVED DOCKET ENTRY NO: 575**

GUERRIERI, DR JAMES & CARLA  
33730 ROSEWOOD TRAIL  
WILLOUGHBY HILLS, OH, 44094

**RECEIVED DOCKET ENTRY NO: 781**

WORTHINGTON HYDE PARTNERS-II, LP  
3930 E JONES BRIDGE RD, STE 145  
NORCROSS, GA 30092

**RECEIVED DOCKET ENTRY NO: 587**

KRUEGER, ANDREW AND HILARY  
HC FOUNDER  
50 HOSPITAL DRIVE  
SUITE 2A  
HENDERSONVILLE, NC, 28792

**RECEIVED DOCKET ENTRY NO: 589**

THE FRIEDMAN FAMILY PARTNERSHIP  
LLP  
ROE CASSIDY COATES & PRICE PA  
ATTN: DANA M LAHEY  
PO BOX 10529  
GREENVILLE, SC, 29603

**RECEIVED DOCKET ENTRY NO: 590**

SCHNEIDER, ROBERT A  
ROE CASSIDY COATES & PRICE PA  
ATTN: DANA M LAHEY  
PO BOX 10529  
GREENVILLE, SC, 29603

**RECEIVED DOCKET ENTRY NO: 765**

WEST HAVEN PROPERTIES LLC  
WEST HAVEN II  
W LEON ELLISTON-MBR-MGR  
14 MCDOWELL STREET  
ASHEVILLE, NC, 28801

**RECEIVED DOCKET ENTRY NO: 763**

STRAUS FAMILY LIMITED PARTNERSHIP  
C/O DAVID L STRAUS, GENERAL  
PARTNER  
8914 CLEWERWALL DR  
BETHESDA, MD, 20817

**RECEIVED DOCKET ENTRY NO: 762**

EMEDIA GROUP, INC.  
PO BOX 1808  
GREENVILLE, SC, 29602

**RECEIVED DOCKET ENTRY NO: 766**

SHERRILL, DR ALAN & JANNA  
7 WILLIAM PENN DRIVE  
DOWNTOWN, PA, 19335

**RECEIVED DOCKET ENTRY NO: 775**

HUNTER, MICHAEL KELLEY  
120 LITTLE EASTATOE RD  
SUNSET, SC, 29685

**RECEIVED DOCKET ENTRY NO: 774**

HOLMAN, EDWIN  
3617 TUXEDO COURT NW  
ATLANTA, GA, 30305

**RECEIVED DOCKET ENTRY NO: 773**

REID, STEPHEN  
17148 SOUTH EAST LIMRICK COURT  
TEQUESTA, FL, 33469

**RECEIVED DOCKET ENTRY NO: 772**

CARLTON, JONATHAN SCOTT  
575 MOUNTAIN CREEK CHURCH RD  
GREENVILLE, SC, 29609

**RECEIVED DOCKET ENTRY NO: 771**

CAPSTONE FILTER SERVICES, LLC  
MARK JERMON  
101 MORGAN COURT  
GREER, SC, 29650

**RECEIVED DOCKET ENTRY NO: 770**

CROSSROADS ENVIRONMENTAL LLC  
PO BOX 5685  
SPARTANBURG, SC, 29304

**RECEIVED DOCKET ENTRY NO: 769**

MILLER, MERION ZOE  
504 GAP HILL RD  
SIX MILE, SC, 29682

**RECEIVED DOCKET ENTRY NO: 778**

ADDINGTON, JEANIE  
550 TERRAPIN TAIL RD  
SALEM, SC, 29676

**RECEIVED DOCKET ENTRY NO: 777**

CIGNA HEALTH & LIFE INSURANCE  
COMPANY  
MARYLOU KILIAN RICE COMPLIANCE  
SPECIALIST  
900 COTTAGE GROVE RD, B6LPA  
HARTFORD, CT, 06152

**RECEIVED DOCKET ENTRY NO: 776**

HARKNESS, STEPHEN  
429 N PENNSYLVANIA ST.  
SUITE 607  
INDIANAPOLIS, IN, 46204

**RECEIVED DOCKET ENTRY NO: 764**  
WYCHE PROFESSIONAL ASSOCIATION  
PO BOX 728  
GREENVILLE, SC, 29602

**RECEIVED DOCKET ENTRY NO: 780**  
NEWLIFE TURF, INC  
PO BOX 212  
NORWAY, SC, 29113-0212

**RECEIVED DOCKET ENTRY NO: 767**  
IPFS CORPORATION  
FDBA IMPERIAL CREDIT  
CORPORATION  
IMPERIAL IPFS  
101 HUDSON STREET - 34TH FL  
JERSEY CITY, NJ, 07302

**RECEIVED DOCKET ENTRY NO: 547**  
HAWKINS NURSERY INC  
PO BOX 581  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 538**  
THE CLIFFS AT GLASSY INC (VALLEY)  
JAMES B ANTHONY, PRESIDENT  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 537**  
LABASTIDE MANAGEMENT GROUP,  
LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 779**  
ATLAS ENVIRONMENTAL, INC  
C/O MARTIN L WHITE, ESQ  
JOHNSTON, ALLISON & HORD PA  
PO BOX 36469  
CHARLOTTE, NC, 28236

**RECEIVED DOCKET ENTRY NO: 768**  
CLAIMS RECOVERY GROUP LLC  
(TRANSFEROR: E&S SOIL & PEAT  
INDUSTRIES INC)  
92 UNION AVE  
CRESSKILL, NJ, 07626

**RECEIVED DOCKET ENTRY NO: 550**  
MEDALIST GOLF , INC.  
KOGER BRADFORD  
HOLCOMBE BOMAR PA  
PO BOX 1897  
SPARTANBURG, SC, 29304

**RECEIVED DOCKET ENTRY NO: 546**  
GEORGIA BRIDGE AND DOCK INC  
KOGER BRADFORD  
HOLCOMBE BOMAR PA  
PO BOX 1897  
SPARTANBURG, SC, 29304

**RECEIVED DOCKET ENTRY NO: 526**  
KEOWEE INVESTMENT GROUP, LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 528**  
KEOWEE FALLS INVESTMENT GROUP,  
LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 534**  
THE CLIFFS AT KEOWEE SPRINGS LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 533**  
THE CLIFFS AT MOUNTAIN PARK, LLC  
JAMES B ANTHONY, MEMBER  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 530**  
THE CLIFFS AT WALNUT COVE, LLC  
JAMES B ANTHONY, MEMBER  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 532**  
KEOWEE FALLS INVESTMENT GROUP,  
LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 531**  
THE CLIFFS AT MOUNTAIN PARK, LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 529**  
THE CLIFFS AT KEOWEE SPRINGS, LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 540**  
CLIFFS MANAGEMENT SERVICES, LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 536**  
LABASTIDE MANAGEMENT GROUP, LLC  
MR JAMES B ANTHONY  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 527**  
LABASTIDE MANAGEMENT GROUP,  
LLC  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 525**  
THE CLIFFS AT GLASSY INC (VALLEY)  
MR JAMES B ANTHONY  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 539**  
ENVIRONMENTAL LEASING, LLC  
MR JAMES B ANTHONY  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO: 535**  
CLIFFS MANAGEMENT SERVICES, LLC  
MR JAMES B ANTHONY  
3598 HIGHWAY 11  
TRAVELERS REST, SC, 29690

**RECEIVED DOCKET ENTRY NO:532**

*(mailed 2/6/13, First Class US Mail)*

R. GEOFFREY LEVY  
COUNSEL FOR KEOWEE FALLS  
INVESTMENT GROUP, LLC  
LEVY LAW FIRM, LLC  
2300 WAYNE STREET  
COLUMBIA, SOUTH CAROLINA 29201

**RECEIVED DOCKET ENTRY NO:781**

*(mailed 2/6/13, First Class US Mail)*

TOBIAS G. WARD, JR. PA  
COUNSEL FOR WORTHINGTON HYDE  
PARTNERS-II, LP  
POST OFFICE BOX 6138  
COLUMBIA, SC 29206

**RECEIVED DOCKET ENTRY NO: 780**

*(mailed 2/6/13, First Class US Mail)*

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