

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Case No. 12-01220

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364,
AND 507 (I) APPROVING POST-PETITION FINANCING, (II) GRANTING
LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE
STATUS, (III) GRANTING ADEQUATE PROTECTION AND
(IV) MODIFYING THE AUTOMATIC STAY**

The relief set forth on the following pages, for a total of 27 pages including this page is hereby **ORDERED**.

**FILED BY THE COURT
03/16/2012**



Entered: 03/16/2012

Chief US Bankruptcy Judge
District of South Carolina

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

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

Debtors.

CHAPTER 11

Case No. 12-01220

Jointly Administered

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364,
AND 507 (I) APPROVING POST-PETITION FINANCING, (II) GRANTING
LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE
STATUS, (III) GRANTING ADEQUATE PROTECTION AND
(IV) MODIFYING THE AUTOMATIC STAY,**

On February 28, 2012, The Cliffs Club & Hospitality Group, Inc. d/b/a The Cliffs Golf & Country Club (“CCHG”), as a debtor-in-possession, filed the Debtors’ Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507(b) (I) Approving Post-Petition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Scheduling a Final Hearing (the “DIP Loan Motion”) at Docket No. 40 seeking relief as described below. Joining CCHG as movants in the DIP Loan Motion are affiliated entities identified in footnote 1 (collectively with CCHG, the “Debtors”), each of which filed a chapter 11 case along with the case captioned above (the “Lead Case”) (collectively, the “Debtors’ Cases”).

¹ The Debtors, followed by the last four digits of their respective taxpayer identification numbers, are as follows: The Cliffs Club & Hospitality Group, Inc. (6338); CCHG Holdings, Inc. (1356); The Cliffs at Mountain Park Golf & Country Club, LLC (2842); The Cliffs at Keowee Vineyards Golf & Country Club, LLC (5319); The Cliffs at Walnut Cove Golf & Country Club, LLC (9879); The Cliffs at Keowee Falls Golf & Country Club, LLC (3230); The Cliffs at Keowee Springs Golf & Country Club, LLC (2898); The Cliffs at High Carolina Golf & Country Club, LLC (4293); The Cliffs at Glassy Golf & Country Club, LLC (6559); The Cliffs Valley Golf & Country Club, LLC (6486); Cliffs Club & Hospitality Service Company, LLC (9665).

Among other things, the DIP Loan Motion now seeks the following relief under various statutes and rules:²

A. Authority to execute a Debtor-in-Possession Loan and Security Agreement, including all schedules, exhibits, and annexes thereto by and among the Debtors and Carlile Development Company, LLC (“Carlile Development” or the “DIP Lender”) in the form attached as Exhibit “A” to the DIP Loan Motion (as it may be amended, supplemented, restated, or otherwise modified from time to time, the “Agreement”), to enter into the “DIP Facility,” and to execute further “DIP Facility Documents,” all as defined in the Agreement, thereby to pay expenses in accordance with Agreement Section 4 and the DIP Budget (defined below);³

B. Under the terms of the DIP Facility Documents, authority to borrow up to \$7.5 million from DIP Lender, of which \$3 million was permitted to be advanced after the filing of the Interim Order (as defined below), to pay interest on the aggregate amount outstanding at the non-default rate of 12% per annum, and, upon any Event of Default under the DIP Facility Documents, to pay interest at the default rate of 14% per annum;

C. Under the terms of the DIP Facility Documents, authority to grant to the DIP Lender automatically perfected security interests in, liens on and assignments of (collectively, the “DIP Liens”) on all DIP Collateral (which includes substantially all

² 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d), and 507; F.R.B.P. 2002, 4001 and 9014, and SC LBR 4001-4. In this order, the “Bankruptcy Code” means title 11 of the United States Code of Laws, “F.R.B.P.” means the Federal Rules of Bankruptcy Procedure, and “SC LBR” means the Local Rules of the United States Bankruptcy Court for the District of South Carolina.

³ Capitalized terms not defined in this order have the meanings assigned to them in the Agreement. Lower case terms in this order that are defined in the Bankruptcy Code or F.R.B.P. have the meanings assigned to them there. In the event of any discrepancy between the DIP Facility Documents (including the Agreement) and this order, this order controls.

assets of the Debtors' estates except Avoidance and Nonassignable Actions), which DIP Liens shall be first priority security interests in, liens on and assignments of the DIP Collateral except for (x) mechanic's and materialman's liens and other Liens, if any, now prior to the Trust Indenture Liens (as defined below), (y) a Carve Out as described in the Agreement, and (z) by operation of law, the Liens of anyone not given proper notice of the DIP Loan Motion and its hearings;

D. Subject to the Carve Out, the Court's grant of superpriority administrative claim status in each of the Debtors' cases to any DIP Obligations, which status shall remain effective after any case conversion to Bankruptcy Code chapter 7 notwithstanding 11 U.S.C. § 726(b), to the extent permitted by law;

E. Under the terms of the DIP Facility Documents, authority to make adequate protection payments to the Indenture Trustee (defined below); and

F. Authority to do other things, identified below, that require disclosure under SC BLR 4001-4(b).

The Court held an initial hearing on the DIP Loan Motion pursuant to F.R.B.P. 4001(c)(2) (the "Interim Hearing") on March 5, 2012. The order entered on March 6, 2012 at Docket No.99 (the "Interim Order") sets forth the Court's ruling after the Interim Hearing.

The Court held a final hearing on the DIP Loan Motion pursuant to F.R.B.P. 4001(c)(2) (the "Final Hearing") on March 16, 2012. Present were counsel for the Debtors, the DIP Lender, the Indenture Trustee, and others, all as identified in the record of the Final Hearing.

This order (the "Final Order") memorializes the Court's ruling at the Final

Hearing. Based upon the record established at the Interim Hearing and the Final Hearing and the records of the Debtors' Cases, and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT
AND CONCLUSIONS OF LAW:⁴

Jurisdiction, Authority and Notice

1. The Debtors' Cases were all filed on February 28, 2012 (the "Petition Date"). Each Debtor has remained a debtor-in-possession since the Petition Date.

2. This Court has jurisdiction and authority to hear and determine the DIP Loan Motion as follows:

a. 28 U.S.C. §§ 1334(a) and (e) give the United States District Court for the District of South Carolina (the "District Court") jurisdiction over the Debtors' Cases, over all property of the estate in each Debtors' Case, and over all property of the Debtors as of the commencement of the Debtors' Cases, wherever located;

b. Venue is proper under 28 U.S.C. §§ 1408 and 1409;

c. 28 U.S.C. § 157(a) permits the District Court to refer matters to bankruptcy judges;

d. Through its Local Civil Rule 83.IX.01, the District Court has referred these matters to this Court;

⁴ The findings and conclusions set forth in this order constitute the Court's findings of fact and conclusions of law pursuant to F.R.B.P. 7052, made applicable by F.R.B.P. 9014. All findings of fact and conclusions of law that the Court announced at the Interim Hearing are hereby incorporated to the extent not inconsistent herewith. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

e. 28 U.S.C. § 157(b)(1) provides that this Court “may hear and determine,” and may issue final judgments, on matters that (i) are referred as set forth above, and (ii) are “core proceedings;” and

f. The DIP Loan Motion commences a core proceeding under 28 U.S.C. §§ 157(b)(2)(D) (“orders in respect to obtaining credit”) and (M) (“orders approving the use or lease or property, including the use of cash collateral”).

3. On March 1, March 2 and March 7, 2012, BMC Group, Inc., the Debtors’ claims and noticing agent, filed certificates of service [Docket Nos. 56, 60, 61 and 112] attesting to the notice given of the DIP Loan Motion and the Final Hearing.

Background and Stipulations

4. Wells Fargo Bank, N.A. (solely in its capacity as indenture trustee, the “Indenture Trustee”) is the trustee under that certain Indenture (the “Trust Indenture”) dated April 30, 2010 by and among, *inter alia*, CCHG as the Issuer, the other Debtors as Guarantors, James S. Anthony, as a guarantor, and the Indenture Trustee, acting for the benefit of holders (the “Noteholders”) of Series A Notes due 2017 and Series B Notes due 2017 (individually, a “Series A Note” or a “Series B Note” and collectively, the “Series A and B Notes”).

5. Steve and Penny Carlile of Marshall, Texas (the “Carliles”) own a lot in High Carolina, one of the Debtors’ communities, and are holders of a Series A Note and a Series B Note. The Carliles are the principals of Carlile Development.

6. The Debtors stipulate to certain facts. In each case, the words “the Debtors stipulate” mean that what follows constitutes an admission against interest of each of the Debtors. Subject to paragraph 18 below, the stipulation does not bind any

other party in interest who has already appeared, for example, the United States Trustee, or who may later appear, for example, a committee under 11 U.S.C. § 1102(a)(1) (a “Committee”). Such stipulations do not constitute this court’s findings of fact or conclusions of law.

7. The Debtors stipulate that the Debtors granted first priority consensual liens, *i.e.*, mortgages or security interests, as the case may be (collectively, the “Trust Indenture Liens”), on all personal property of the Debtors and certain real property located in Buncombe County, North Carolina; Greenville County, South Carolina; Oconee County, South Carolina; and Pickens County, South Carolina owned by certain of the Debtors (the “Trust Indenture Collateral”) to secure their obligations under the Trust Indenture

8. The Debtors stipulate that the Debtors now owe to the Noteholders no less than \$64,050,000 principal under the Trust Indenture, excluding the Prepetition Bridge Loan (defined below).

9. The Debtors stipulate that CCHG informed the Carliles that it was experiencing a severe liquidity crisis, and that CCHG requested funding in the form of a loan advance of \$1,500,000.

10. The Debtors stipulate that SP 50 Investments, LTD (“SP 50”), an affiliated entity that the Carliles own, supplied the funds for that advance on February 3, 2012 (the “Initial Bridge Loan Advance”), through (i) SP 50’s loan in the principal amount of \$1,500,000 to the Indenture Trustee, memorialized by a nonrecourse note, and (ii) the Indenture Trustee’s loan of those funds to the Debtors as an “advance” under the Trust Indenture – all with requisite Noteholder approval.

11. The Debtors stipulate that they thereafter received an additional loan advance of \$500,000 on February 21, 2012 through the same mechanism (together with the \$1,500,000 Initial Bridge Loan Advance, the “Prepetition Bridge Loan”), and that the Prepetition Bridge Loan, along with the Series A and B Notes, is secured by the Trust Indenture Liens.

12. The Debtors stipulate as follows:

a. the Trust Indenture Liens are legal, valid, binding, enforceable, non-avoidable and perfected;

b. as of the Petition Date, the Trust Indenture Liens had priority over any and all other security interests and liens on the Trust Indenture Collateral, subject only to certain security interests and liens otherwise permitted by the Trust Indenture and ancillary documents (to the extent any such permitted liens were then valid, properly perfected, non-avoidable, and senior in priority to the Trust Indenture Liens, the “Permitted Prepetition Prior Liens”);

c. the obligations (the “Trust Indenture Obligations”) under the Trust Indenture and ancillary documents (the “Trust Indenture Documents”), including those concerning the Prepetition Bridge Loan, constitute legal, valid, binding, and non-avoidable obligations of the Debtors, enforceable in accordance with the terms of the Trust Indenture Documents except as 11 U.S.C. § 362(a) dictates otherwise;

d. no offsets, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Trust Indenture Liens or the Trust Indenture Obligations exist, and no portion of the Trust Indenture Liens or the Trust Indenture Obligations is subject to any challenge or defense, including, without

limitation, avoidance, recharacterization, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law;

e. the Debtors and their estates have no offsets, defenses, claims, objections, challenges, causes of action, and/or choses in action against or with respect to the Indenture Trustee, SP 50, Carlile Development, or the Carliles; and

f. the Debtors waive, discharge, and release any right they may have to challenge any of the Trust Indenture Obligations and the security for those obligations, and to assert any offsets, defenses, claims, objections, challenges, causes of action, and/or choses of action against the Indenture Trustee, SP 50, Carlile Development, or the Carliles.

The DIP Facility

13. The Debtors' need for the DIP Facility is manifest. Without it, the Debtors lack the cash to continue operating, and continued operation is essential to a preservation of the value of their assets until those assets can be sold.

14. The Debtors are unable to obtain unsecured credit allowable under 11 U.S.C. § 503(b)(1).

15. The Debtors are unable to obtain credit except through the granting of the DIP Liens on the DIP Collateral.

16. In accordance with the terms and conditions of this Final Order, the Court approves the priority of the DIP Liens over the Indenture Trust Liens, as set forth elsewhere in this order and in the DIP Agreement, on the basis of the Indenture Trustee's consent. Nothing in this order or in the DIP Agreement shall evidence or be construed to

imply that the Indenture Trustee's rights and interests have or have not been adequately protected.

17. The Agreement contains provisions for a budget (the "DIP Budget"). A copy the DIP Budget is attached hereto as Exhibit "A".

Disclosures under SC LBR 4001-4(b)

18. The DIP Loan Motion, or a party's counsel at the Interim Hearing, identified the following Agreement provisions to comply with SC LBR 4001-4(b)'s requirement for identification of provisions that the court "does not normally approve." The capital letters indicate subparagraphs of SC LBR 4001-4(b)(1). The Debtors and the DIP Lender seek approval in this Final Order, not in the Interim Order, for the provisions set forth below:

(A) The Debtors' stipulations constitute admissions against interest of the Debtors as debtors and debtors in possession, and do not immediately bind anyone else, for example, the United States Trustee, a Committee, a trustee or examiner, or any creditor in any of the Debtors' Cases. Any party with standing other than the Debtors may commence an appropriate adversary proceeding or contested matter objecting to anything contained in the stipulations no later than seventy (70) days after the Petition Date, unless such time period is extended by agreement with the Indenture Trustee or upon order of the Court for good cause shown. The Committee shall have standing to assert any such claims. If no such adversary proceeding or contested matter is timely filed, then the following will occur without further notice, opportunity to be heard, or order of the Court:

(i) the Debtors' stipulations will be deemed true and binding upon any and all parties in interest, including without limitation any Committee or any representative of the estate appointed now or in the future in any of the Debtors' Cases in chapter 11 or in chapter 7 (collectively, "Bound Parties");

(ii) the Trust Indenture Liens will be deemed legal, valid, binding, enforceable, perfected, non-avoidable, and not subject to attack by any Bound Parties;

(iii) the Prepetition Bridge Loan and all other Trust Indenture Obligations shall be conclusive and binding upon all Bound Parties as legal, valid, binding, enforceable claims that are not subject to offset, counterclaim, equitable subordination, recharacterization, or other defense or claim; and

(iv) the Indenture Trustee, SP 50, the Carliles, the DIP Lender, and all their officers, agents, employees, affiliates, and assigns, will be deemed to be released from any claims or other liability whatsoever arising from or related to the Trust Indenture, the Trust Indenture Liens, the Prepetition Bridge Loan, or any other Trust Indenture Obligations.

(B) The DIP Agreement, the Interim Order and this Final Order provide that the DIP Loan is secured by a first priority lien on substantially all assets of the Debtors pursuant to 11 U.S.C. §§ 364(c)(2) and (d)(1), and by a junior lien on assets that are subject to certain permitted prepetition liens (as set forth in the Interim Order and this Final Order) pursuant to 11 U.S.C. § 364(c)(3), and which indebtedness to the DIP Lender shall have superpriority administrative priority status under 11 U.S.C. § 364(c)(1).

(D) Agreement Section 8.16, reproduced in the footnote below,⁵ contains a negative covenant that divests the Debtors, as debtors-in-possession, of some discretion in formulating a chapter 11 plan. The Carliles explain that provision as follows. They are not in the business of lending money to bankrupt estates; rather, they seek to provide the operating capital needed to keep the Debtors alive until the Carliles have sufficient time to purchase the Debtors' assets through a chapter 11 plan. The Carliles explain that Agreement Section 8.16 does not prohibit the Debtors from filing a plan that contains a higher and better offer for the assets than the Carliles' offer; rather, Agreement Section 8.16 ensures the Carliles reasonable and appropriate reimbursement and compensation, given the

⁵ "8.16. **Contents of a Reorganization Plan.**

(a) Proscription. No Borrower shall file, otherwise propose, or consent, to any Reorganization Plan in which DIP Lender or an affiliate is not a Reorganization Plan proponent, unless, before that act of filing, proposing, or consenting, either (i) DIP Lender has given its express written consent to that act, (ii) DIP Lender or Carlile Development Group has withdrawn as a Reorganization Plan proponent, or (iii) the Bankruptcy Court has approved 'Substitution Conditions,' defined in Paragraph 8.16(b) below, in full in a final order no longer subject to appeal.

(b) Definition. 'Substitution Conditions' means payment in full of the following, no later than Plan closing: (i) all outstanding obligations of the Prepetition Bridge Loan; (ii) all outstanding obligations of the DIP Facility; and (iii) to the extent earned (as described in the motion to approve bid procedures filed by one or more Borrowers on the Petition Date), a \$1,000,000 break-up fee, plus a \$750,000 expense reimbursement which shall increase by an additional \$100,000 per month for each month after the first six months after the Petition Date until paid in full."

particular facts of the Debtors' Cases, if the assets are sold to another buyer.

(G) The provisions of this Final Order bind the Debtors with respect to releases of the Indenture Trustee, SP 50, Carlile Development and the Carliles, but no other parties are deemed to grant releases under this Final Order, except as is otherwise set forth in paragraph (A) just above or paragraph (N) just below.

(N) The provisions of this Final Order bind a later appointed trustee to the agreement of the Debtors in two ways. One is set forth in paragraph (A) above. Here is the other:

Other than the Debtors, any party with standing to do so, but only to the extent of that party's standing, may commence an appropriate adversary proceeding or contested matter objecting to anything contained in the DIP Facility Documents or anything concerning the DIP Lender or the Indenture Trustee no later than the earliest of (i) twenty eight (28) days after the Maturity Date, (ii) the payment in full of all outstanding principal and interest under the DIP Facility, or (iii) the entry of an order under Bankruptcy Code § 1129. The Committee shall have standing to assert any such Claims. If no such adversary proceeding or contested matter is timely filed, then the following will occur without further notice, opportunity to be heard, or order of the Court:

(i) the DIP Liens will be deemed legal, valid, binding, enforceable, perfected, non-avoidable, and not subject to attack by any Bound Parties; and

(ii) All DIP Obligations shall be conclusive and binding upon all Bound Parties as legal, valid, binding, enforceable claims that are not subject to offset, counterclaim, equitable subordination, recharacterization, or other defense or claim;

(iii) the DIP Lender, the Indenture Trustee, the Carliles, all their officers, agents, employees, affiliates, and assigns, will be deemed to be released from any claims or other liability whatsoever arising from or related to the DIP Facility, the DIP Collateral, the DIP Liens, the DIP Facility Documents, the DIP Liens or the DIP Obligations; and

(iv) by operation of Agreement Section 10.3(c), the Debtors' estates, and the DIP Collateral, will be released from the indemnity obligations set forth in Agreement Sections 10.3(a) and 10.3(b) and any other indemnification obligations.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED

THAT:

General Approvals and Directions

19. The relief requested in the DIP Loan Motion is hereby GRANTED, and the Agreement is hereby APPROVED, subject to the terms and conditions set forth in this Final Order.

20. All objections to the DIP Loan Motion made before the entry of this Final Order were withdrawn or resolved.

21. The Court hereby authorizes, and approves and directs the following:

a. the Debtors' execution and delivery of the Agreement and all of the other DIP Facility Documents; the Debtors' performance of all acts to make, execute, and deliver to the DIP Lender all DIP Facility Documents; and the Debtors' payment of all filing and recording fees as may be appropriate to give effect to any of the terms and conditions of the DIP Financing Documents, to validate the perfection of the DIP Liens, or as the DIP Financing Documents otherwise contemplate;

b. the Debtors' compliance in full with the terms of the DIP Facility Documents, including representations, warranties, affirmative covenants, negative covenants and any other DIP Obligations (subject to the tolerances for materiality or other variances permitted in the DIP Facility Documents); and

c. the Debtors' obtaining Advances under the DIP Facility from time to time up to an aggregate principal amount outstanding at any time of \$7,500,000 in accordance with the Agreement (not counting interest, fees, and other charges payable in connection therewith).

22. This Final Order addresses the disclosures under SC LBR 4001-4(b) described in paragraph 18 above at paragraph 34 below.

23. The DIP Financing Documents may be executed and delivered on behalf of each Debtor by any officer, director, or agent of such Debtor, or by the sole member or manager of such Debtor, as the case may be, who by signing shall be deemed to represent himself or herself to be duly authorized and empowered to execute the DIP Financing Documents for and on behalf of such Debtor.

24. Upon execution and delivery thereof, each DIP Financing Document shall constitute valid and binding obligations of the Debtors and shall be enforceable against the Debtors in accordance with its terms.

25. The Debtors shall be jointly and severally liable to repay the DIP Obligations in accordance with the DIP Financing Documents. All DIP Collateral shall be security for all DIP Obligations without regard to the use of any Advance or the consideration or benefit received by any Debtor.

DIP Facility Liens, Superpriority and Carve Out

26. Except as provided in paragraph 27 below, the DIP Lender shall have, and is hereby granted, valid, binding, enforceable, non-avoidable and automatically and properly perfected DIP Liens upon all DIP Collateral to secure Full Payment of all DIP Obligations, with the following priorities: (a) first priority upon (i) all DIP Collateral⁶ that, as of the Petition Date, is not subject to valid liens that are perfected and not subject to avoidance, pursuant to 11 U.S.C. § 364(c)(2); (ii) all DIP Collateral that exists or is acquired only after the Petition Date, pursuant to 11 U.S.C. § 364(c)(2); and (iii) the

⁶ As set forth in Agreement Section 3.1, the DIP Collateral excludes Avoidance and Nonassignable Actions, as defined there, and excludes as well property taken to satisfy the Carve Out, after that property is taken for that purpose.

Trust Indenture Collateral, pursuant to 11 U.S.C. § 364(d)(1); and (b) junior priority upon all other DIP Collateral, pursuant to 11 U.S.C. § 364(c)(3).

27. Notwithstanding the provisions of paragraph 26 above, the DIP Liens shall remain subject to the Carve Out provisions of Agreement Section 3.5 and elsewhere within the Agreement. (See footnote 6 herein).

28. Subject to the provisions of paragraph 29 below: (i) all DIP Obligations shall have administrative priority status in accordance with, and shall constitute an allowed superpriority claim (the "DIP Superpriority Claim") over, all other administrative expenses in the Debtors' Cases, (except that they shall not be payable from proceeds of Avoidance and Nonassignable Actions); (ii) the DIP Superpriority Claim shall have super-priority administrative expense status under Bankruptcy Code § 364(c)(1), with priority over all other costs and expenses of the kinds specified in, or ordered pursuant to, Sections 105, 326, 328, 330, 331, 503(b), 506(c) (subject to entry of this Final Order), 507(a), 507(b), 726, 1113, 1114, or any other provisions of the Bankruptcy Code, pursuant to 11 U.S.C. § 364(c)(1); and (iii) no costs or administrative expenses that have been or may be incurred in the Debtors' Cases, whether in any matters or proceedings related hereto or in any successor cases, and no priority claims or superpriority claims, are or will be prior to or on a parity with the DIP Superpriority Claim.

29. Notwithstanding the provisions of paragraph 28 above, Carve Out Expenses and other components of the Carve Out are paid from Advances, Cash Collateral, and if insufficient, from other DIP Collateral and have priority over repayment of the DIP Facility. If all DIP Obligations and the Prepetition Bridge Loan obligations are not paid in full because Carve Out Expenses take priority, then the DIP Lender will

obtain a 11 U.S.C. § 503(b) claim for that amount, which claim does not have superpriority status, and is therefore subject to subordination to chapter 7 administrative claims under 11 U.S.C. § 726(b). (See Agreement § 3.5(c).)

30. It shall be an event of default under the DIP Facility if an order is entered in any of the Debtors' Cases that authorizes the obtaining of credit or the incurrence of indebtedness by any Debtor (or any trustee or examiner) that is (a) secured by a security interest, mortgage, collateral interest or other lien on all or any part of the DIP Collateral that is equal to or senior to the DIP Liens, or (b) entitled to priority administrative status that is equal or senior to the DIP Superpriority Claim granted to the DIP Lender herein; provided, however, that nothing herein shall prevent the entry of an order that specifically conditions the granting of the benefits of clauses (a) or (b) above upon the full payment of all amounts owed under the DIP Facility Documents and the Prepetition Bridge Loan from the first proceeds of such credit or indebtedness.

Particular DIP Lender Protections and SC LBR 4001-4(b) Issues

31. The DIP Lender shall not have any obligation or responsibility to monitor any Debtor's use of the advances under the DIP Facility, but may rely upon any Debtor's representations that the amount of any advances under the DIP Facility requested at any time, and the use thereof, comply with this Final Order, the DIP Facility Documents, the DIP Budget (subject to the variances and carry forwards set forth in the Agreement), and all applicable provisions of the Bankruptcy Code, the F.R.B.P., and the SC LBR. Notwithstanding the foregoing, the Debtors shall not be required to comply with the requirement that the Debtors' total operating expenditures shall not exceed that set forth in the DIP Budget on a line-item basis by more than 7.5% for budget periods from the

Petition Date through and including March 30, 2012. The aggregate variance of 5% set forth in Section 4.2(c) of the Agreement remains.

32. The DIP Lender is authorized to rely upon the person(s) who execute and deliver any of the DIP Financing Documents on behalf of the Debtors as having done so with all requisite power and authority.

33. Notwithstanding any bar order establishing a deadline for the filing of requests for payment or proofs of claims under 11 U.S.C. § 503(b), unless such an order explicitly provides to the contrary, the DIP Lender shall not be required to file any proof of claim, application for allowance of an administrative expense claims, or request for payment with respect to any of the DIP Obligations. The failure to file any such document shall not adversely affect the validity or enforceability of any of the DIP Facility Documents, the DIP Lender's rights, remedies, powers, or privileges under the DIP Facility Documents, or this Final Order.

34. The Court hereby addresses issues deferred from the Interim Order as follows. First, in regard to the United States Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), none of SP 50, Carlile Development or the Indenture Trustee shall be deemed in control of the Debtors or their operation or to be acting as a “responsible person,” “managing agent” or “owner operator” (as such terms are defined in CERCLA, as amended, or any similar state or federal statute) with respect to the operation or management of any Debtor merely by consenting to this Final Order, making advances under the DIP Facility, or administering the financing relationship with the Debtors pursuant to the DIP Facility Documents. Second, in regard to issues disclosed under SC LBR 4001-4(b) (the initial letters refer to subsections of that rule):

(A) The Debtors' stipulations constitute admissions against interest of the Debtors as debtors and debtors in possession, and do not immediately bind anyone else, for example, the United States Trustee, a Committee, a trustee or examiner, or any creditor in any of the Debtors' Cases. Any party with standing other than the Debtors may commence an appropriate adversary proceeding or contested matter objecting to anything contained in the stipulations no later than seventy (70) days after the Petition Date, unless such time period is extended by agreement with the Indenture Trustee or upon order of the Court for good cause shown. The Committee shall have standing to assert any such claims. If no such adversary proceeding or contested matter is timely filed, then the following will occur without further notice, opportunity to be heard, or order of the Court:

(i) the Debtors' stipulations will be deemed true and binding upon any and all parties in interest, including without limitation any Committee or any representative of the estate appointed now or in the future in any of the Debtors' Cases in chapter 11 or in chapter 7 (collectively, "Bound Parties");

(ii) the Trust Indenture Liens will be deemed legal, valid, binding, enforceable, perfected, non-avoidable, and not subject to attack by any Bound Parties;

(iii) the Prepetition Bridge Loan and all other Trust Indenture Obligations shall be conclusive and binding upon all Bound Parties as legal, valid, binding, enforceable claims that are not subject to offset, counterclaim, equitable subordination, recharacterization, or other defense or claim; and

(iv) the Indenture Trustee, SP 50, the Carliles, the DIP Lender, and all their officers, agents, employees, affiliates, and assigns, will be deemed to be released from any claims or other liability whatsoever arising from or related to the Trust Indenture, the Trust Indenture Liens, the Prepetition Bridge Loan, or any other Trust Indenture Obligations.

(B) The DIP Obligations are secured by a first priority lien on substantially all assets of the Debtors pursuant to 11 U.S.C. §§ 364(c)(2) and (d)(1), and by a junior lien on assets that are subject to certain permitted prepetition liens pursuant to 11 U.S.C. § 364(c)(3), and which indebtedness to the DIP Lender shall have superpriority administrative priority status under 11 U.S.C. § 364(c)(1).

(D) As set forth in paragraph 22 above, Agreement Section 8.16 is hereby approved.

(G) The provisions of this Final Order bind the Debtors with respect to releases of the Indenture Trustee, SP 50, Carlile Development and the Carliles, but no other parties are deemed to grant releases under this Final Order, except as is otherwise set forth in paragraph 34(A) just above or paragraph 34(N) just below.

(N) Other than the Debtors, any party with standing to do so, but only to the extent of that party's standing, may commence an appropriate adversary proceeding or contested matter objecting to anything contained in the DIP Facility Documents or anything concerning the DIP Lender or the Indenture Trustee no later than the earliest of (i) twenty eight (28) days after the Maturity Date, (ii) the payment in full of all outstanding principal and interest under the DIP Facility, or (iii) the entry of an order under Bankruptcy Code § 1129. The Committee shall have standing to assert any such

claims. If no such adversary proceeding or contested matter is timely filed, then the following will occur without further notice, opportunity to be heard, or order of the Court:

(i) the DIP Liens will be deemed legal, valid, binding, enforceable, perfected, non-avoidable, and not subject to attack by any Bound Parties;

(ii) All DIP Obligations shall be conclusive and binding upon all Bound Parties as legal, valid, binding, enforceable claims that are not subject to offset, counterclaim, equitable subordination, recharacterization, or other defense or claim;

(iii) the DIP Lender, the Indenture Trustee, the Carliles, all their officers, agents, employees, affiliates, and assigns, will be deemed to be released from any claims or other liability whatsoever arising from or related to the DIP Facility, the DIP Collateral, the DIP Liens, the DIP Facility Documents, the DIP Liens or the DIP Obligations; and

(iv) by operation of Agreement Section 10.3(c), the Debtors' estates, and the DIP Collateral, will be released from the indemnity obligations set forth in Agreement Sections 10.3(a) and 10.3(b) and any other indemnification obligations.

35. The DIP Liens are legal, valid, binding, enforceable, and perfected upon entry of this Final Order. The DIP Lender is not be required to file any UCC-1 financing statements, mortgages, deeds of trust, security deeds, notices of lien, or any similar document or take any other action (including possession of any of the DIP Collateral) to validate the perfection of any DIP Liens. If in its sole discretion the DIP Lender chooses

to file or record any such mortgages, deeds of trust, security deeds, notices of lien, or UCC-1 financing statements, or to take any other action to perfect any part of the DIP Liens under applicable non-bankruptcy law, the Debtors and their respective officers are directed to execute or deliver any documents or instruments as the DIP Lender may reasonably request. The DIP Lender may, in its discretion, file a certified copy of this Final Order in any filing office in any jurisdiction in which any Debtor is organized or has or maintains any DIP Collateral or an office.

36. Without further order, the Debtors and the DIP Lender, with the Indenture Trustee's consent, are hereby authorized to implement any amendments to and modifications of any of the DIP Facility Documents on the following conditions:

- a. the amendment or modification must not constitute a "prohibited change" to the terms of the DIP Financing Documents, as defined below;
- b. copies of the amendment or modification must be filed with the Court and served upon counsel for any Committee, the U.S. Trustee, and other interested parties specifically requesting such notice; and
- c. The Debtors shall provide prompt notice by electronic mail and otherwise of any amendment or modification made under the authorization of this paragraph to any Committee and to the United States Trustee. If a Committee or the United States Trustee files an objection to such amendment or modification no later than three (3) days after such notice, then the Court will approve or disapprove such amendment or modification after notice and a hearing. Any such approval may be nunc pro tunc to the date of Debtors' notice to the Committee and the United States Trustee.

The words "prohibited change" above mean a change that does any of the following: shortens the Maturity Date or otherwise shortens term of the DIP Facility; increases the DIP Commitment; increases the Agreement's default or nondefault interest rate; adds new Events of Default or redefines existing Events of Default; adds new remedies upon Default; or redefines existing remedies.

37. The Court hereby approves the following mechanism for modification of the 11 U.S.C. § 362(a) stay on negative notice. This paragraph is without prejudice to the right of DIP Lender or any other party in interest to move for stay relief at any time, or to take any action that does not require stay modification, as if the following mechanism did not exist:

a. If DIP Lender intends to exercise any remedies against any DIP Collateral under applicable nonbankruptcy law upon any Event of Default (after any applicable grace period), and DIP Lender intends to pursue stay relief according to this paragraph 37, DIP Lender shall send written notice (the "Initial Notice") to the Debtors, the CRO, counsel to the Indenture Trustee, any Committee and the United States Trustee of such intent (which notice may be delivered by facsimile), with specific reference to the subject DIP Collateral and remedies;

b. If the alleged Event of Default is not remedied to DIP Lender's satisfaction within seven (7) days after the Initial Notice is sent, and DIP Lender intends to pursue stay relief according to this paragraph 37, then DIP Lender shall promptly file an affidavit of the alleged Event of Default and DIP Lender's proposed remedies, including a proposed order terminating the automatic stay, if the DIP Lender elects to pursue such remedy.

c. The Debtors, the CRO, the Indenture Trustee or a Committee may file a motion/objection in the Court to stop such action no later than fourteen (14) days from the day that DIP Lender sent its Initial Notice;

d. If no motion under clause (c) is timely filed, relief from stay shall be entered, and DIP Lender may take the actions set forth in such order, and the stay under Bankruptcy Code 362(a) shall be deemed modified to permit such actions. DIP Lender shall file an affidavit with the Court no later than three days after its actions to give notice of its actions, and

e. If any motion/objection under clause (c) is timely filed, DIP Lender shall take no action that would otherwise violate the Bankruptcy Code 362(a) stay without further Court order modifying the stay.

Construction of Order

38. The provisions of this Final Order shall survive the entry of, and shall govern with respect to, any conflict with any order that may be entered confirming any plan of reorganization or liquidation, or converting any of the Debtors' Cases from chapter 11 to chapter 7.

39. Nothing in this Final Order waives the rights of SP 50, Carlile Development, the Carliles, the Indenture Trustee, to whatever extent they otherwise have standing, or any other party in interest, to seek relief from the automatic stay, to seek the appointment of a trustee or examiner, to seek the conversion or dismissal of the Debtors' Cases, or to request any other relief in the Debtors' Cases. Nothing in this order waives the rights of any other party in interest to oppose any such relief.

40. This Final Order does not attempt to restate all rights, remedies, powers, and privileges set forth in the Agreement or elsewhere in the DIP Facility Documents. The restatement of a specific provision of the Agreement in this Final Order shall not be interpreted to imply the Court's approval or disapproval of any specific provision of the Agreement not restated in this Final Order.

41. The extension of credit under the DIP Facility and the use of cash collateral hereunder shall be deemed to have been made and allowed in good faith, and for valid business purposes and uses, within the meaning of 11 U.S.C. § 364(e), and the DIP Lender and the Indenture Trustee are therefore entitled to the protection and benefits of 11 U.S.C. § 364(e) (to the extent applicable) and this Final Order.

42. Nothing in this Final Order shall constitute a release, bar or waiver of any third party claim or causes of actions not held by the Debtors or their estates, but rather held individually (though not derivatively) by parties in interest.

43. The Committee reserves the right to seek disgorgement of any payments made to the Indenture Trustee through authorization of this Final Order or otherwise. Nothing in this Final Order shall be construed to impair that right, or to impair the defenses or objections thereto of any party in interest.

44. Nothing in this Final Order shall be construed to impair the right of the Committee and any other party in interest to seek a determination as to the secured status of the Note Obligations under section 506(a) (or otherwise) of the Bankruptcy Code, or to impair the defenses or objections thereto of any party in interest.

45. In the event the Committee is disbanded or terminated, any rights granted to the Committee under this Final Order shall not survive, unless otherwise ordered by the Court.

46. To any extent that any F.R.B.P., Federal Rule of Civil Procedure, or SC LBR delays otherwise stays the effectiveness of this Final Order unless the Court orders otherwise, the Court hereby orders that such stay shall not be effective as to this Final Order, and that this Final Order shall take effect immediately upon entry.

47. This Court has and shall retain jurisdiction to enforce and interpret this order.

48. Notwithstanding any other provision of this order, the Court may amend or vacate this order or enter other appropriate orders relative hereto in its inherent authority and/or to the extent this or prior orders were based upon material misrepresentations or the failure to disclose material information deemed important to its findings.

Exhibit "A"

DIP Budget

DIP BUDGET

The Cliffs Club & Hospitality Group, Inc. et al.

	3/9/2012 Actual	Week Ending											6/1/2012 Budget	Total
		3/16/2012 Budget	3/23/2012 Budget	3/30/2012 Budget	4/6/2012 Budget	4/13/2012 Budget	4/20/2012 Budget	4/27/2012 Budget	5/4/2012 Budget	5/11/2012 Budget	5/18/2012 Budget	5/25/2012 Budget		
Beginning Cash Balance	950,106	1,038,890	1,35,571	205,584	153,977	45,094	110,290	581,405	140,580	157,885	185,541	769,706		
CASH RECEIPTS														
Member payments	149,371	360,000	275,000	697,000	300,000	393,000	750,000	300,000	462,500	437,500	887,500	462,500	5,849,371	
Miscellaneous	-	-	47,000	-	-	-	69,000	-	-	-	120,000	-	236,000	
Membership Notes	-	-	-	-	-	-	-	-	-	-	-	-	-	
TOTAL CASH RECEIPTS:	149,371	360,000	322,000	697,000	300,000	393,000	819,000	300,000	462,500	437,500	1,007,500	462,500	6,085,371	
CASH DISBURSEMENTS														
Taxes	-	(4,475)	(88,000)	-	-	(104,475)	-	-	-	(4,475)	(122,000)	-	(323,425)	
Cost of Sales	(16,199)	(215,904)	(75,000)	(50,000)	(70,000)	(72,000)	(52,000)	(127,000)	(176,000)	(56,000)	(136,000)	(61,000)	(1,223,102)	
Payroll/Benefit/Related	(501,172)	(14,138)	(605,552)	(459,338)	(22,000)	(521,914)	(128,000)	(499,192)	(10,000)	(563,330)	(11,000)	(662,192)	(4,118,828)	
Insurance	(53,456)	(4,500)	(30,500)	(53,456)	-	-	-	(53,456)	-	-	-	-	(195,368)	
Communication/Technology/Software	-	(59,239)	(98,000)	(7,723)	(46,402)	(30,000)	(15,000)	(7,723)	(9,100)	(54,402)	(15,000)	(7,723)	(389,312)	
Utilities	(2,810)	(39,190)	(6,800)	(13,800)	(9,800)	(21,800)	(12,800)	(32,800)	(9,800)	(21,800)	(19,800)	(9,800)	(236,800)	
Other Operating Expense	(35,124)	(250,386)	(102,000)	(87,000)	(177,000)	(117,000)	(117,000)	(92,000)	(92,000)	(87,000)	(92,000)	(78,000)	(1,443,510)	
Leases	(14,970)	(44,559)	(3,667)	-	(8,200)	(3,667)	-	(51,329)	(8,200)	(3,667)	-	(51,329)	(240,916)	
Golf Course Operating	(14,739)	(219,825)	(150,796)	(96,656)	(39,481)	(47,949)	(23,085)	(34,970)	(70,095)	(66,170)	(27,535)	(23,870)	(958,767)	
Facilities/Rent Expense	-	(19,000)	-	(10,000)	-	(9,000)	-	(10,000)	-	(9,000)	-	(10,000)	(67,000)	
Property & Other Taxes	-	-	-	-	(15,000)	-	-	-	-	-	-	-	(15,000)	
Total Cash Disbursements from Operations	(638,468)	(871,217)	(1,160,315)	(849,973)	(433,883)	(927,804)	(347,885)	(908,470)	(375,195)	(865,844)	(423,335)	(903,914)	(9,212,029)	
Chapter 11 Net Operating Cash Flow (cumulative)	(489,097)	(1,000,314)	(1,838,629)	(1,647,354)	(2,256,210)	(2,791,015)	(2,319,900)	(2,928,370)	(2,841,065)	(3,269,409)	(2,685,244)	(3,126,658)		
Deposits	-	-	(35,004)	(121,262)	-	-	-	-	-	-	-	-	(156,266)	
Restructuring Expenses														
Debtors Financial Advisor-GGG	-	-	-	-	(190,000)	-	-	-	-	(190,000)	-	-	(380,000)	
Debtors Counsel - McKenna Long	-	-	-	-	(240,000)	-	-	-	-	(240,000)	-	-	(480,000)	
Debtors Counsel - Wilkinson (local counsel)	-	-	-	-	(10,000)	-	-	-	-	(10,000)	-	-	(20,000)	
Unsecured Creditors Counsel	-	-	-	-	(95,000)	-	-	-	-	(95,000)	-	-	(190,000)	
Ordinary Course Professionals	-	-	(30,000)	-	(42,500)	-	-	-	(30,000)	(12,500)	-	-	(115,000)	
Debtor's Accountants	-	-	-	-	(12,500)	-	-	-	-	(12,500)	-	-	(25,000)	
Claims / Noticing Agent - BMC	-	-	-	-	(60,000)	-	-	-	-	(24,000)	-	-	(84,000)	
US Trustee Fees	-	-	-	-	-	-	-	(16,750)	-	-	-	-	(16,750)	
Adequate Protection Payments	(235,000)	-	-	(235,000)	-	-	-	(235,000)	-	-	-	(235,000)	(940,000)	
DIP Lenders Monitoring Fees	(121,000)	-	-	(40,000)	-	-	-	(40,000)	-	-	-	(40,000)	(241,000)	
DIP Interest & Fees	-	-	-	(26,633)	-	-	-	(40,604)	-	-	-	(53,240)	(120,477)	
Total Restructuring Expenses	(356,000)	-	(30,000)	(303,633)	(650,000)	-	-	(332,354)	(30,000)	(584,000)	-	(328,240)	(2,612,227)	
Total Disbursements	(994,468)	(871,217)	(1,225,319)	(626,987)	(1,083,883)	(927,804)	(347,885)	(1,240,824)	(405,195)	(1,449,844)	(423,335)	(1,232,154)	(11,980,522)	
Net Cash Flow (for the period)														
		(511,217)	(903,319)	70,013	(851,607)	(708,883)	(534,804)	471,115	(940,824)	57,305	(1,012,344)	584,165	(769,654)	(5,050,054)
Chapter 11 Net Cash Flow (cumulative)		(1,356,314)	(2,259,633)	(2,189,620)	(3,041,227)	(3,750,110)	(4,284,914)	(3,813,799)	(4,754,623)	(4,697,318)	(5,125,498)	(5,895,151)	(5,895,151)	
DIP Loan Advance (Repayment)	500,000	600,000	-	800,000	600,000	600,000	600,000	500,000	500,000	1,000,000	500,000	500,000	5,100,000	
ENDING CASH BALANCE	950,106	1,038,890	135,571	205,584	153,977	45,094	110,290	581,405	140,580	197,885	769,706	500,053	500,053	
DIP Loan Balance														
Opening	-	500,000	1,100,000	1,100,000	1,100,000	1,900,000	3,100,000	3,100,000	3,600,000	3,600,000	4,600,000	4,600,000	4,600,000	
Advance / (repayment)	500,000	600,000	-	800,000	600,000	600,000	600,000	500,000	500,000	1,000,000	500,000	500,000	5,100,000	
Ending	500,000	1,100,000	1,100,000	1,900,000	2,500,000	3,100,000	3,100,000	3,600,000	3,600,000	4,600,000	4,600,000	5,100,000	5,100,000	