

**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.

**The Cliffs at Mountain Park Golf & Country
Club, LLC**

Movant,

v.

Georgia Bridge & Dock, Inc.,

Respondent

CHAPTER 11

Case No. 12-01220

Jointly Administered

Contested Matter

**DEBTORS' OBJECTION TO THE ALLOWANCE OF CLAIM NO. 913 FILED BY
GEORGIA BRIDGE & DOCK, INC. AND MOTION TO REDUCE AND RECLASSIFY
THIS SECURED CLAIM AS A GENERAL UNSECURED CLAIM**

COMES NOW The Cliffs at Mountain Park Golf & Country Club, LLC, one of the jointly administered debtors (the "Debtors"), and files an Objection to the Allowance of Claim No. 913 filed by Georgia Bridge & Dock, Inc. as a Secured Claim and Motion to Reclassify said

¹ 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).

Secured Claim as a General Unsecured Claim (the "Objection"). 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 Sections 502 and 545 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007, (i) disallowing Claim Number 913 filed by Georgia Bridge & Dock, Inc. as a secured claim in Chapter 11 Case No. 12-01225, which is one of the cases being jointly administered in the above-styled case, and (ii) reducing and reclassifying said secured claim as a general unsecured claim in the amount of \$76,003.02.

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). The statutory bases for the relief requested in 28 U.S.C. §§ 502 and 545, and S.C. Code Ann. § 29-5-10 et seq.

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 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, the Debtors' claims and noticing agent (the "Claims Bar Date") [Docket Entry No. 278].

7. On May 25, 2012, Georgia Bridge & Dock, Inc. filed a proof of claim against The Cliffs at Mountain Park Golf & Country Club, Inc., one of the Debtors, in the amount of \$90,026.48 as a secured claim (the "Georgia Bridge & Dock Claim"). The claim was assigned Claim No. 913 by BMC Group, the Debtors' claims and noticing agent. Attached to the Georgia Bridge & Dock Claim are copies of the Notice and Certificate of Mechanic's Lien filed on September 9, 2011 and of the complaint filed in the Court of Common Pleas for the Thirteenth Judicial District on December 2, 2011 by Georgia Bridge & Dock, Inc. to foreclose upon its mechanic's lien. The evidence supporting the amount of the claim is a copy of an invoice dated September 1, 2011 in the amount of \$76,003.02 that is an exhibit to the Notice and Certificate of Mechanic's Lien.

8. Georgia Bridge & Dock, Inc. did not comply with South Carolina law for the perfection of a Mechanic's Lien Claim because the Notice and Certificate of Mechanic's Lien was filed more than 90 days after Georgia Bridge & Dock last provided services to The Cliffs at Mountain Park Golf & Country Club, LLC.

9. The invoice is nothing more than a recapitulation of change orders and does not reflect that services were provided on or about September 1, 2011. Furthermore, the invoice reflects a balance due of \$76,003.02 and the proof of claim contains no detail to support the \$14,023.46 difference between that lesser amount and the greater amount sought in the Georgia Bridge & Dock Claim.

10. Accordingly, the Debtors' seek to reduce to \$76,003.02 and to reclassify Claim No. 913 as an unsecured claim not entitled to priority, and to disallow the Georgia Bridge & Dock Claim as a secured claim against the Debtors.

11. The Debtors have reviewed proofs of claim filed in these cases. The Debtors records reflect that June 8, 2011 was the date of the last services provided by Georgia Bridge & Dock, Inc. to The Cliffs at Mountain Park Golf & Country Club, LLC, and accordingly that September 6, 2011 was the deadline for a timely mechanic's lien notice to have been filed in the real estate records under South Carolina law. The filing on September 9, 2011 was accordingly three (3) days too late. This Objection is the result of the Debtors' review of their books and records.

IV. Basis for Relief Requested

13. The claimant has failed to demonstrate that the claimant took the necessary steps under South Carolina law for such claim to be considered as a secured mechanic's lien claim. The books and records of the Debtors reflect an unsecured obligation owing to the claimant. Without compliance with state law (in this case South Carolina Code section 29-5-90), the secured claim is unenforceable. Under Section 545(2) of the Bankruptcy Code, the Debtor may avoid any statutory lien that was not perfected or enforceable at the time of the commencement of the case against a bona fide purchaser that purchases such property at the time of the commencement of the case. Therefore, the Georgia Bridge & Dock Claim should be disallowed as a secured claim.

14. The Georgia Bridge & Dock Claim should be reclassified as an unsecured claim not entitled to priority.

V. Reservation of Rights

15. The Debtors reserve the right to supplement this Objection and to subsequently object to the Georgia Bridge & Dock Claim 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 or scheduled in the Debtors' cases, and any other claims asserted by Georgia Bridge & Dock, Inc.

VI. Notice

16. Notice of this Objection has been provided to Georgia Bridge & Dock, Inc. 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. disallow the Georgia Bridge & Dock Claim as a secured claim in its entirety;
3. reclassify the Georgia Bridge & Dock Claim an unsecured claim not entitled to priority in the amount of \$76,003.02; and
4. grant the Debtors such other and further relief as is just and proper.

[signatures follow]

Dated: July 13, 2012

Respectfully submitted,

/s/ Däna Wilkinson

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EXHIBIT A

PROPOSED ORDER

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

Case No. 12-01220

**ORDER GRANTING DEBTORS' OBJECTION TO ALLOWANCE OF CLAIM NO. 913
FILED BY GEORGIA BRIDGE & DOCK, INC. AND RECHARACTERIZING SAID
SECURED CLAIM AS A GENERAL UNSECURED CLAIM**

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.,¹ d/b/a The Cliffs Golf & Country Club,**

Debtors.

**The Cliffs at Mountain Park Golf & Country
Club, LLC**

Movant,

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Georgia Bridge & Dock, Inc.,

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CHAPTER 11

Case No. 12-01220

Jointly Administered

Contested Matter

**ORDER GRANTING DEBTORS' OBJECTION TO THE ALLOWANCE OF AND
MOTION TO REDUCE AND RECLASSIFY AS AN UNSECURED CLAIM, THE
SECURED CLAIM NO. 913 FILED BY GEORGIA BRIDGE & DOCK, INC.**

Upon the Objection (Docket Entry # _____) (the "Objection") of The Cliffs at Mountain Park Golf & Country Club, LLC, which is one of the jointly administered debtors (the "Debtors"), requesting the entry of an order (i) disallowing the secured claim filed by Georgia Bridge & Dock, Inc. as a mechanic's lien claim and identified as Claim No. 913 in the Chapter

¹ 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).

11 Case No. 12-01225 and (ii) reduce and reclassify said secured claim as an unsecured claim not entitled to priority, 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 and all parties who have appeared in the case and requested notice, as listed in the certificate of service attached to 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 number 913 filed by Georgia Bridge & Dock, Inc. as a secured claim in Chapter 11 Case No. 12-01225 is disallowed in its entirety.
3. Claim number 913 filed by Georgia Bridge & Dock, Inc. is reclassified as an unsecured claim not entitled to priority in the reduced amount of \$76,003.02.
4. The 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
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-and-

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