

**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

**DECLARATION OF JOHN KUNKEL IN SUPPORT OF
CONFIRMATION OF THE FIRST AMENDED AND RESTATED
JOINT CHAPTER 11 PLAN FILED BY THE DEBTORS AND THE PLAN SPONSOR**

STATE OF FLORIDA

COUNTY OF DUVAL

I, John Kunkel, being duly sworn, hereby declare that the following is true and correct to the best of my knowledge, information and belief:

1. I am a Vice President of Silver Sun Partners, LLC ("Silver Sun") and am duly authorized to make this declaration.

2. I submit this declaration in support of confirmation of the First Amended and Restated Joint Chapter 11 Plan filed by the Debtors and the Plan Sponsor, dated June 30, 2012

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).

(the “Plan”),² as amended and supplemented. Unless otherwise indicated, I have personal knowledge of the information provided and the matters described herein, and if called as a witness, I would testify competently to the facts and opinions set forth herein.

3. In my capacity as Vice President of Silver Sun, I have personal knowledge of the ownership of real property of the entities that are affiliates of Silver Sun, including Cliffs Club Partners, LLC, the Plan Sponsor in these bankruptcy cases. See Plan Supplement Attachment 9, [Dkt. No. 470-10].

4. Silver Sun is an affiliate of Cliffs Club Partners, LLC by virtue of being the 100% owner of the capital interest in The Cliffs Club Holdings, LLC which is the direct parent of Cliffs Club Partners, LLC.

5. Silver Sun has funded, directly or through affiliates, in excess of \$28 million in real property acquisitions, at The Cliffs Communities (“The Cliffs”) since December 31, 2010.

6. Additionally, Silver Sun has acquired an entity that is responsible for \$57 million in mortgage debt to Synovus Bank in acquisition of additional real property at The Cliffs.

7. Presently, in total, Silver Sun, directly or through its affiliates, has a combined real property investment of over \$85 million in properties at The Cliffs.

8. Silver Sun and its affiliates own approximately 630 developed or partially developed lots, approximately 4,600 acres of undeveloped land, and 49% ownership in a partnership which owns approximately 1,000 acres.

9. The majority of the lands owned by Silver Sun and its affiliates are located within the gates of The Cliffs.

² Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Plan.

Background and Qualifications

10. I am a graduate of Texas A&M University with a BBA in Accounting. I have worked in public accounting at Peat, Marwick, Mitchell & Co. (now KPMG) specializing in oil and gas accounting in the mid 1980's, then at Pulte Home Corporation for 15 years in various financial management capacities for various divisions and the corporate office. In 2001 to present, I have been working directly in the real estate investments and development industry at Arendale Holdings and its predecessor entities. Primary responsibilities include the financial and deal structuring aspects of the business.

11. As the representative of the Plan Sponsor, I have become generally familiar with the above-captioned Debtors and with the day-to-day operations and finances of the Plan Sponsor and its capital structure. I prepared the Plan Sponsor's financial projections that are attached as Exhibit E [Dkt. No. 480-8] to 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, dated June 30, 2012 [Dkt. No. 480].

12. **Good Faith of the Debtors and the Plan Sponsor in Proposing the Plan.** The Plan (including all documents necessary to effectuate the Plan) is the result of extensive arm's-length negotiations among the Debtors, the Indenture Trustee, the Plan Sponsor, the Creditors Committee and their respective advisors and representatives. The Plan contemplates and is premised on the sale of substantially all of the assets of the Debtors to the Plan Sponsor, with the consideration paid by the Plan Sponsor, consisting of an equity infusion, the provision of certain debt facilities and the assumption of certain obligations and restructured obligations used to fund Plan-required distributions. Among the distributions that the consideration provided by the Plan Sponsor will effect is payment of \$64,050,000 in full satisfaction of the Indenture Trustee

Claims, pro rata distribution of \$2,861,610 to holders of General Unsecured Claims which I am informed is expected to yield as much as a 75% dividend to those creditors, the satisfaction of those Club Member Claims joining the Plan Sponsor's clubs in accordance with a vesting schedule and subject to certain restrictions, and the potential for recoveries of Club Member Claims held by those not joining the Plan Sponsor's clubs through the creation of a Liquidating Trust. At the same time, the Plan provides for the rehabilitation and continuation of the Debtors' businesses, albeit under different ownership.

13. **Officers and Directors of the Reorganized Debtors.** The Debtors and Plan Sponsor are required to disclose the identity and affiliations of any individuals who will serve as members of the board of the reorganized debtors. However, there will be no reorganized debtors. I understand the Katie Goodman will serve as the Liquidation Trustee under the Plan and I understand that Cliffs Club Services, LLC, an affiliate of Silver Sun, plans to hire many of the employees of the Debtors but no insiders other than, perhaps, David Sawyer and Brett Kist who are current officers and directors of the Debtors.

14. **The Plan.** The Plan contemplates the orderly liquidation of the Debtors through the restructuring of the Class 1 Claims followed by the sale of substantially all of the Debtors' assets to the Plan Sponsor subject to Permitted Liens and free and clear of all other liens, claims and encumbrances. Generally, the Plan classifies claims and interests into eight classes, comprising Indenture Trustee – Note Holder Claims (Class 1); Bridge Lender Claim (Class 2); Mechanic's Lien Claims (Class 3); Other Senior Secured Party Claims (Class 4); General Unsecured Claims (Class 5); Administrative Convenience Claims (Class 6); Club Member Claims (Class 7); and Equity Interests (Class 8).

15. **Payment of Administrative Expenses.** The Plan provides for the payment in full of all Allowed Administrative Expenses and priority claims including priority tax claims. The Plan, however, also provides that the Plan Sponsor need not close if various claims, including, but not limited to, administrative expense and priority claims exceed certain caps. I am informed that the caps as to administrative and priority claims have not been, and will not be, exceeded.

16. **Closing of the Asset Purchase Agreement and Implementation of the Plan.** The Plan is premised on the modification of the payment obligation that the Debtors had prepetition to the Indenture Trustee and the holders of the notes that are the subject of the indenture, as well as of the security documents relating thereto evidencing the Class 1 Claims followed by the transfer to the Plan Sponsor of substantially all of the Debtors' assets. The assets to be acquired by the Plan Sponsor include all of the Debtors' Real Property Collateral and of substantially all of the Debtors' remaining assets, including the Personal Property Collateral, subject to the Permitted Liens and free and clear of all other liens, Claims and encumbrances. Once the Plan Sponsor acquires all of the assets, it will contribute certain assets to the Indenture Trustee SPE, subject to the Permitted Liens, in return for a 100% member interest in the Indenture Trustee SPE (the Indenture Trustee will hold a 0% non-economic membership interest in the Indenture Trustee SPE). Indenture Trustee SPE will then assume the payment obligations to the Indenture Trustee, who will be charged with making distributions towards the Note Holder Claims against the Debtors. Additionally, the Sale Consideration includes the payment on the Effective Date, subject to certain caps which, if exceeded, relieve the Plan Sponsor of the obligation to close, of Allowed Administrative Claims, DIP Facility Claims, Priority Claims, the Allowed Claim of the Bridge Lender, Allowed Mechanic's Lien Claims, Allowed Other Senior

Secured Party Claims, and Allowed Administrative Convenience Claims, the first of three equal annual payments to establish a fund for distribution to Holders of Allowed General Unsecured Claims, a fund for distribution to Holders of Allowed Rejecting Club Member Claims, and the Post Effective Date Administration Plan Sponsor Funding in the manner outlined in the Plan.

17. **Feasibility of the Plan.** Provided the conditions precedent to the Asset Purchase Agreement and the Plan are satisfied or waived, I believe that the Plan Sponsor will consummate the purchase of the Debtors' assets in accordance with the Asset Purchase Agreement.

18. It appears more likely than not that the conditions precedent to closing will be met or waived. As previously stated, I am informed the various claim caps will not be exceeded. Although as of the date of this declaration there have not yet been sufficient commitments from Class 7 claimants to meet the minimum \$16.5 million annualized dues revenues, net of sales taxes, I am informed that existing commitments continue to be received and that the deadline for making such commitments does not expire until August 9, 2012. Although the Asset Purchase Agreement relating to the transaction contemplated by the Plan conditioned the Plan Sponsor's obligation to close on the Debtor's effecting the transfer of all property used in connection with operation of the clubs, the Plan Sponsor has agreed to waive strict compliance with that condition. More specifically, the Plan Sponsor has agreed that it will not acquire, and that the Debtor need not provide for the transfer of or access to, the property included in the club popularly referred to as High Carolina. In addition, rather than effecting the transfer of title to other non-debtor real estate used in connection with operation of the clubs, the Plan Sponsor has agreed to accept the assumption by the Debtors and assignment to the Plan Sponsor of existing leases of that non-debtor property. There are additional conditions precedent to the Plan Sponsor's obligation to close, many of which relate to the finalization and execution of various

documents that, while still under negotiation, have largely been completed. I believe that it is more likely than not that all such conditions precedent to a closing will be satisfied or waived.

19. The Plan Sponsor has the financial ability to perform its obligations as Buyer under the Asset Purchase Agreement. The Plan Sponsor Projections demonstrate that the estimated equity investments by the Plan Sponsor, the Exit Facility also provided by the Plan Sponsor, Transfer Fees and Membership Reinstatement Fees, together with rents from the lease of the amenities by the Indenture Trustee SPE to the Clubs, will be sufficient to fund the payments contemplated under the Plan on the Effective Date and the payments required subsequent to the Effective Date.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: August 3, 2012



John C. Kunkel
Vice President, Silver Sun Partners, LLC