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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:

CASTLE ARCH REAL ESTATE
INVESTMENT COMPANY, LLC; CAOP
MANAGERS, LLC; CASTLE ARCH
OPPORTUNITY PARTNERS I, LLC;
CASTLE ARCH OPPORTUNITY
PARTNERS II, LLC; CASTLE ARCH
KINGMAN, LLC; CASTLE ARCH
SECURED DEVELOPMENT FUND, LLC;
and CASTLE ARCH SMYRNA, LLC,

Debtors.

Bankruptcy Case No. 11-35082
Bankruptcy Case No. 11-35237
Bankruptcy Case No. 11-35240
Bankruptcy Case No. 11-35242
Bankruptcy Case No. 11-35243
Bankruptcy Case No. 11-35246
Bankruptcy Case No. 11-35241
(Jointly Administered)

(Chapter 11)

The Honorable Joel T. Marker

**CHAPTER 11 TRUSTEE'S MOTION FOR ENTRY OF AN ORDER (I)
APPROVING DISCLOSURE STATEMENT FOR CHAPTER 11 TRUSTEE'S
PLAN OF LIQUIDATION DATED SEPTEMBER 29, 2012, (II) APPROVING
SOLICITATION PROCEDURES, INCLUDING FORM OF BALLOT AND MANNER
OF NOTICE, AND (III) FIXING THE CONFIRMATION HEARING AND THE
DEADLINE FOR FILING OBJECTIONS TO THE CONFIRMATION OF THE PLAN**

Pursuant to 11 U.S.C. §§ 1125, 1126 and 1128, as well as Federal Rules of Bankruptcy Procedure 2002, 3017, 3018, and 3020, D. Ray Strong, the duly appointed Chapter 11 Trustee (the “Trustee”) for Castle Arch Real Estate Investment Company, LLC (“CAREIC”), and in that capacity as manager, either directly or indirectly of CAOP Managers, LLC, Castle Arch Opportunity Partners I, LLC, Castle Arch Opportunity Partners II, LLC, Castle Arch Kingman, LLC, Castle Arch Secured Development Fund, LLC, and Castle Arch Smyrna, LLC (collectively with CAREIC, the “Debtors”), hereby submits this *Motion for Entry of an Order (I) Approving Disclosure Statement for Chapter 11 Trustee’s Plan of Liquidation Dated September 29, 2012, (II) Approving Solicitation Procedures, Including Form of Ballot and Manner of Notice, and (III) Fixing the Confirmation Hearing and the Deadline for Filing Objections to the Confirmation of the Plan* (the “Motion”).

All capitalized terms used but not defined in this Motion have the meanings ascribed to such terms in the proposed *Chapter 11 Trustee’s Plan of Liquidation Dated September 29, 2012* [Docket No. 338] (the “Plan”), filed in conjunction with and attached as **Exhibit A** to the proposed *Disclosure Statement for Chapter 11 Trustee’s Plan of Liquidation Dated September 29, 2012* [Docket No. 337] (the “Disclosure Statement”).

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue is proper pursuant to 28 U.S.C. §§ 1391, 1408 and 1409.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

General

4. On October 17, 2011, CAREIC filed a petition seeking relief under Chapter 11 of the Bankruptcy Code, and on October 20, 2011, each of the other Debtors filed petitions seeking relief under Chapter 11 of the Bankruptcy Code.

5. The Debtors' respective Chapter 11 Bankruptcy Cases are being jointly administered.

6. The Trustee was appointed as the Chapter 11 Trustee of CAREIC's bankruptcy estate on May 3, 2012.

The Disclosure Statement and Plan

7. On September 29, 2012, the Trustee filed with the Court the proposed Disclosure Statement and the proposed Plan, which is a liquidating plan. The Disclosure Statement and Plan were served via the Bankruptcy Court's CM/ECF system on all parties who receive electronic notice in the above-captioned, jointly administered Bankruptcy Cases.

8. The purpose of the Disclosure Statement is to provide those holding Claims against and Equity Interests in the Debtors entitled to vote on the Plan with "adequate information" so that such holders can arrive at a reasonably informed decision in exercising their rights to vote on the Plan. In his business judgment, the Trustee believes the Disclosure Statement accomplishes this purpose.

9. The Plan proposed by the Trustee includes an injunction for which specific notice is required under Federal Rules of Bankruptcy Procedure 2002(c)(3) and 3017(f), and the proposed solicitation procedures discussed below address this issue.

10. A hearing required under 11 U.S.C. § 1125 and Federal Rule of Bankruptcy Procedure 3017(a) and (b) to consider the adequacy of the information in the Disclosure Statement is currently scheduled to be heard by the Court on December 3, 2012 at 2:00 p.m. (Mountain Time) (the “Disclosure Statement Hearing”).

11. In addition to approval of the Disclosure Statement, the Trustee proposes herein procedures for the solicitation of the Plan, including approval of the form of Ballot and manner of notice, as well as the fixing of a date for the hearing on confirmation of the Plan (the “Confirmation Hearing”) and for filing and serving objections, if any, to the confirmation of the Plan. The proposed procedures and the Bankruptcy Court’s approval of these procedures at the Disclosure Statement Hearing is anticipated by 11 U.S.C. §§ 1125 and 1128(a), as well as Federal Rules of Bankruptcy Procedure 3017, 3018 and 3020(b).

12. A Notice of Hearing related to this Motion, including notice of the Disclosure Statement Hearing as required under 11 U.S.C. § 1125 and Federal Rules of Bankruptcy Procedure 2002(b), (d), (j) and (k), 3017(a) and 9034, is filed concurrently with this Motion and will be served on all Creditors, Equity Security Holders and parties in interest in this case. The Trustee also served the Notice of Hearing, together with the proposed Disclosure Statement and Plan, on the Securities and Exchange Commission, as required under Federal Rule of Bankruptcy Procedure 3017(a).

RELIEF REQUESTED

13. By this Motion, and as set forth in greater detail in Parts I-III of the Discussion below, the Trustee seeks the Court’s entry of an Order:

- (i) Approving the Disclosure Statement;

- (ii) Approving the proposed solicitation procedures, including the form of Ballot and manner of notice; and
- (iii) Fixing the Confirmation Hearing and the deadline for filing objections to the Plan's confirmation.

DISCUSSION

I. THE TRUSTEE'S PROPOSED DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION ABOUT THE CASE AND THE PLAN AND, THEREFORE, SHOULD BE APPROVED

A. Applicable Law

A Chapter 11 plan proponent may not solicit acceptance or rejection of its plan unless a summary of the plan and a written disclosure statement, approved after notice and a hearing by the Court as containing "adequate information," is transmitted to holders of claims and interests entitled to vote on the plan.¹ In that regard, the Bankruptcy Code provides:

"[A]dequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan . . . and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information.²

The phrase "investor typical of holders of claims or interests of the relevant class" within the above provision is defined as an investor having a claim or interest of the relevant class with "such a relationship with the debtor as the holders of other claims or interests of such class

¹ 11 U.S.C. § 1125(b).

² *Id.* § 1125(a)(1).

generally have” and with the “ability to obtain such information from sources other than the disclosure required by this section as holders of claims or interests in such class generally have.”³

Thus, a disclosure statement should give parties “adequate disclosure of relevant information” that allows them to “make their own decision on the acceptability of the proposed plan or reorganization.”⁴ The disclosure statement should also set forth “all those factors presently known to the plan proponent that bear upon the success or failure of the proposals contained in the plan.”⁵

In examining the adequacy of the information contained in a disclosure statement, the Court has broad discretion.⁶ Accordingly, the determination of whether a disclosure statement contains “adequate information” is “determined by the courts on a case-by-case basis, which permits a certain amount of flexibility based on the condition of the debtor and of [its] books and records.”⁷ In making this determination, Courts, including this Court, have developed the following non-exclusive list of factors to consider:

³ *Id.* § 1125(a)(2).

⁴ *In re Jeppson*, 66 B.R. 269, 291 (Bankr. D. Utah 1986); *see also In re Dakota Rail, Inc.*, 104 B.R. 138, 142 (Bankr. D. Minn. 1989) (quoting *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir.1985)) (stating that a disclosure statement must, as a whole, “give creditors information necessary to decide whether to accept the plan”).

⁵ *Jeppson*, 66 B.R. at 292.

⁶ *See Texas Extrusion Corp. v. Lockheed Corp. (In re Texas Extrusion Corp.)*, 844 F.2d 1142, 1157 (5th Cir. 1988) (stating that the adequacy of information determination “is largely within the discretion of the bankruptcy court”); *see also In re Oxford Homes*, 204 B.R. 264, 269 (Bankr. D. Me. 1997) (“The precise contours of ‘adequate information’ were vaguely drawn by Congress so that bankruptcy courts might exercise their discretion to limn them in view of each case’s peculiar circumstances.”); *Dakota Rail*, 104 B.R. at 143 (stating that court has “wide discretion to determine on a case by case basis whether a disclosure statement contains adequate information, without burdensome, unnecessary, and cumbersome detail”).

⁷ *Jeppson*, 66 B.R. at 292; *see also In re Phoenix Petroleum Co.*, 278 B.R. 385, 393 (Bankr. E.D. Pa. 2001); *In re Copy Crafters Quickprint, Inc.*, 92 B.R. 973, 979 (Bankr. N.D.N.Y. 1988) (stating that adequacy of a disclosure statement “is to be determined on a case-specific basis under a flexible standard that can promote the policy of

- (a) the circumstances that gave rise to the filing of the bankruptcy petition;
- (b) an explanation of the available assets and their value;
- (c) the anticipated future of the debtor;
- (d) the source of the information provided in the disclosure statement;
- (e) a disclaimer, which typically indicates that no statements or information concerning the debtor or its assets or securities are authorized, other than those set forth in the disclosure statement;
- (f) the condition and performance of the debtor while in chapter 11;
- (g) information regarding claims against the estate;
- (h) a liquidation analysis setting forth the estimated return that creditors would receive under Chapter 7;
- (i) the accounting and valuation methods used to produce the financial information in the disclosure statement;
- (j) information regarding the future management of the debtor, including the amount of compensation to be paid to any insiders, directors and/or officers of the debtor;
- (k) a summary of the plan of reorganization or liquidation;
- (l) an estimate of all administrative expenses, including attorneys' fees and accountants' fees;
- (m) the collectibility of any accounts receivable;

chapter 11 towards fair settlement through a negotiation process between informed interested parties”); *Oxford Homes*, 204 B.R. at 264; *Dakota Rail*, 104 B.R. at 143.

- (n) any financial information, valuations or pro forma projections that would be relevant to creditors' or equity holders' determinations of whether to accept or reject the plan;
- (o) information relevant to the risks being taken by the creditors and interest holders;
- (p) the actual or projected value that can be obtained from avoidable transfers;
- (q) the existence, likelihood and possible success of nonbankruptcy litigation;
- (r) the tax consequences of the plan; and
- (s) the relationship of the debtor with its affiliates.⁸

While the above list is neither exclusive or exhaustive,⁹ this list is generally relied upon by courts as a starting point in determining whether a disclosure statement should be approved as containing "adequate information" within the meaning of 11 U.S.C. § 1125.

B. Application in this Case

The Trustee submits that the Disclosure Statement contains "adequate information" and, therefore, requests that the Court approve it for purposes of soliciting acceptances of the Plan from those holders of Claims or Equity Interests entitled to vote on the Plan. Specifically, the Trustee maintains that the information in the Disclosure Statement is adequate because it contains information of a kind and in sufficient detail to allow holders of Claims against or

⁸ See, e.g., *Jeppson*, 66 B.R. at 292; *In re Scioto Valley Mortgage Co.*, 88 B.R. 168, 170–71 (Bankr. S.D. Ohio 1988); *Phoenix Petroleum*, 278 B.R. at 393 (using similar list); *Oxford Homes*, 104 B.R. at 269 n.17 (same); see also *Hall v. Vance*, 887 F.2d 1041, 1043 (10th Cir. 1989) (stating that disclosure was inadequate when the debtor failed to disclose, among other types of information relevant to the debtor in that case (1) the debtor's business, (2) the debtor's assets, (3) the reasons for the debtor's financial difficulty, (4) the debtor's cash information, (5) the status of litigation and (6) the claimants of the debtor and their treatment under the plan).

⁹ See *Jeppson*, 66 B.R. at 292 (stating that the above factors are "often" required to be disclosed); *Scioto Valley Mortgage*, 88 B.R. at 171 ("Disclosure of all the aforementioned information is not necessary in every case. Conversely, the list is not exhaustive. . ."); see also *Phoenix Petroleum*, 278 B.R. at 393 (making use of a similar list but cautioning that "no one list of categories will apply in every case").

Equity Interests in the Debtors to make an informed judgment about the Plan and whether to vote to accept or reject it.

Applying the factors listed above that are relevant to this case, the Disclosure Statement includes, among other applicable information, (a) a summary of the Debtors' overall business, including a summary of each Debtor; (b) a description of the Debtors' capitalization and the Debtors' use of funds prior to the Petition Date; (c) a summary of litigation involving the Debtors prior to the Petition Date; (d) the circumstances that gave rise to the filing of the Debtors' Bankruptcy Cases; (e) the assets and liabilities of the Debtors, including a status of certain real property and the Blackstar/Blackcastle Investments; (f) the Trustee's post-petition administration of the Debtors; (g) a summary of the Plan, including (i) the substantive consolidation of the Legacy Debtors, the administration of the Legacy Consolidated Estate post-confirmation and the creation and funding of the Legacy Trust, and (ii) the post-confirmation administration of the CAOP Debtors' respective Estates and the creation and funding of the CAOP Trusts; (h) the voting options for holders of Allowed Equity Interests in the Legacy Debtors and the CAOP Debtors to invest their respective shares of liquidation proceeds with BlackStar; (i) the post-confirmation treatment of Allowed Claims and Allowed Equity Interests, including Administrative Expense Claims, Priority Tax Claims, Secured Tax Claims, other Secured Claims, Priority Unsecured Claims, General Unsecured Claims, Legacy Preferred Interests, CAOP I Preferred Interests, CAOP II Preferred Interests, Common Interests in each of the Debtors, Insider Claims and, to the extent that they exist, Insider Equity Interests; (j) risk factors for consummation of the Plan; (k) the tax consequences of the Plan; (l) the relationship of the Debtors to each other and to Non-Debtor Affiliates; (m) a summary of the potential Claims

and Management Fees that might exist between various Debtors and the method of deciding disputes relating to such Claims and fees between Debtors; (n) the feasibility of the Plan; (o) a disclaimer indicating that no statements or information concerning the Debtors are authorized, other than those set forth in the Disclosure Statement; and (p) the injunction proposed by the Plan. In light of the circumstances of the Bankruptcy Cases, including the liquidating nature of the Plan, the Trustee submits that such information is adequate and that the Disclosure Statement should be approved.

II. THE PROPOSED SOLICITATION PROCEDURES, INCLUDING THE FORM OF BALLOT AND MANNER OF NOTICE, COMPLY WITH APPLICABLE LAW AND SHOULD BE APPROVED

In addition to approval of the Disclosure Statement, the Trustee proposes herein procedures for the solicitation of votes to accept the Plan, including approval of the form of Ballot and the manner notice. The proposed procedures set forth below and the Court's approval of these procedures at the Disclosure Statement Hearing is anticipated by 11 U.S.C. § 1125 and Federal Rules of Bankruptcy Procedure 3017 and 3018.

A. Use of Dorsey & Whitney LLP as Noticing Service and Ballot Tabulator

The Trustee intends to use Dorsey & Whitney LLP ("Dorsey") to serve the Plan-related materials and notices and to tabulate votes for and against the Plan. Because Dorsey has current information relating to those Persons entitled to vote on the Plan, including the addresses of where to send the Plan-related materials, the Trustee believes that Dorsey is the most efficient and cost-effective entity to disseminate the Plan-related materials and to tabulate the Plan votes.

B. Form of Ballot

Federal Rule of Bankruptcy Procedure 3018(c) provides, in relevant part, as follows: “An acceptance or rejection shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or authorized agent, and conform to the appropriate Official Form.” The relevant Official Form is Form No. 14.

The Trustee’s proposed form of Ballot, together with the Voting Instructions, will be filed with the Court at least three days prior to the Disclosure Statement Hearing (the “Ballot”). The Ballot will substantially conform to Official Form 14 and comply with Federal Rule of Bankruptcy Procedure 3018(c). Thus, the Trustee requests that the Court enter an Order approving the Ballot, including the Voting Instructions attached thereto.

C. Solicitation of Holders of Voting Claims or Interests and Rule 3018(a) Motions

The proposed Plan separately classifies different types of Allowed Claims against or Equity Interests in the Debtors pursuant to the Bankruptcy Code as follows:

A Classes—Allowed Claims Against or Equity Interests in the Legacy Debtors

- Class A1 Secured Tax Claims
- Class A2 Secured Claims
- Class A3 Priority Unsecured Claims
- Class A4 General Unsecured Claims
- Class A5 Legacy Preferred Interests
- Class A6 Legacy Common Interests
- Class A7 Insider Claims
- Class A8 Insider Equity Interests

B Classes—Allowed Claims Against or Equity Interests in CAOP I

Class B1	Secured Tax Claims
Class B2	Secured Claims
Class B3	Priority Unsecured Claims
Class B4	General Unsecured Claims
Class B5	CAOP I Preferred Interests
Class B6	CAOP I Common Interests
Class B7	Insider Claims

C Classes— Allowed Claims Against or Equity Interests in CAOP II

Class C1	Secured Tax Claims
Class C2	Secured Claims
Class C3	Priority Unsecured Claims
Class C4	General Unsecured Claims
Class C5	CAOP II Preferred Interests
Class C6	CAOP II Common Interests
Class C7	Insider Claims

Only holders of Allowed Claims or Allowed Equity Interests in Classes A4, A5, B4, B5, C4 and C5 of the Plan are entitled to vote on the Plan (collectively, the “Voting Claims or Interests”),¹⁰ and each holder of a Voting Claim or Interest will receive the Ballot filed with the Court prior to the Disclosure Statement Hearing, or any other ballot that is approved by the

¹⁰ Holders of Claims or Equity Interests in Classes A1–A3, B1–B3 and C1–C3 are unimpaired and deemed to accept the Plan under 11 U.S.C. § 1126 and, therefore, solicitation is not required. Similarly, holders of Claims or Equity Interests in Classes A6–A8, B6–B7 and C6–C7 will receive no distribution under the Plan and are deemed to reject the Plan under 11 U.S.C. § 1126(g) and, therefore, no solicitation is required.

Court. As proposed, each Ballot will clearly state the classification and amount of the Voting Claim or Interest, which is the amount for purposes of voting on the Plan only.¹¹

If any holder of a Voting Claim or Interest disagrees with the Trustee's classification or amount of its Claim or Equity Interest as set forth on the Ballot, such holder must file with the Court a motion pursuant to Federal Rule of Bankruptcy Procedure 3018(a) seeking temporary allowance of such Claim or Equity Interest in a different amount or in a different Class for purposes of voting to accept or reject the Plan (a "Rule 3018(a) Motion"). The Trustee is entitled to afford the holder the treatment afforded on the face of the Ballot for purposes of voting, unless the holder files a Rule 3018(a) Motion and obtains an Order of the Bankruptcy Court prior to the Voting Deadline requiring the Trustee to tabulate the vote in a different manner.

No Ballots will be distributed to holders of Disputed Claims or Disputed Equity Interests inasmuch as these holders have no right to vote to accept or reject the Plan. Thus, if an objection to a Claim or Equity Interest has been filed and/or an adversary complaint has been served on the holder of an alleged Claim or Equity Interest, the Trustee maintains that the holder's Claim or Equity Interest is estimated in the amount of zero for purposes of voting on the Plan only. If a holder of such a Claim or Equity Interest disputes this treatment, it must file a Rule 3018(a) Motion and have its Disputed Claim or Disputed Equity Interest estimated for purposes of establishing its right to vote on the Plan within the time set forth in the Confirmation Hearing Notice.¹² The Trustee is entitled to count such holder's Claim or Equity Interest in the amount of zero, unless the holder files a Rule 3018(a) Motion and obtains an Order of the Bankruptcy Court

¹¹ The Trustee does not waive any rights, claims or defenses related to the allowance of any Voting Claim or Interest for any purpose.

¹² See Exhibit A (Confirmation Hearing Notice).

prior to the Voting Deadline requiring the Trustee to count its vote in a certain Class and in a sum certain.

All Rule 3018(a) Motions must be filed with the Court and served so that they are received by the Trustee's undersigned counsel *no later than* [_____] at the following address:

Peggy Hunt
Nathan Seim
Dorsey & Whitney LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101

The Person filing the Rule 3018(a) Motion shall be responsible for giving proper notice and the scheduling of a hearing with the Court, which hearing must conclude in advance of the proposed Voting Deadline. Further, the Trustee proposes that any Rule 3018(a) Motion not timely filed and served in the manner described above shall not be considered by the Court.

The Trustee maintains that the proposed procedures are in accordance with applicable law, including Federal Rule of Bankruptcy Procedure 3018. Accordingly, the Trustee requests that the proposed procedures and deadlines set forth above for the submission and consideration of Rule 3018(a) Motions be approved.

D. Solicitation Procedures and Manner of Notice

Pursuant to Federal Rule of Bankruptcy Procedure 2002(b), a plan proponent is required to give holders of claims and interests not less than twenty-eight (28) days notice of the time fixed for filing objections to, and the hearing on, confirmation of a Chapter 11 plan. Federal Rule of Bankruptcy Procedure 2002(c)(3) requires that notice of the confirmation hearing contain conspicuous language of any injunction that may be provided in the proposed plan if

conduct is not otherwise enjoined under the Bankruptcy Code, and Federal Rule of Bankruptcy Procedure 3017(f) requires the Court to consider, in conjunction with this Motion, procedures for providing Persons affected by the injunction with notice of the time fixed for filing objections to the confirmation of the Plan. Finally, Federal Rule of Bankruptcy Procedure 3017(d) sets forth the materials that must be provided to holders of claims and interests for purposes of soliciting votes to accept a Chapter 11 plan.

As set forth above, under the proposed Plan, only holders of Voting Claims or Interests (*i.e.*, holders of Allowed Claims or Allowed Equity Interests in Classes A4, A5, B4, B5, C4 and C5) are impaired and entitled to vote on the Plan. All other Classes of Claims or Equity Interests are either unimpaired and deemed to accept the Plan pursuant to 11 U.S.C. § 1126(f), or impaired and deemed to reject the Plan pursuant to 11 U.S.C. § 1126(g). Accordingly, the Trustee proposes the following manner of solicitation and notice:

(1) Solicitation of and Notice to Holders of Voting Claims or Interests

On or before [], or such other date as may be set by the Court in the Order approving the relief requested in this Motion, the Trustee proposes to serve to each holder of a Voting Claim or Interest a solicitation package that will include the following documents:

- Ballot with Voting Instructions, the form of which will be filed with the Court at least three days prior to the Disclosure Statement Hearing;
- Notice of the Order approving this Motion and the Disclosure Statement, substantially in the form attached hereto as Exhibit A (the “Confirmation Hearing Notice”), which sets forth, among other things, the time for filing Rule 3018(a) Motions, the time for filing objections to confirmation of the Plan, if any, and the date and time of the Confirmation Hearing;
- Letter from the Trustee requesting acceptance of the Plan, the proposed form of which will be filed with the Court at least three days prior to the Disclosure Statement Hearing;

- Letter from counsel for the CAOP Debtors, the proposed form of which will be filed with the Court at least three days prior to the Disclosure Statement Hearing;
- The Blackstar Disclosure and the proposed Blackstar Agreements; and
- Disclosure Statement with Exhibits, including the Plan.

The Trustee maintains that such solicitation and notice is appropriate under applicable law.

(2) Notice to Parties in Interest, Including Non-Voting Classes

In addition, the Trustee proposes to serve the Confirmation Hearing Notice attached hereto as Exhibit A on holders of Claims or Equity Interests that are not Voting Claims or Interests, as well as on all parties in interest in this case that may be affected by the injunction proposed in the Plan. The Trustee submits that the proposed notice is adequate under applicable law, and that it is reasonable and sufficient for providing all parties in interest with notice of the Plan, the Confirmation Hearing, any rights that such parties in interest may have, and of the injunction proposed in the Plan in compliance with Federal Rules of Bankruptcy Procedure 2002(c)(3) and 3017(f).

Persons who receive the Confirmation Hearing Notice who have not received the solicitation package, including a Ballot, and who believe that they are entitled to receive one, are required to file and serve a Rule 3018(a) Motion in accordance with the procedures set forth above. The Trustee maintains that the Confirmation Hearing Notice provides Persons who are not holders of Voting Claims or Interests clear and adequate notice of how they may assert their rights with respect to any alleged right to vote on or object to the Plan, and the deadline for filing a Rule 3018(a) Motion. In the event that such Persons do not file Rule 3018(a) Motions to protect their rights in the manner provided in the Confirmation Hearing Notice, the Trustee asserts that such Persons are deemed not entitled to vote on or object to confirmation of the Plan.

(3) Additional Notice

Finally, a copy of the Plan and Disclosure Statement is posted on the Trustee's website, and the Trustee will provide a copy of the Plan and Disclosure Statement to any party that submits a written request for such documents. The Trustee will also post a copy of this Motion and all documents in the solicitation package described above, including the Confirmation Hearing Notice, on his website.

E. Voting Deadline

Pursuant to 11 U.S.C. § 1126 and Federal Rule of Bankruptcy Procedure 3017, the Trustee proposes that the original of all Ballots must be properly executed, completed, and delivered to the Trustee at the address stated on the Ballot and in the Voting Instructions by (a) mail; (b) overnight courier; or (c) hand delivery, so that the Ballots are received by the Trustee no later than [] (the "Voting Deadline").

F. Tabulation Procedures

Pursuant to 11 U.S.C. §§ 105 and 1126, the Trustee requests that in tabulating votes for or against the Plan, the following procedures, unless altered by the Court pursuant to an Order related to a Rule 3018(a) Motion or otherwise, be approved:

- (i) Votes on the Plan only be made by the pre-printed Ballot provided to holders of Allowed Claims and Allowed Equity Interests by the Trustee;
- (ii) Only original, fully executed Ballots submitted prior to the expiration of the Voting Deadline in accordance with the Voting Instructions shall be counted;
- (iii) Ballots will not be accepted if submitted by e-mail, telecopy or facsimile transmission, regardless of when they are submitted;
- (iv) If a holder of a Voting Claim or Interest casts duplicative or inconsistent Ballots, the last properly and timely executed Ballot received shall be counted;

- (v) Each holder of a Voting Claim or Interest shall be deemed to have voted the full amount of its Allowed Claim or Allowed Equity Interest;
- (vi) Holders of Voting Claims and Interests shall not split their vote within a Class, and thus, each such holder will vote all of its Voting Claim or Interest within a particular Class either to accept or reject the Plan;
- (vii) Any Ballot that is returned indicating acceptance or rejection of the Plan, but which is signed by an agent of the holder of the Voting Claim or Interest, shall be counted so long as the capacity of such agent is reflected on the Ballot and, when necessary, evidence of the agent's authority to vote on behalf of the holder of the Voting Claim or Interest is provided;
- (viii) The Ballot will set forth the amount of the holder's Voting Claim or Interest only for purposes of voting on the Plan and, as set forth on the face of the Ballot, by setting forth the amount of the Voting Claim or Interest, the Trustee is in no way waiving any rights that he may have to object to the allowance of the Claim or Equity Interest for any other purpose; and
- (ix) The Claim or Equity Interest of any holder of a Voting Claim or Interest shall not be counted in an amount greater than the amount or in a Class other than that stated on the face of the Ballot unless, prior to the Voting Deadline, the Court enters an Order temporarily allowing the Claim or Equity Interest for voting purposes in a different amount or in a different Class.

The Trustee submits that establishing the tabulation procedures set forth above is necessary to avert any confusion resulting from incomplete or inconsistent Ballots and will simplify the voting and tabulation process. The above tabulation procedures are subject to change and may be amended at any time before the December 3, 2012 Disclosure Statement Hearing. The tabulation procedures, including any changes thereto, will be submitted for Court approval at the Disclosure Statement Hearing.

III. REQUEST FOR FIXING OF A DATE FOR A HEARING ON CONFIRMATION OF THE PLAN AND DEADLINE FOR FILING OBJECTIONS THERETO

11 U.S.C. § 1128(a) states: "After notice, the court shall hold a hearing on confirmation of a plan." Additionally, Federal Rule of Bankruptcy Procedure 3017(c) provides: "On or before

approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation.”

Finally, Bankruptcy Rule 3020(b) anticipates that the Court will set a deadline for the filing and service of objections to confirmation of the Plan. The Trustee will schedule a date and time with the Court for the Confirmation Hearing on or before the Disclosure Statement Hearing.

No later than [], the Trustee will file a Memorandum in Support of Confirmation of the Plan, as well as any evidentiary declarations that he intends to rely upon in support of his request for confirmation of the Plan. By doing this, the Trustee will ensure that parties in interest have sufficient notice of the arguments and evidence to be filed in support of confirmation of the Plan before confirmation objections are due.

The Trustee further requests that the Court order that any objections to the Plan be filed and served on or before [] and that any objection (a) be in writing; (b) comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court; (c) state the name of the objector and the nature and amount of its Claim against or Equity Interest in the Debtors; (d) state the nature of the objection and the legal basis therefor; (e) reference with specificity the text of the Plan to which the objection is made; (f) provide proposed language changes or insertions to the Plan to resolve such objection; and (g) be filed with the Court and served so it is received by the Trustee’s counsel on or before [], at the following address:

Peggy Hunt
Nathan Seim
Dorsey & Whitney LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101

The Trustee submits that the proposed timing of the filing and service of any objections or responses to the Plan will provide parties in interest and the Court with sufficient time to adequately prepare for the Confirmation Hearing.

CONCLUSION

WHEREFORE, based on the foregoing, the Trustee respectfully requests that the Court grant this Motion and enter an order: (i) approving the Disclosure Statement, (ii) approving the above-described solicitation procedures, including the form of Ballot and manner of notice, and (iii) fixing the Confirmation Hearing and the deadlines related to the Confirmation Hearing set forth above.

DATED this 11th day of October, 2012.

DORSEY & WHITNEY LLP

 /s/ Peggy Hunt
Peggy Hunt
Nathan S. Seim
*Attorneys for D. Ray Strong, Chapter 11
Trustee for Castle Arch Real Estate
Investment Company, LLC*

EXHIBIT A

Peggy Hunt (Utah State Bar No. 6060)
Nathan S. Seim (Utah State Bar No. 12654)

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Attorneys for D. Ray Strong, Chapter 11 Trustee for Castle Arch Real Estate Investment Company, LLC

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:

CASTLE ARCH REAL ESTATE INVESTMENT COMPANY, LLC; CAOP MANAGERS, LLC; CASTLE ARCH OPPORTUNITY PARTNERS I, LLC; CASTLE ARCH OPPORTUNITY PARTNERS II, LLC; CASTLE ARCH KINGMAN, LLC; CASTLE ARCH SECURED DEVELOPMENT FUND, LLC; *and* CASTLE ARCH SMYRNA, LLC,

Debtors.

Bankruptcy Case No. 11-35082
Bankruptcy Case No. 11-35237
Bankruptcy Case No. 11-35240
Bankruptcy Case No. 11-35242
Bankruptcy Case No. 11-35243
Bankruptcy Case No. 11-35246
Bankruptcy Case No. 11-35241
(Jointly Administered)

(Chapter 11)

The Honorable Joel T. Marker

NOTICE OF ENTRY OF ORDER (I) APPROVING THE CHAPTER 11 TRUSTEE'S DISCLOSURE STATEMENT AND FIXING TIME FOR FILING ACCEPTANCES OR REJECTIONS TO THE CHAPTER 11 TRUSTEE'S PLAN OF LIQUIDATION DATED SEPTEMBER 29, 2012, AND (II) NOTICE OF HEARING ON CONFIRMATION OF THE PLAN AND FOR FILING OBJECTIONS

Deadline to Vote to Accept or Reject the Plan: _____

Deadline to File a Rule 3018(a) Motion: _____

Deadline for Objecting to the Plan: _____

Hearing on Confirmation of the Plan: _____

PLEASE TAKE NOTICE THAT D. Ray Strong, the duly appointed Chapter 11 Trustee (the “Trustee”) for Castle Arch Real Estate Investment Company, LLC (“CAREIC”), and in that capacity as manager, either directly or indirectly of CAOP Managers, LLC, Castle Arch Opportunity Partners I, LLC, Castle Arch Opportunity Partners II, LLC, Castle Arch Kingman, LLC, Castle Arch Secured Development Fund, LLC, and Castle Arch Smyrna, LLC (collectively with CAREIC, the “Debtors”), has previously filed with the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”) the *Chapter 11 Trustee’s Plan of Liquidation Dated September 29, 2012* (the “Plan”) and the *Disclosure Statement for Chapter 11 Trustee’s Plan of Liquidation Dated September 29, 2012* (the “Disclosure Statement”) pursuant to Chapter 11 of the United States Bankruptcy Code. At a hearing on _____, the Bankruptcy Court approved the adequacy of the information in the Disclosure Statement and directed the Trustee to solicit votes on his Plan.

PLEASE TAKE FURTHER NOTICE THAT the Disclosure Statement and Plan are on file with the Bankruptcy Court and may be examined by interested parties during regular business hours at the Office of the Clerk of the Bankruptcy Court, Frank E. Moss U.S. Courthouse, 350 South Main Street, Salt Lake City, Utah 84101. In addition, copies may be obtained on the Trustee’s website at www.castlearchtrustee.com or upon written request to the Trustee’s counsel, Dorsey & Whitney LLP, 136 South Main Street, Suite 1000, Salt Lake City, Utah 84101, Attn: Moana DiFrancesco or at difrancesco.moana@dorsey.com.

PLEASE TAKE FURTHER NOTICE THAT if you hold a Claim against or an Equity Interest in the Debtors that entitles you to vote to accept or reject the Plan (i.e., a “Voting Claim or Interest”), you have received with this Notice a Ballot and Voting Instructions, together with a copy of the Disclosure Statement and the Plan. The Ballot states the Class and amount of your Voting Claim or Interest. For your vote to be counted, you must strictly comply with the Voting Instructions, including by submitting the original of the fully completed Ballot to the Trustee *so that it is received by the Trustee by no later than the Voting Deadline of [_____]*. Please review the Ballot and the Voting Instructions for complete details about voting to accept or reject the Plan.

PLEASE TAKE FURTHER NOTICE THAT holders of unimpaired Claims, as well as holders of impaired Claims and Equity Interests that will receive no distribution under the Plan are not entitled to vote on the Plan. If you did not receive a Ballot form with this Notice, the Trustee does not believe that you are entitled to vote on the Plan.

PLEASE TAKE FURTHER NOTICE THAT you should contact the Trustee’s counsel at the address set forth below or at (801) 933-8956 if (a) you received a Ballot but disagree with the Trustee’s classification or amount of your Voting Claim or Interest, or (b) you did not receive a Ballot but believe that you are a holder of a Voting Claim or Interest. If, after contacting the Trustee’s counsel, you still disagree with the Trustee, then *by no later than [_____]*, you must file with the Bankruptcy Court and serve on the Trustee, through undersigned counsel, a motion for an order pursuant to Federal Rule of Bankruptcy Procedure 3018(a) seeking estimation of and temporary allowance of your Claim or Equity Interest for purposes of voting to accept or reject the Plan (a “Rule 3018(a) Motion”). Any party filing a Rule 3018(a) Motion shall be responsible for the provision of proper notice of such motion and the scheduling of a hearing with the Bankruptcy Court, *which hearing must conclude in advance of the Voting Deadline of [_____]*. *Rule 3018(a) Motions that are not timely filed and served in the manner set forth above shall not be considered.*

PLEASE TAKE FURTHER NOTICE THAT a hearing to consider confirmation of the Plan and any objections or proposed amendments or modifications thereto, will be held before the Honorable Joel T. Marker, United States Bankruptcy Judge, in his courtroom, Room 341 of the Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, Utah 84101, commencing on _____ (the “Confirmation Hearing”). The Confirmation Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates at the previously scheduled Confirmation Hearing.

PLEASE TAKE FURTHER NOTICE THAT pursuant to Section 1141(d)(3) of the Bankruptcy Code, the Confirmation Order shall not discharge Claims against or Equity Interests in the Debtors. However, no holder of a Claim or Equity Interest may receive any payment from or seek recourse against any assets of the Debtors, except for those assets required to be distributed to such holder as expressly provided for in the Plan. **THUS, THE PLAN PROVIDES FOR AN INJUNCTION THAT APPLIES TO ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTORS AS FOLLOWS:**

As of the Effective Date (as that term is defined in the Plan), all Persons are precluded from asserting against the Debtors or the property or assets of the Debtors that are distributed under the Plan any Claims, Equity Interests, rights, Causes of Action, liabilities or other interests based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, other than as expressly provided in the Plan or the Confirmation Order, regardless of the filing, lack of filing, allowance or disallowance of such Claim or Equity Interest and regardless of whether such Person has voted to accept the Plan.

Thus, except as otherwise provided in the Plan or the Confirmation Order, on and after the Effective Date, all Persons that have held, currently hold or may hold a debt, right, Claim, Equity Interest, Cause of Action, or other liability or interest against or in the Debtors that would be discharged upon confirmation of the Plan on the Effective Date but for the provisions of Section 1141(d)(3) of the Bankruptcy Code **SHALL BE PERMANENTLY ENJOINED FROM TAKING ANY OF THE FOLLOWING ACTIONS ON ACCOUNT OF SUCH DEBT, RIGHT, CLAIM, EQUITY INTEREST, CAUSE OF ACTION, OR OTHER LIABILITY OR INTEREST:** (i) commencing or continuing in any manner any action or other proceeding on account of such debt, right, Claim, Equity Interest, Cause of Action, or other liability or interest against assets or proceeds thereof that are property of the Debtors and which are to be distributed under the Plan, other than to enforce any right to a distribution with respect to such assets or the proceeds thereof as provided under the Plan; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against any assets to be distributed to holders of Claims or Equity Interests under the Plan, other than as permitted under subparagraph (i) above; and (iii) creating, perfecting or enforcing any Lien or encumbrance against any assets to be distributed under the Plan, other than as permitted by the Plan, provided that nothing contained herein shall limit the rights of any distributee under the Plan from taking any actions in respect of property distributed or to be distributed to it under the Plan.

PLEASE TAKE FURTHER NOTICE THAT the Trustee shall file a Motion and Memorandum in support of confirmation of the Plan by no later than _____, and that any objections to the confirmation of the Plan must be filed with the Court by no later than [_____] (the “Objection Deadline”). All objections must (a) be in writing; (b) comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules and orders of the Bankruptcy Court; (c) state the name of the objector and the nature and amount of its Claim against or Equity Interest in the

Debtors; (d) state the nature of the objection and the legal basis for the objection; (e) reference with specificity the text of the Plan to which the objection is made; and (f) provide proposed language changes or insertions to the Plan to resolve such objection.

PLEASE TAKE FURTHER NOTICE THAT in addition to filing objections to confirmation of the Plan on or before the expiration of the Objection Deadline, to be considered, any and all objections must be served on the Trustee so that they are received on or before the Objection Deadline as follows:

Peggy Hunt
Nathan Seim
Dorsey & Whitney LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101

PLEASE TAKE FURTHER NOTICE THAT parties desiring more information about the solicitation procedures or the contents of the Plan may contact the Trustee's counsel at (801) 933-8956.

DATED this ____ day of _____, 2012.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt
Peggy Hunt
Nathan Seim
*Attorneys for D. Ray Strong, Chapter 11
Trustee for Castle Arch Real Estate
Investment Company, LLC*