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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.11-35082 (Jointly Administered with Cases 11-35237, 11-35240, 11-35242, 11-35243, 11-35246 and 11-35241)
CASTLE ARCH REAL ESTATE INVESTMENT COMPANY, LLC, et al., Debtors.	Chapter 11 Honorable Joel T. Marker
	OBJECTION OF UNSECURED CREDITORS' COMMITTEE TO DISCLOSURE STATEMENT FOR CHAPTER 11 TRUSTEE'S PLAN OF LIQUIDATION DATED SEPTEMBER 29, 2012

The Official Committee of Unsecured Creditors ("Committee") for Castle Arch Real Estate Investment Company, LLC ("CAREIC") hereby files its Objection ("Objection") to the Disclosure Statement for Chapter 11 Trustee's Plan of Liquidation Dated September 29, 2012 ("Disclosure Statement"). In support of its Objection, the Committee states as follows:

Background

1. The Debtors in these jointly administered cases, as well as certain non-debtors, are various liability companies involved in inter-related transactions concerning undeveloped real estate and the purchase of distressed real estate for resale. The Disclosure Statement provides a detailed description of the Debtors, their businesses and their history - - which background need not be repeated here.

2. CAREIC filed its voluntary Chapter 11 petition on October 17, 2011 and the other jointly administered Debtors filed their petitions either on that date or shortly thereafter.

3. On January 26, 2012, the Office of the United States Trustee appointed the Committee, the current members of which are: Jerry Sharkos & Company, Inc. Andrew T. Feola, Longview Financial Group, Inc., Dr. Nolan Higa and Kimberly Higa, and Net Chemistry.

4. On February 14, 2012, the Committee filed its "Motion for Appointment of Chapter 11 Trustee Under 11 U.S.C. §1104 or, In the Alternative, to Convert Under 11 U.S.C. §1112" and, following several days of hearing on the motion, the Court appointed D. Ray Strong as Chapter 11 Trustee ("Trustee") on May 3, 2012.

5. On September 29, 2012, the Trustee filed his "Chapter 11 Trustee's Plan of Liquidation Dated September 29, 2012" ("Plan") an accompanying Disclosure Statement proposing his plan for an orderly liquidation of certain Debtors' assets (including CAREIC's) and for the reorganization of certain other Debtors.

6. Since the filing of his Plan and Disclosure Statement, the Trustee and his counsel

have accommodated the Committee's request to meet with them to discuss the Plan, its concepts and implementation, and additional information needed by creditors to adequately assess and evaluate the Plan. That meeting was productive and constructive. Some of the matters of required additional information set forth below previously have been discussed informally with the Trustee and his counsel; however, the Committee formalizes its requests pursuant to this Objection.

7. While the Disclosure Statement is well-prepared, if not exhaustive, and contains sufficient information for creditors and parties in interest in some respects, in other respects the Disclosure Statement must provide additional information. On that basis, the Committee lodges its objections and identifies its areas of concern respecting the Disclosure Statement as set forth below

The Disclosure Statement Must Provide
Adequate Information as Required By 11 U.S.C. § 1125(b)

1. The Bankruptcy Code seeks to guarantee sufficient information to creditors and equity holders to make an informed decision about the plan. *In re Jeppson*, 66 B.R. 269, 291 (Bankr. D. Utah 1986).

2. A disclosure statement must contain "information of a kind, and in sufficient detail . . . that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan . . ." 11 U.S.C. § 1125(a)(1).

3. Section 1125(b) of the bankruptcy Code provides that acceptance or rejection of a plan may not be solicited unless the disclosure statement contains such "adequate information." 11 U.S.C. § 1125(b). A disclosure statement does not meet the "adequate information" standard of § 1125 if it fails to contain simple and clear language delineating the consequences of the proposed plan. *In re Copy Crafters Quickprint, Inc.*, 92 B.R. 973 (Bankr. N.D.N.Y. 1988).

4. In evaluating the adequacy of disclosure, courts often consider whether the disclosure statement contains information such as: (1) a complete description of the available assets and their value; (2) the anticipated future of the company; (3) the source of information provided in the disclosure statement; (4) the present condition and performance of the debtor; (5) information concerning claims against the estate; (6) the estimated return that creditors would receive under Chapter 7; (7) information regarding future management of the debtor; (8) a summary of the plan of reorganization; (9) an estimate of administrative expenses, including attorneys' fees and accounting fees; (10) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (11) the collectability of accounts receivable, if applicable; (12) financial information, data, valuations, or projections relevant to the creditors' decision to accept or reject the proposed plan; (13) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (14) information relevant to the risks being taken by the creditors and interest holders; (15) the existence, likelihood and possible success of litigation likely to arise in non-bankruptcy context; and (16) any tax consequences of the plan. *See Jeppson*, 166 B.R. at 292.

The Disclosure Statement Does Not Provide Adequate Information

5. As noted above, while the Disclosure Statement contains adequate information with respect to certain of the categories listed above, other categories of necessary information are either absent, insufficient, or not clearly articulated. Until such information is provided to enable creditors to make informed decisions whether to accept or reject the Plan, the Disclosure Statement should not be approved. The Committee is mindful of the challenges and difficulties faced by the Trustee in comprehending an analyzing the Debtors' businesses, transactions, intercompany transfers, and accounting. Nevertheless, further information is required to provide creditors adequate information to enable creditors to cast informed votes on the Plan.

6. Primarily, creditors are concerned with the value of a debtor's assets, the amount of claims asserted against the debtor, how much creditors are expected to be paid, when creditors can expect payment, and what are the risks to the projected distributions. Understandably, there are many unknowns with which the Trustee has not yet been able to come to grips, but in its present form, the Disclosure Statement gives creditors incomplete information about their primary concerns which would allow creditors to assess and evaluate the Plan. Such information should be included in a clear, concise and understandable form.

7. The Disclosure Statement is deficient in at least the following respects:

a. Asset Values, Claim Amounts and Values Generally. The Disclosure Statement does not provide useful estimated values of assets which will be available for distribution to creditors. While with respect to certain assets, a price at which the asset is listed

for sale is provided, with others (such as those on which CAREIC made down payments or other contributions) such information is absent. For example, on pages 20-21 of the Disclosure Statement, the Trustee lists assets of the Legacy Debtors' estates. However, absent from that list are any estimated values of the assets.

In addition, the Disclosure Statement frequently refers the numerous intercompany transfers and claims. Because the Plan contemplates partial substantive consolidation and the resulting elimination of those claims, CARIEC creditors should have some information regarding the value of those claims and if CAREIC were a "net winner" after netting out claims. If possible, and to the extent it has been or can be discerned, creditors should be provided a summary of the most significant and material intercompany claims and transfers – both claims among the "Legacy Debtors" and claims between the Legacy Debtors, CAOP I and CAOP II.

Similarly, the expected amount of allowed claims which will share in distributions should be provided. While with respect to both asset values and claim amounts, precision may not be possible, the Disclosure Statement should at least provide ranges of likely values and estimated allowed claims so that creditors can evaluate the proposed Plan and likely distributions. Moreover, with the proposed settlement of litigation and claims with Longview Financial (which the Committee expects will be described in an amended Disclosure Statement) the task of estimating allowed claims should be simplified.

b. Substantive Consolidation. The Plan proposes partial substantive

consolidation of certain Debtors' estates – the so-called" Legacy Debtors" will be consolidated, while CAOP I and CAOP II estates will remain stand-alone reorganized entities. CAREIC creditors should be informed, to the extent possible, what substantive consolidation with the other Legacy Debtors means for them. For instance, it is self-evident that intercompany claims among the Legacy Debtors will be eliminated in a substantive consolidation scenario, but are there other causes of action or assets which belong solely to the CAREIC estate? What are those values, and how would distributions be to impacted taking account of anticipated CAREIC-only claims? In order to determine whether even partial substantive consolidation is warranted, creditors should be provided such an analysis.

c. 100% Distribution to Class A4 Creditors. Page 70 of the Disclosure Statement presents a summary, in table form, of treatment of different classes of claims. Class A4, which is the class of unsecured claims, shows an "Estimated Distribution Percentage" of 100%. Based on conversations with the Trustee and his counsel, it appears a 100% recovery may not be the true estimated distribution to Class 4 claimants. Addressing the items in subparagraph "a" above may provide a methodology for the Trustee to calculate a more accurate estimate. An accurate estimate should be calculated and included in the table on page 70.

d. Timing of Creditor Distributions. While the Trustee may not be certain, the Disclosure Statement should provide an estimate of when creditors can expect to receive first distributions. The Committee is aware that a number of factors may affect the timing of

distributions (time to sell property, time to recover in litigation), but creditors would be assisted by receiving an estimate of the anticipated time necessary to make distributions.

e. Tooele Property Transfer. As the Committee is aware and as the Trustee suggests in the Disclosure Statement, considerable value may exist in the so-called Tooele Property and the transactions surrounding it which occurred prepetition. Creditors should be provided detailed, but understandable, information regarding the values of the asset(s) involved, which entities hold claims arising from the transfer, the basis for those claims, and the value and likely recovery on those claims. In addition, while the Plan contemplates a "conflicts referee" to sort through the various transfers, the Trustee should provide for the benefit of creditors his view on the *bona fides* of the transfers and claims.

f. Investor Claims and Distributions. Absent from the Disclosure Statement is a description of the amounts investors invested with the Debtors, as well as the amount of distributions which were made to investors pre-petition.

g. Reserve Funds and Administrative Claims. The Disclosure Statement should provide a description of the likely amounts and sources of "Reserve Funds" which will be used to make Effective Date payments. In connection therewith, the Disclosure Statement should provide an estimate of administrative expense payments which will be required on the Effective Date, as well as discussing alternatives, if any, should Debtor's counsel refuse to agree to a "different treatment" for its allowed administrative expense, if any.

h. Plan Documents Supplement. The Disclosure Statement states that there

are certain important documents – the "Plan Documents Supplement" – which have not yet been provided to creditors and may not be until ten (10) days prior to the hearing on confirmation of the Plan. The Disclosure Statement proposes that certain key documents - - the Legacy Trust Agreement, the Blackstar Agreements, and the Management Fee Schedule - - will not be disseminated with the solicitation packet. Certain information which creditors are told will be contained on those documents may well be necessary to provide "adequate information" to creditors. For instance, the terms governing the trust and the Trustee's activities, information concerning the compensation to be paid post-confirmation to the Trustee and to the "conflicts referee," limitations or caps on that compensation, and procedures for approving that compensation, if any, all are expected to be set forth in those documents. Creditors similarly should be provided the relevant information and terms governing the conflicts referee's performance of his/her duties and the procedure, if any, for approving the conflicts referee's resolution of disputes. Even if the Trustee is not able to attach the formal documents to the Disclosure Statement for dissemination to creditors, the Disclosure Statement should provide a summary of key terms of those agreements and documents so that creditors are fully informed when asked to vote on the Plan. In addition, the Management Fee Schedule, which will quantify the amount of postpetition management fees the Trustee believes is owed to CAREIC, may provide important information for creditors because management fees may comprise a significant portion of cash available to make required Effective Date payments under the Plan. Those amounts should be estimated in the Disclosure Statement. In any event, the Plan Documents Supplement should be made available to creditors and parties in interest in

sufficient time to allow a meaningful review of the Plan Documents before ballots on the Plan are required to be cast.

i. Litigation Commenced by the Debtors and by the Trustee. Recognizing that the Disclosure Statement contains a section entitled "Effect of Denial of Confirmation of the Plan/Chapter 7 Liquidation," the Disclosure Statement should describe, including amounts at issue and an estimate of likely outcomes, litigation which was commenced by the Debtors and by the Trustee. To the extent that the Trustee intends to pursue additional avoiding actions or other litigation, the Disclosure Statement should describe generally (if litigation targets are not to be disclosed) the types of actions which will be pursued and the likely amounts at issue or to be recovered.

j. Liquidation Analysis. The Disclosure Statement should provide a liquidation analysis to assure creditors they will receive more under a confirmed Plan than they will in a Chapter 7 liquidation and, specifically, to disclose to creditors if the proceeds of sales of assets contemplated under the Plan are expected to be materially different than sales in a Chapter 7 liquidation scenario.

k. Risk Factors. In addition to the risk factors identified in the Disclosure Statement, there exist other risks to projected payments under the Plan including sales of properties for amounts less than anticipated, unanticipated administrative expenses or postpetition Trustee, professional and conflicts referee fees, and unanticipated litigation costs in pursuing claim disallowance and causes of action. Creditors should be made aware of these

additional risks.

l. Summary. The Disclosure Statement is a voluminous, well-crafted, but highly technical document. Creditors would be well served by inclusion of a summary – particularly of projected distributions similar to that contained on the tables on pages 68 to 80 - - placed nearer to the front of the document where it is more likely to be read. Any steps which can be taken to make the pertinent information more accessible to creditors will facilitate informed voting on the Plan by creditors and equity holders alike.

WHEREFORE, the Committee respectfully requests this Court enter an order requiring the information described above to be included in the Disclosure Statement prior to dissemination of the Plan and Disclosure Statement to creditors for voting.

DATED this 26th day of November, 2012.

JONES WALDO HOLBROOK & McDONOUGH, PC

By: /s/ Lon A. Jenkins
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