

The below described is **SIGNED**.



Dated: June 7, 2013

*Joel T. Marker*

**JOEL T. MARKER**  
U.S. Bankruptcy Judge

*Prepared and Submitted By:*

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

**DORSEY & WHITNEY LLP**  
136 South Main Street, Suite 1000  
Salt Lake City, UT 84101-1685  
Telephone: (801) 933-7360  
Email: [hunt.peggy@dorsey.com](mailto:hunt.peggy@dorsey.com)  
[seim.nathan@dorsey.com](mailto:seim.nathan@dorsey.com)

*Attorneys for D. Ray Strong, Chapter 11 Trustee for Castle Arch Real Estate Investment Company, LLC and Substantively Consolidated Debtors*

**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 KINGMAN, LLC; CASTLE ARCH SECURED DEVELOPMENT FUND, LLC; CASTLE ARCH SMYRNA, LLC; CASTLE ARCH STAR VALLEY, LLC; *and*

CASTLE ARCH OPPORTUNITY PARTNERS I, LLC; CASTLE ARCH OPPORTUNITY PARTNERS II, LLC,

Debtors.

Case Nos. 11-35082, 11-35237, 11-35243, 11-35242 and 11-35246  
(Substantively Consolidated)

Case Nos. 11-35241 and 11-35240  
(Jointly Administered)

(Chapter 11)  
The Honorable Joel T. Marker

- Affects All Debtors
- Affects Only the Substantively Consolidated Debtors
- Affects only Castle Arch Opportunity Partners I, LLC
- Affects only Castle Arch Opportunity Partners II, LLC

**ORDER CONFIRMING CHAPTER 11 TRUSTEE'S FIRST AMENDED PLAN OF LIQUIDATION DATED FEBRUARY 25, 2013 AS MODIFIED**

The matter before the Court is confirmation of the *First Amended Chapter 11 Trustee's Plan of Liquidation Dated February 25, 2013* [Docket No. 656] (the "Plan") proposed by D. Ray Strong as Chapter 11 Trustee ("Trustee") for Castle Arch Real Estate Investment Company, LLC, CAOP Managers, LLC, Castle Arch Kingman, LLC, Castle Arch Secured Development Fund, LLC, Castle Arch Smyrna, LLC and Castle Arch Star Valley, LLC (the "Consolidated Legacy Debtors"), and in that capacity as manager for Castle Arch Opportunity Partners I, LLC ("CAOP I") and Castle Arch Opportunity Partners II, LLC ("CAOP II") (together, the "CAOP Debtors" and collectively with the Consolidated Legacy Debtors, the "Debtors"). A hearing on the confirmation of the Plan was held on May 30, 2013. Appearances were made on the record.

The Court, having entered the *Findings of Fact and Conclusions of Law in Support of Order Confirming First Amended Chapter 11 Trustee's Plan of Liquidation Dated February 25, 2013, as Modified* (the "Findings and Conclusions"), which are hereby incorporated into this Confirmation Order by reference, having considered the entire record as set forth in the Findings and Conclusions, and for good cause appearing,

**HEREBY ORDERS THAT:**

**PLAN APPROVED AND CONFIRMED**

1. The Plan, as modified prior to the conclusion of the Confirmation Hearing, is **APPROVED** and **CONFIRMED** under 11 U.S.C. § 1129. Such Plan, as confirmed, has been filed with the Court as the *Second Amended Chapter 11 Trustee's Plan of Liquidation Dated February 25, 2013* [Docket No. 701]. Each provision of the Plan is authorized and approved and shall have the same validity, binding effect, and enforceability as every other provision of the Plan, whether or not mentioned in this Confirmation Order or in the Findings and Conclusions.

Capitalized terms and phrases not otherwise defined herein shall have the same meanings ascribed to them in the Plan.

**AGREEMENTS AND ASSIGNMENTS APPROVED**

2. Without limiting the approval of any and all agreements, transactions and transfers as set forth in ¶ K of the Findings and Conclusions, the Liquidating Trust Agreements incorporated as part of the Plan, including the Conflict Resolution Procedures set forth therein, are **APPROVED**.

3. As set forth in ¶ J of the Findings and Conclusions, all Individual Claims as defined in Section 6.4 of the Plan, with the exception of any Individual Claims held by Merchants Trust Company, are unconditionally assigned in accordance with Section 6.4 of the Plan regardless of whether a holder of an Individual Claim voted to accept or reject the Plan or whether they voted to accept or reject the Plan, and such assignments are **APPROVED**.

**POST-CONFIRMATION MANAGEMENT**

4. The Trustee shall administer each of the Estates after entry of this Confirmation Order and shall, without limitation, have all the rights, powers, and duties of a trustee under Chapter 11 of the Bankruptcy Code, as well as all rights, powers and duties afforded by the Plan and this Confirmation Order.

5. As of the Effective Date, D. Ray Strong is the representative of the each of the Estates for all purposes unless otherwise expressly provided in the Plan and this Confirmation Order, and is authorized, without limitation, to make all Distributions as provided for under the Plan, to administer each of the Estates after the Effective Date in accordance with the Plan, and to take any and all actions necessary to effectuate the Plan.

6. As of the Effective Date, and upon execution of the Liquidating Trust Agreements, D. Ray Strong is appointed as the Liquidating Trustee under each of the Liquidating Trust Agreements, and is authorized, without limitation, to make all Distributions as provided for under the Plan and the applicable Liquidating Trust Agreement, to administer each of the Liquidating Trusts after the Effective Date in accordance with the Plan and the applicable Liquidating Trust Agreement, to assert without limitation any and all Retained Claims and Actions, including any and all Individual Claims unconditionally assigned by holders of such Claims under the Plan, and to take any and all actions necessary to effectuate the Plan and the Liquidating Trust Agreements.

7. As of the Effective Date, and upon execution of the Liquidating Trust Agreements, Weston L. Harris is appointed as the Conflicts Referee under each of the Liquidating Trust Agreements, and is authorized, without limitation, to take all actions anticipated in the Liquidating Trust Agreements related to the resolution of the Intercompany Claims pursuant to the Conflict Resolution Procedures set forth in Section 4 of each of the Liquidating Trust Agreements.

### **BAR DATES**

#### *Administrative Expense Claims*

8. Pursuant to Section 4.2 of the Plan, requests for payment of Administrative Expense Claims must be filed with the Court and served on the Trustee, counsel for the Debtors, counsel for the Committee and the United States Trustee no later than thirty (30) days after the Effective Date—which is the Administrative Expense Claims Bar Date. Any holder of an Administrative Expense Claim to which the Administrative Expense Claims Bar Date applies who fails to file a request seeking to have its Claim allowed on or before said Administrative

Expense Claims Bar Date shall be forever barred from seeking the allowance of its Administrative Expense Claim or any other Claim, and the Trustee, the Debtors, the Estates, the Liquidating Trustee and the Liquidating Trusts shall be discharged of any obligation on such Claim or any other Claim related to the Administrative Expense Claim.

9. Pursuant to Section 4.2 of the Plan, all Professionals and Committee Members requesting compensation or reimbursement of expenses under 11 U.S.C. §§ 327, 328, 330, 331 and 503(b) for services rendered before the Effective Date shall file with the Court and serve on the Trustee, counsel for the Debtors, counsel for the Committee and the United States Trustee an application for final allowance of compensation and reimbursement of expenses no later than forty-five (45) days after the Effective Date—which is the Professional Administrative Claims Bar Date. Any Person to whom this Professional Administrative Expense Claims Bar Date applies who fails to file a request seeking to have its Claim allowed on or before said Professional Administrative Claims Bar Date shall be forever barred from seeking the allowance of its Administrative Expense Claim or any other Claim, and the Trustee, the Debtors, the Estates, the Liquidating Trustee and the Liquidating Trusts shall be discharged of any obligation on such Claim or any other Claim related to the Administrative Expense Claim

*Contract Rejection Claims*

10. Pursuant to Section 8.2 of the Plan, any Claim for damages related to the rejection of an executory contract or unexpired lease under the Plan shall be forever barred and shall not be enforceable against the Debtors, the Estates, the Liquidating Trustee or the Liquidating Trusts or their respective properties or agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served on the Trustee on or before thirty (30) days following the

entry of this Confirmation Order, or the "Confirmation Date" - which is the Contract Rejection Claim Bar Date.

### **BINDING EFFECT**

11. As set forth in Section 11.10 of the Plan and ¶ S of the Findings and Conclusions, and without any limitation of the same, the provisions of the Plan, including the Liquidating Trust Agreements incorporated therein and the unconditional assignment of Individual Claims, the Findings and Conclusions and this Confirmation Order shall bind without limitation the Debtors, each of the Estates, the Trustee, all holders of Claims against and Interests in the Debtors, the Liquidating Trustee, the Liquidating Trusts, the Conflicts Referee the Liquidating Trust Beneficiaries, and all parties in interest. The binding effect of Plan applies whether or not the holder of a Claim or Interest has a Claim or Interest that is Allowed under the Plan or impaired under the Plan, whether or not a Person has voted to accept or reject the Plan, and whether or not a Person has filed or is deemed to have filed proofs of Claim or Interest in these Bankruptcy Cases.

12. Without limiting the foregoing in any way, with the exception of Merchants Trust Company, the binding effect of the Plan applies to the unconditional assignment of Individual Claims pursuant to Section 6.4 of the Plan, and all holders of Individual Claims, regardless of whether they voted or whether they voted to accept or reject the Plan, have unconditionally assigned their Individual Claims upon confirmation of the Plan.

### **NON-DISCHARGE OF DEBTORS AND INJUNCTIONS**

13. Neither the Plan nor this Confirmation Order discharge Claims against or Interests in the Debtors. However, the injunctions and stays set forth in Sections 6.10 and 11.1 of the

Plan, which are set forth below, apply upon entry of this Confirmation Order and the Effective Date.

14. Pursuant to Section 11.1 of the Plan, all injunctions and stays provided for in the Bankruptcy Cases under 11 U.S.C. §§ 105 or 362 or otherwise and in existence on the Confirmation Date shall remain in full force and effect until the Effective Date. Thereafter the injunction provided for in Section 6.10 of the Plan and as set forth herein in ¶15 below shall apply.

15. Pursuant to Section 6.10 of the Plan, and without limiting any provision therein or allowed by law, as of the Effective Date:

a. No holder of a Claim, right or Cause of Action or Interests against any one Debtor may pursue the Trustee or any of his agents or property of any of the Estates or the Liquidating Trusts, including the assigned Individual Claims, whether existing prior to or after the Effective Date, other than through seeking allowance of its Claim, if any, for Distribution in accordance with the Plan.

b. No holder of a Claim or Interests may receive any payment from or seek recourse against any assets that are property of any of the Estates, including the assigned Individual Claims, except for those assets required to be distributed to such holder as expressly provided for in and under the Plan.

c. All Persons are precluded from asserting against any property of any of the Estates and assets that are distributed or to be distributed under the Plan or the Liquidating Trusts any Claims, including the Individual Claims, rights, Causes of Action, liabilities or 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 this Confirmation Order, regardless of the filing, lack of filing, allowance or disallowance of Claim or Interest and regardless of whether such Person has voted to accept the Plan.

d. Except as otherwise provided in the Plan and this Confirmation Order, on and after the Effective Date, all Persons that have held, currently hold or may hold a debt, right, Claim, 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 11 U.S.C. § 1141(d)(3) are permanently enjoined from taking any of the following actions on account of such debt, right, Claim, Cause of Action, or other liability or Interest, including any assigned Individual Claim: (i) commencing or continuing in any manner any action or other proceeding on account of such debt, right, Claim, Cause of Action, or other liability or Interest against assets or proceeds thereof that are property of the Estates or the Liquidating Trusts and which are to be distributed under the Plan and/or the Liquidating Trusts, 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 Interests under the Plan and/or the Liquidating Trusts, other than as permitted under subparagraph (i) of this paragraph; and (iii) creating, perfecting or enforcing any Lien or encumbrance against any assets to be distributed under the Plan and the Liquidating Trusts, other than as permitted by the Plan and/or the Liquidating Trusts, 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 and/or the Liquidating Trusts.

**LIMITATIONS ON LIABILITY**

16. The Trustee and the Trustee's attorneys, agents and representatives, including Dorsey and Whitney LLP, as balloting agent, have acted in good faith with respect to the solicitation of votes on the Plan and are entitled to all the protections of 11 U.S.C. § 1125(e) as well as the limitations of liability set forth in the Plan and the Liquidating Trust Agreements as approved and as set forth in the Findings and Conclusions. All releases and exculpations in the Plan and Liquidating Trust Agreements related to such entities are effective.

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End of Order