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*Attorneys for the CAOP II Trust as Successor in Interest  
to Castle Arch Partners II, LLC*

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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In re  
CASTLE ARCH REAL ESTATE  
INVESTMENT COMPANY, LLC; CAOP  
MANAGERS, LLC; CASTLE ARCH  
KINGMAN, LLC; CASTLE ARCH  
SECURED DEVELOPMENT FUND, LLC;  
and 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

**THIS DOCUMENTS RELATES TO:**

- 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

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STRONG, D. RAY, Trustee for CAOP II  
LIQUIDATING TRUST,  
Plaintiff,  
v.  
WESTERN SHOWCASE HOMES, INC., a  
Nevada Corporation,  
Defendant.

Adversary Proceeding No.  
  
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D. Ray Strong, not in his individual capacity but solely as trustee of the CAOP II Liquidating Trust (“Plaintiff” or “Trustee”) as successor in interest to Castle Arch Opportunity Partners II, LLC (“Debtor”), alleges and complains of Defendant Western Showcase Homes as follows:

### **JURISDICTION**

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157(a) and (b)(2)(J) in that the action arises under Title 11 of the United States Code and arises in and relates to the case under Title 11 of Castle Arch Opportunity Partners II (“Debtor”) Case No. 11-35241, District of Utah, which was commenced on October 20, 2011 (the “Petition Date”) and is presently pending in this Court (the "Bankruptcy Case").

2. The Trustee brings this adversary proceeding pursuant to 11 U.S.C. §§ 105 323, 548, and 550 of the Bankruptcy Code.

### **CORE PROCEEDING**

3. This is a core proceeding and related proceeding under 28 U.S.C. § 157.

### **VENUE**

4. Venue lies in this district under 28 U.S.C. § 1409 because this suit arises in and is related to the Bankruptcy Case pending in this district before this Court.

### **PARTIES**

5. Plaintiff is a trust organized under the laws of the State of Utah and Federal Bankruptcy law and has been authorized to commence this adversary proceeding as a successor to the Debtor.

6. Defendant, Western Showcase Homes (“Defendant”) is a corporation existing and organized under the laws of the State of Nevada and, upon information and belief, is controlled

by Paul Thomas. Mr. Thomas is, upon information and belief, an officer, director and equity holder in the Defendant.

### **FACTS**

7. Debtor filed a voluntary Chapter 11 petition (the "Petition") on October 20, 2011. A plan of reorganization ("Plan") was confirmed in Debtor's case was subsequently on June 7, 2013. The Plan became effective on July 22, 2013. Pursuant to the Plan, the Plaintiff was established and created as successor and assignee from the Debtor and D. Ray Strong was appointed as trustee ("Trustee").

8. The Trustee, by himself and through his counsel, has conducted an investigation of the Debtor, his assets and other business affairs.

### **The Obligation Owning From Defendant**

9. On or about January 8, 2011, the Debtor and the Defendant entered into the contract ("Contract") attached hereto as **Exhibit A**.

10. Douglas Child signed the Contract on behalf of the Debtor.

11. Paul Thomas signed the Contract on behalf of the Defendant.

12. Pursuant to the Contract, the Defendant agreed to facilitate as broker the purchase, on behalf of the Debtor, certain manufactured homes. As part of the purchase price, the Debtor was to pay the Defendant a 5% commission.

13. Pursuant to the Contract, the Debtor would be the owner of the homes purchased through the Defendant. As part of the Defendant's duties under the Contract, the Defendant was obligated to provide certain information and documentation to the Debtor including the so-called Manufacturers Certificate of Origin. The Defendant was also obligated to provide the Debtor

with reports, photographs, manufacturers invoice, floorplan and all other pertinent information to assess the home.

14. After the Debtor's purchase of the home, the Defendant was obligated to facilitate the sale of the home by obtaining purchase contracts to send to the Debtor.

15. After executing the Contract, the Debtor purchased several homes including the purchases described in the following paragraphs made to various manufacturers of homes:

a. The purchase of five homes pursuant to a wire transfers from the Debtor of \$33,000 on April 6, 2011 and a wire transfer of \$237,443.07 on April 12, 2011 to Textron Financial Corporation (the "Textron Homes");

b. The purchase of a home pursuant to a wire transfer in the amount of \$90,227 from the Debtor on April 18, 2011 to The Homark Company, Inc. (the "Homark Home");

c. The purchase of a home pursuant to a wire transfer from the Debtor in the amount of \$73,645 on April 18, 2011 to Fleetwood Homes (the "Fleetwood Home")

d. The purchase of a home pursuant to a wire transfer from the Debtor in the amount of \$120,309.31 on May 27, 2011 to Superior Homes, LLC (the "Superior Home") (all homes described in subparagraphs a-d above collectively referred to as the "Manufactured Homes").

16. The Defendant obtained possession of the Manufactured Homes. The Defendant failed to remit the original Manufacturers Certificate of Origin to the Plaintiff with respect to at least four of the eight the Manufactured Homes. The four that were provided are not in the name of the Debtor.

17. Upon information and belief, Western Showcase originally purchased some of the Manufactured Homes years prior to the Contract date and consummated transactions with the Debtor. Five of the Manufactured Homes were, and are still, titled in the name of Western Showcase, one is titled in the name of Green Investment Company, and the two remaining are unknown. The Debtor paid-off prior financing obligations of the Defendant relating to at least four of the specified Manufactured Homes. The Plaintiff has received no benefit relating to these transactions.

18. The Defendant, in spite of repeated requests from the Trustee, has failed to give adequate and reasonable current information on the status, location and condition of the Manufactured Homes.

19. The Defendant has failed to remit to the Trustee any purchase offers with respect to the Manufactured Homes.

20. The Defendant has failed to otherwise fulfill its implied duties under the Contract to the Plaintiff including the duty of good faith and fair dealing.

21. Upon information and belief, the Defendant may have disposed of one or more of the Manufactured Homes without the permission of the Plaintiff and without remitting proceeds from such disposition to the Plaintiff.

22. To the extent such Manufactured Homes have been sold by the Defendant, the Defendant has failed to remit the sales proceeds to the Plaintiff but has exercised dominion and control over such proceeds from the sale of Plaintiff's property.

23. To the extent the Defendant has failed to deliver proper manufacturers certificates of origin to the Debtor/Trustee, the Plaintiff has been deprived of any value from the Manufactured Homes.

**FIRST CAUSE OF ACTION**  
**(Breach of Contract – Failure to pay obligation)**

24. Plaintiff repeats, realleges, and incorporates by reference the allegations contained in the foregoing paragraphs of this Complaint as through fully set forth in this first cause of action.

25. The Defendant is obligated to obtain purchase contracts for the Manufactured Homes. Defendant's failure to so act constitutes a breach of the Contract.

26. The Defendant is obligated to remit to the Plaintiff the original Manufacturers Certificates of Origin and other indicia that ownership of the Manufactured Homes is in the name of the Plaintiff. Defendant's failure to so act constitutes a breach of the Contract.

27. The Defendant has failed to provide all other reasonable information required by the Plaintiff with respect to the status, location and condition of the Manufactured Homes. Defendant's failure to so act constitutes a breach of the Contract.

28. Defendant has breached other terms of the Contract including the duty to indemnify the Plaintiff.

29. Defendants breach of the terms of the Contract has caused damage to the Plaintiff.

30. Plaintiff has been deprived of the value of the Manufactured Homes in at least the value paid for such homes by the Plaintiff of approximately \$554,624 plus interest as will be proven at the trial on this matter.

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**SECOND CAUSE OF ACTION**  
**(Fraudulent Transfer – Alternative to First Cause of Action)**

31. Plaintiff repeats, realleges, and incorporates by reference the allegations contained in the foregoing paragraphs of this Complaint as through fully set forth in this first cause of action.

32. The Debtor provided transfers of its property to purchase the Manufactured Homes within two years before the filing of its petition.

33. Defendant has obtained the benefit of such transfers by taking possession of the Manufactured Homes.

34. Plaintiff has failed to receive a reasonably equivalent value in exchange for such transfers.

35. At the time that such transfers were made, Debtor was insolvent or became insolvent as a result of such transfers, or was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the Debtor was an unreasonably small capital.

36. By reason of the foregoing, the Fraudulent Transfers are avoidable by the Plaintiff pursuant to 11 U.S.C. § 548 and the Defendant is liable for the value of such transfers in an amount not less than \$554,624 pursuant to 11 U.S.C. § 550.

37. The Plaintiff is entitled to recover interest from the Defendant on the Fraudulent Transfers from the date of the filing of this adversary proceeding.

WHEREFORE, Plaintiff respectfully requests entry of judgment on his complaint as follows:

- a. Finding Defendant in breach of contract and finding damages therefrom in an amount of not less than \$554,624 and additional damages to be proved at trial;
- b. In the alternative, finding Defendant has received an avoidable fraudulent transfer from the Plaintiff in the amount of \$554,624;
- c. Awarding Plaintiff his attorneys' fees, costs, and other expenses incurred in this action; and
- d. Granting such further relief as may be appropriate and warranted by the allegations and facts set forth above.

DATED this 14<sup>th</sup> day of October 2013.

**DURHAM JONES & PINEGAR, P.C.**

By: /s/ Penrod W. Keith

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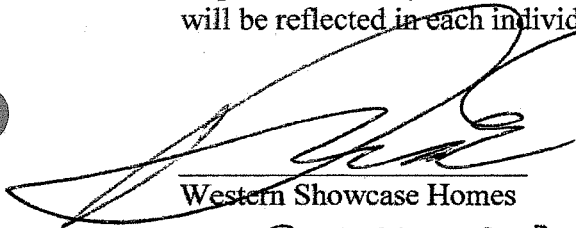


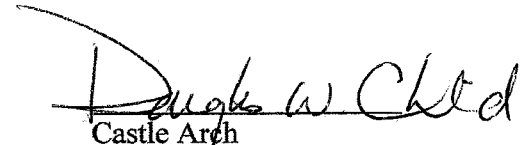
# EXHIBIT A

Operating Agreement and Understanding

Western Showcase Homes (hereafter referred to as WSH) will provide details of homes to purchase for Castle Arch. The information for due diligence will include condition(s) reports with actual photographs of units inside and exterior elevations, manufacturer invoice, MCO, floorplan, and any other pertinent information needed to assess the value of purchase. WSH will include its 5% fee/commission of the manufacturers invoice in the total purchase price to Castle Arch.

Upon purchase of any home by Castle Arch through this business model, WSH will immediately plug into its builder network known and unknown to facilitate the sale (wholesale) of any and all units, once a purchase contract has been received by WSH it will forward to Castle Arch for approval and funding. This will cause Castle Arch to repeat and continue this business model for the mutual benefit of both parties. WSH will give Castle Arch first right of refusal on available units for purchase. This agreement does not constitute a partnership and neither party may act on the others behalf without expressed written approval. Castle Arch is indemnified from any liability that pertains to the sale and disposition of any home(s) purchased and sold through WSH builder network and has no liability or responsibility to the end user buyer. Castle Arch is not responsible for any tax or fees associated with the sale and titling of units purchased, this will be reflected in each individual purchase contract when units are sold.

  
Western Showcase Homes  
PAUL THOMAS - PRESIDENT WSH  
January 8, 2011

  
Castle Arch  
1-10-11