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*Attorneys for D. Ray Strong, Liquidating Trustee
of the Consolidated Legacy Trust*

**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

**LIQUIDATING TRUSTEE'S *EX PARTE* MOTION TO EXTEND DEADLINE TO
OBJECT TO A LIMITED GROUP OF PROOFS OF CLAIM
UNDER CONFIRMED PLAN**

D. Ray Strong, in his capacity as estate representative and Liquidating Trustee (the
“Trustee”) of the Consolidated Legacy Debtors Liquidating Trust (the “Legacy Trust”), hereby

files this *ex parte* Motion seeking a Court Order extending the deadline under the *Second Amended Chapter 11 Trustee's Plan of Liquidation Dated February 25, 2013* [Docket No. 701] (the "Confirmed Plan") to (1) object to the filed Proofs of Claim of insiders Jeff Austin, Douglas Child, William Grundy and, to the extent necessary, William Davidson and Robert Geringer; and (2) object to the filed Proofs of Claim of Bierwolf & Nilson PLLC ("Bierwolf"), Snell & Wilmer LLP ("S&W") and Ryan Inc., f/k/a Ryan & Company ("Ryan"). In support hereof, the Trustee states as follows.

BACKGROUND

General

1. On October 17, 2011, Castle Arch Real Estate Investment Company, LLC ("CAREIC") filed a petition for relief under Chapter 11 of the Bankruptcy Code, and on October 20, 2011, CAOP Managers, LLC, Castle Arch Kingman, LLC, Castle Arch Secured Development Fund, LLC, Castle Arch Smyrna, LLC, Castle Arch Opportunity Partners I, LLC, and Castle Arch Opportunity Partners II, LLC also filed petitions under Chapter 11 of the Bankruptcy Code.

2. On May 3, 2012, the Bankruptcy Court entered an Order appointing the Trustee as the Chapter 11 trustee for CAREIC [Docket No. 215], and in that capacity the Trustee managed each of the other Debtors.

3. On June 7, 2013, the Court entered an Order confirming the Confirmed Plan [Docket No. 705] (the "Confirmation Order").

4. As part of the Confirmation Order, the Bankruptcy Court (a) designated the Trustee as the estate representative for each of the Debtors; (b) approved the Liquidating Trust

Agreement for the Legacy Trust; and (c) appointed the Trustee as Liquidating Trustee for the Legacy Trust.

5. The Effective Date of the Confirmed Plan was July 22, 2013.¹

6. Pursuant to Art. X of the Confirmed Plan, the Court retains jurisdiction relating to the matters set forth herein.

Prior Request for Extension to File Claim Objections

7. Section 6.9 of the Confirmed Plan states that the Trustee, on behalf of the Debtors or the Legacy Trust, as the case may be, “may commence, prosecute, defend against, recover on account of, and settle all . . . Claims . . . in accordance with the best interests, and for the benefit of, the . . . Liquidating Trusts.”

8. Pursuant to Section 7.1 of the Confirmed Plan, the original deadline to object to filed Proofs of Claim was 90 days after the Effective Date, or October 21, 2013.

9. On October 21, 2013, the Trustee filed the *Liquidating Trustee’s Ex Parte Motion to Extend Deadline to Object to Priority Tax Claims, Secured Tax Claims, Secured Claims, Priority Unsecured Claims, General Unsecured Claims and Equity Interests Under Confirmed Plan* [Docket No. 836], which the Court granted on October 22, 2013 [Docket No. 838] (the “Extension Order”).

10. Pursuant to the Extension Order, the Trustee’s current deadline for objecting to filed Proofs of Claim is November 20, 2013 (the “Claims Objection Deadline”).

¹ See Notice of Effective Date [Docket No. 712].

Insider Claims and Settlement Negotiations

11. Jeff Austin, Douglas Child, William Grundy, William Davidson and Robert Geringer (collectively, the “Insiders”) are insiders who filed Proofs of Claim against CAREIC (collectively, the “Insiders’ Proofs of Claim”), as follows:

| Name of Insider | Claim No. |
|-------------------------------|------------------|
| Jeff Austin | 38 |
| Jeff Austin | 39 |
| Jeff Austin | 40 |
| Douglas Child | 36 |
| William Grundy ² | 9 |
| William Davidson ³ | 26 |
| Robert Geringer ⁴ | 27 |

12. The Trustee has analyzed claims and causes of action that the Debtors may have against the Insiders, and the Trustee has provided the Insiders with a draft Complaint that he intends to file against them if a settlement cannot be reached. This Complaint includes, without

² Grundy actually filed five different claims against CAREIC, designated on CAREIC’s claims docket as Claim Nos. 7–11. However, all of Grundy’s claims, other than Claim No. 9, have been disallowed pursuant to the Court’s *Order on Omnibus Objection to Claims* [Docket No. 236].

³ Davidson actually filed two additional Proofs of Claim against various Debtors as follows: Proof of Claim No. 2 against Castle Arch Opportunity Partners II, LLC (the “CAOP II Claim”) and Proof of Claim No. 2 against Castle Arch Smyrna, LLC (the “CAS Claim”). Pursuant to the Court’s Order entered on November 13, 2012 [Docket No. 441] (the “Davidson Order”), the Court disallowed the CAOP II Claim and the CAS Claim in their entirety. While the Davidson Order does allow Davidson an allowed general unsecured claim against CAREIC in the amount of \$103,243.29 (the “Davidson Claim”), the allowance of such claim is subject to the Trustee’s reservation of rights to (1) file an adversary proceeding against Davidson, including an action to recover payments from Davidson; (2) offset any amounts allowed under the Davidson Claim with claims the Debtors may have against Davidson; and (3) seek subordination of any amounts allowed under the Davidson Claim. Thus, out of an abundance of caution, the Trustee files this Motion so as to prevent the expiration of the Claims Objection Deadline from precluding the Trustee from asserting any rights that he may have against Davidson or related to the Davidson Claim in any lawsuit he may file in the future.

⁴ Pursuant to the Court’s Order entered on April 15, 2013 [Docket No. 666], Geringer has a general unsecured claim against CAREIC in the amount of \$243,146.13 (the “Geringer Claim”). Thus, out of an abundance of caution, the Trustee files this Motion so as to prevent the expiration of the Claims Objection Deadline from precluding the Trustee from asserting any rights that he may have against Geringer or related to the Geringer Claim in any lawsuit he may file in the future.

limitation, objections to the Insiders' Proofs of Claim, as well as requests for subordination to the extent any claims are allowed.

13. Each of the Insiders has entered into a Tolling Agreement with the Trustee to toll any statutes of limitation or other time bars until April 15, 2014.

14. To preserve time and costs, and to prevent the filing of potentially unnecessary objections to the Insiders' Proofs of Claim, the Trustee requests that the Court enter an Order extending the Claims Objection Deadline with regard to the Insiders' Proofs of Claim until April 15, 2014—the date the Tolling Agreements expire and the date the Trustee must file his Complaint against the Insiders to the extent settlements cannot be reached.

Bierwolf Claim

15. On February 17, 2012, Bierwolf filed a claim against CAREIC, designated as Claim No. 28 on CAREIC's claims docket (the "Bierwolf Claim"), asserting a general unsecured claim in the amount of \$31,230.71 for "SEC audit and review services performed." The Trustee is in the process of analyzing the Bierwolf Claim and/or analyzing whether an adversary proceeding should be commenced against Bierwolf related to potential negligence. Therefore, the Trustee also requests an Order extending the deadline for the Trustee to file an objection to the Bierwolf Claim until April 15, 2014.

S&W Claim

16. On November 18, 2011, S&W filed a claim against CAREIC, designated as Claim No. 6 on CAREIC's claims docket (the "S&W Claim"), asserting a general unsecured claim in the amount of \$59,228.17. Former management for the Debtor also scheduled claims against S&W. The Trustee has contacted S&W about attempting to work out an agreement as to

the allowance of the S&W Claim, but no agreement has been reached to date. The Trustee would prefer to attempt to settle this matter prior to filing an objection to the S&W Claim. Therefore, the Trustee requests an Order extending the Claims Objection Deadline for the Trustee to file an objection to the S&W Claim until April 15, 2014.

Ryan Claim

17. On February 21, 2012, Ryan filed a claim against CAREIC, designated as Claim No. 37 on CAREIC's claims docket (the "Ryan Claim"), asserting a general unsecured claim in the amount of \$21,518.57. The Trustee has been in contact with Ryan regarding the Ryan Claim and believes a stipulation will be reached in the near future. However, out of an abundance of caution, and to prevent the expiration of the Claims Objection Deadline relating to the Ryan Claim, the Trustee requests an Order extending the deadline for the Trustee to file an objection to the Ryan Claim until April 15, 2014.

CONCLUSION

Wherefore, the Trustee seeks entry of an Order extending the Claims Objection Deadline until April 15, 2014, to (1) object to the filed Proofs of Claim of insiders Jeff Austin, Douglas Child, William Grundy and, to the extent necessary, William Davidson and Robert Geringer; and (2) object to the filed Proofs of Claim of Bierwolf & Nilson PLLC, Snell & Wilmer LLP, and Ryan Inc. as discussed above.

DATED this 19th day of November, 2013.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt
Peggy Hunt
Nathan S. Seim
*Attorneys for D. Ray Strong, Trustee
of the Legacy Trust*