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Attorneys for Plaintiff

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

D. RAY STRONG, as Liquidating Trustee of the Consolidated Legacy Debtors Liquidating Trust, the Castle Arch Opportunity Partners I, LLC Liquidating Trust and the Castle Arch Opportunity Partners II, LLC Liquidating Trust,

Plaintiff,

v.

KIRBY D. COCHRAN; JEFF AUSTIN; AUSTIN CAPITAL SOLUTIONS; WILLIAM H. DAVIDSON; DOUGLAS W. CHILD; CHILD, VAN WAGONER & ASSOCIATES, PLLC, fka CHILD, SULLIVAN & ASSOCIATES, fka CHILD, VAN WAGONER & ASSOCIATES, LLC, fka CHILD VAN WAGONER & BRADSHAW, PLLC; ROBERT CLAWSON; HYBRID ADVISOR CROUP; and JOHN DOES 1-50,

Defendants.

Case No. 2:14-cv-00788-TC

Judge: Tena Campbell

PLAINTIFF'S *EX PARTE* MOTION FOR ENTRY OF AN ORDER AUTHORIZING PLAINTIFF TO SERVE DEFENDANTS ROBERT CLAWSON AND HYBRID ADVISOR GROUP BY ALTERNATIVE MEANS AND FOR EXTENSION OF TIME FOR SERVICE

Plaintiff D. Ray Strong ("Plaintiff"), as the (i) post-confirmation estate representative of Castle Arch Real Estate Investment Company, LLC ("CAREIC") and affiliated entities, and (ii) Liquidating Trustee of the Consolidated Legacy Debtors Liquidating Trust, Castle Arch

Opportunity Partners I, LLC Liquidating Trust and the Castle Arch Opportunity Partners II, LLC Liquidating Trust, as appointed in such capacities in the bankruptcy case styled as *In re Castle Arch Real Estate Investment Company, LLC et al.*, Case No. 11-35082 (the “Bankruptcy Case”), filed in the United States Bankruptcy Court for the District of Utah, moves this Court, *ex parte*, for entry of an Order in the form attached hereto as Exhibit A, declaring that: (1) service of process upon Defendants Robert Clawson (“Clawson”) and Clawson’s company, Hybrid Advisor Group (“Hybrid”), will be deemed complete and sufficient upon Plaintiff (a) emailing a copy of the Complaint, Summons, and Order granting this Motion to Clawson’s current or former counsel, who is believed to have current contact information for Clawson; and (b) mailing a copy of the Complaint, Summons, and Order granting this Motion to a P.O. Box address believed to be used by Clawson, and (2) granting a 90-day extension to serve Clawson and Hybrid.

RELEVANT FACTS

1. Plaintiff commenced this action against Clawson, Hybrid and the other above-captioned Defendants on October 30, 2014.
2. Clawson was a founder and de facto Board member of CAREIC, and CAREIC’s bankruptcy schedules in the Bankruptcy Case list Clawson as having an address of 55 Sea Terrace, Newport Coast, CA 92657 (the “Sea Terrace Residence”).
3. Hybrid is a California entity that, upon information and belief, was solely owned and managed by Clawson and which received transfers of cash from CAREIC and/or its associated entities.
4. Since filing the Complaint, Plaintiff has diligently attempted to serve Clawson with process. Specifically, Plaintiff has requested that process be accepted by Brett Evans

(“Evans”) of Evans & Kob, P.C., who currently represents, or has represented Clawson and Hybrid within the past eight months, relating to Plaintiff’s claims against Clawson and Hybrid in this action, as evidenced by the email attached hereto as Exhibit B. Evans has not responded to Plaintiff’s requests.

5. In addition, Plaintiff attempted to serve Clawson at the Sea Terrace Residence, but Plaintiff’s process server, Bosco Legal Services, informed Plaintiff that Clawson no longer resides at that address and, in fact, the Sea Terrace Residence was recently sold pursuant to a bankruptcy sale. *See* email from Luis Arrayales, attached hereto as Exhibit C.

6. Plaintiff also ordered a TLO search report for Clawson in an attempt to locate Clawson’s whereabouts. The report returned two potential current addresses for Clawson: (a) the Sea Terrace Residence; and (b) the mailing address of P.O. Box 13314, Newport Beach, CA 92658 (the “P.O. Box Address”).

7. To date, Plaintiff has not been able to locate Clawson’s whereabouts, despite diligent efforts to do so.

8. The 120-day period for Plaintiff to serve Clawson and Hybrid with process under Fed. R. Civ. P. 4(m) expires on February 27, 2015 (the “Service Deadline”).

RELIEF REQUESTED

9. Plaintiff believes that Evans has current contact information for Clawson.

10. Based on the results of Plaintiff’s TLO search report, Plaintiff also believes that Clawson may use the P.O. Box Address.

11. Accordingly, Plaintiff requests that the Court enter the Order attached hereto as Exhibit A, declaring that service of process upon Clawson and Hybrid will be deemed complete

and sufficient upon Plaintiff completing the following: (a) emailing a copy of the Complaint, Summons, and Order granting this Motion to Evans at his firm's email address, brett@eklawpc.com; and (b) mailing a copy of the Complaint, Summons, and Order granting this Motion to the P.O. Box Address.

12. Plaintiff also requests a 90-day extension of the Service Deadline to serve Clawson and Hybrid.

13. Plaintiff believes that serving Clawson and Hybrid with process in this fashion is more likely to give Clawson and Hybrid notice of this action than simply serving Clawson and Hybrid by general publication.

DATED this 24th day of February, 2015.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt

Milo Steven Marsden
Peggy Hunt
Nathan S. Seim
Attorneys for Plaintiff

Exhibit A

Milo Steven Marsden (Utah State Bar No. 4879)

Peggy Hunt (Utah State Bar No. 6060)

Nathan S. Seim (Utah State Bar No. 12654)

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Attorneys for Plaintiff D. Ray Strong, Liquidating Trustee

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

D. RAY STRONG, as Liquidating Trustee of
the Consolidated Legacy Debtors Liquidating
Trust, the Castle Arch Opportunity Partners I,
LLC Liquidating Trust and the Castle Arch
Opportunity Partners II, LLC Liquidating Trust,

Plaintiff,

v.

KIRBY D. COCHRAN; JEFF AUSTIN;
AUSTIN CAPITAL SOLUTIONS; WILLIAM
H. DAVIDSON; DOUGLAS W. CHILD;
CHILD, VAN WAGONER & ASSOCIATES,
PLLC, fka CHILD, SULLIVAN &
ASSOCIATES, fka CHILD, VAN WAGONER
& ASSOCIATES, LLC, fka CHILD VAN
WAGONER & BRADSHAW, PLLC;
ROBERT CLAWSON; HYBRID ADVISOR
CROUP; and JOHN DOES 1-50,

Defendants.

Case No. 2:14-cv-00788-TC

Judge: Tena Campbell

**ORDER GRANTING PLAINTIFF'S *EX
PARTE* MOTION FOR ENTRY OF AN
ORDER AUTHORIZING PLAINTIFF TO
SERVE DEFENDANTS ROBERT
CLAWSON AND HYBRID ADVISOR
GROUP BY ALTERNATIVE MEANS
AND FOR EXTENSION OF TIME FOR
SERVICE**

The Court, having considered *Plaintiff's Ex Parte Motion for Entry of an Order Authorizing Plaintiff to Serve Defendants Robert Clawson and Hybrid Advisor Group By Alternative Means and for Extension of Time for Service* (the "Motion"), and finding good cause appearing, it is hereby:

1. **ORDERED** that the Motion is **GRANTED**; and
2. **ORDERED** further that service of process upon Defendant Robert Clawson ("Clawson") and Hybrid Advisor Group ("Hybrid") will be deemed complete and sufficient upon Plaintiff completing the following: (a) emailing a copy of the Complaint, Summons, and this Order to Clawson and Hybrid's current or former counsel, Brett Evans, at his firm's email address, brett@eklawpc.com; and (b) mailing a copy of the Complaint, Summons, and this Order to P.O. Box 13314, Newport Beach, CA 92658.
3. **ORDERED** further that the deadline for Plaintiff to serve Clawson and Hybrid is extended 90 days, until May 28, 2015.

Dated this ___ day of _____, 2015.

BY THE COURT

The Honorable Tena Campbell
U.S. District Court Judge

Exhibit B

From: Brett Evans [<mailto:brett@eklawpc.com>]
Sent: Thursday, July 31, 2014 6:03 PM
To: Seim, Nathan; brett@heklaw.com
Cc: Marsden, Steve; Hunt, Peggy
Subject: RE: RE: CARIEC -- Further extension to tolling agreement

Nate --

Attached is an executed third amendment to the tolling agreement. Thanks again for tracking down the original for me.

Sincerely,

Brett Evans
Evans & Kob, PC
Phone: 657.210.2114 x101
www.eklawpc.com

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From: seim.nathan@dorsey.com [<mailto:seim.nathan@dorsey.com>]
Sent: Thursday, July 31, 2014 2:37 PM
To: brett@eklawpc.com; brett@heklaw.com
Cc: Marsden.Steve@dorsey.com; hunt.peggy@dorsey.com
Subject: RE: RE: CARIEC -- Further extension to tolling agreement

Thanks Brett. I understand the situation, but given the circumstances, we will have to file the complaint unless we get a signed agreement by 7:00 p.m.. If necessary, you can sign for your client, as this is what some of the other attorneys have done.

Nate

Nathan S. Seim
Associate

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136 South Main Street, Suite 1000
Salt Lake City, UT 84101-1655
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P: 801.933.8956
F: 801.933.7373

From: Brett Evans [<mailto:brett@eklawpc.com>]
Sent: Thursday, July 31, 2014 3:03 PM
To: Seim, Nathan; brett@heklaw.com
Cc: Marsden, Steve; Hunt, Peggy
Subject: RE: RE: CARIEC -- Further extension to tolling agreement

Nate –

I have been in court and will get my client on the phone, but I won't be able to get it back to you until late today.

Sincerely,

Brett Evans
Evans & Kob, PC
Phone: 657.210.2114 x101
www.eklawpc.com

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From: seim.nathan@dorsey.com [<mailto:seim.nathan@dorsey.com>]
Sent: Thursday, July 31, 2014 8:23 AM
To: brett@heklaw.com; brett@eklawpc.com
Cc: Marsden.Steve@dorsey.com; hunt.peggy@dorsey.com
Subject: FW: RE: CARIEC -- Further extension to tolling agreement

Brett,

Any word from Clawson? The tolling period expires today. Please let me know if you have an update.

Nate

Nathan S. Seim
Associate

DORSEY & WHITNEY LLP
136 South Main Street, Suite 1000
Salt Lake City, UT 84101-1655
www.dorsey.com
P: 801.933.8956
F: 801.933.7373

Exhibit C

From: Luis Arrayales [<mailto:luis@boscolegal.org>]
Sent: Thursday, December 11, 2014 12:23 PM
To: Koontz, Jennifer
Subject: D. Ray Strong V Kirby D. Cochran

12/08/2014 7:50pm no lights inside/no answer at the door

12/10/2014 19:12 Subject was unknown, bought the house out of Bankruptcy, moved in May of this year.

Please let us know if you have another address to attempt, we will place this service on hold until we hear from you.

Thank You,

Luis Arrayales
Process Department
9455 Magnolia Avenue
Riverside, CA 92503
951-353-8281 Ext. 106
Luis@boscolegal.org

From: Luis Arrayales
Sent: Monday, December 08, 2014 4:50 PM
To: koontz.jennifer@dorsey.com
Subject: D. Ray Strong V Kirby D. Cochran

~~Regarding: Robert Clawson~~

12/05/2014 11:20am No answer at the door.

12/07/2014 11:@0am Unable to gain access, security gate locked, no one in or out.

We will continue to attempt service

Thank You,

Luis Arrayales
Process Department
9455 Magnolia Avenue
Riverside, CA 92503
951-353-8281 Ext. 106
Luis@boscolegal.org

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