



ORDERED in the Southern District of Florida on August 6, 2014.

A handwritten signature in black ink, appearing to read "Erik P. Kimball".

Erik P. Kimball, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
www.flsb.uscourts.gov

IN RE: Case No.: 12-30081-BKC-EPK
CLSF III IV, Inc., *et al.*, Chapter 7
Debtor. (Substantively Consolidated)

ORDER GRANTING TRUSTEE'S AMENDED MOTION FOR SUBSTANTIVE CONSOLIDATION OF THE BANKRUPTCY ESTATE OF DEBORAH CATHERINE PECK, DEBTOR, [CASE NO. 14-14507-BKC-EPK], AND NON-DEBTOR DEBORAH C. PECK, ESQ., P.A., WITH THE SUBSTANTIVELY CONSOLIDATED DEBTORS AND MEMORANDUM OF LAW IN SUPPORT

THIS CASE having come before the Court on the 28th day of July, 2014 at 9:30 a.m. for the evidentiary hearing on the *Trustee's Amended Motion for Substantive Consolidation of the Bankruptcy Estate of Deborah Catherine Peck, Debtor, [Case No. 14-14507-BKC-EPK], and Non-Debtor Deborah C. Peck, Esq., P.A., With the Substantively Consolidated Debtors and Memorandum of Law in Support* [ECF No. 837] (the "Motion") filed by Deborah C. Menotte, Chapter 7 trustee of the estates of CLSF III IV, Inc., *et al.* The Court, having considered the

Motion and *Interested Party's Limited Objection to Trustee's Amended Motion for Substantive Consolidation of the Bankruptcy Estate of Deborah Catherine Peck, Debtor, [Case No. 14-14507-BKC-EPK], and Non-Debtor Deborah C. Peck, Esq., P.A. and Memorandum of Law in Support [ECF No. 837] [ECF No. 848]* (the "Limited Objection"), having considered the argument of counsel, the evidence presented, the record in these bankruptcy cases and the proffer of the testimony of the Trustee's expert, finding that each of the bank accounts identified on Exhibit "A" to the Motion and admitted as Exhibit "1" into evidence is deemed to be property of Deborah C. Peck, Esq., P.A., a NJ corporation; it is hereby

ORDERED as follows:

1. The Motion is **GRANTED**. The findings of fact and conclusions of law as stated on the record are incorporated herein pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

2. The Debtor, Deborah Catherine Peck, debtor in Case No. 14-14507-BKC-EPK, and non-debtor, Deborah C. Peck, Esq., P.A. ("Peck PA") are substantively consolidated with the following previously substantively consolidated parties: (i) Debtor¹; (ii) Affiliated Debtors; (iii) Non-debtor Entities, which were substantively consolidated pursuant to the Court's *Order Granting Trustee's Second Amended Motion for Substantive Consolidation of the Jointly Administered Bankruptcy Estates* [ECF No. 561], which was amended pursuant to the Court's Order dated October 15, 2013 [ECF No. 579], to include Joher Family Insurance Trust UA DTD 9/10/2010 and Joher Family Insurance Trust.

3. Substantive consolidation pursuant to this Order shall be effective as follows:

¹ Capitalized terms used but not defined herein shall have the meanings ascribed in the Motion.

a. For the bankruptcy estate of Deborah Catherine Peck (Case No. 14-14507-BKC-EPK), *nunc pro tunc* to February 26, 2014, the date of the filing of the voluntary petition for bankruptcy relief; and

b. For Peck PA, *nunc pro tunc* to September 25, 2012.

4. The substantive consolidation of the Chapter 7 case of Deborah Catherine Peck (“Peck”) (Case No. 14-14507-BKC-EPK) with the cases of the Debtors, Affiliated Debtors and Non-debtor Entities, shall not act as an extension of the deadline for objecting to (i) Peck’s claim of exemptions pursuant to Fed. R. Bankr. P. 4003(b)(1); (ii) Peck’s discharge, pursuant to 11 U.S.C. § 727; and/or (iii) the dischargeability of Peck’s debts, pursuant to 11 U.S.C. § 523, except as ordered by the Court.

5. The Office of the U.S. Trustee shall file a Notice of Appointment of Successor Trustee in the Peck chapter 7 case (Case No. 14-14507-BKC-EPK), thereby appointing Deborah C. Menotte (“Menotte”) as the successor chapter 7 trustee of the Peck chapter 7 estate.

6. Effective immediately upon the appointment of Menotte as successor trustee of the Peck chapter 7 estate, Menotte shall step into the shoes of current chapter 7 trustee, Margaret Smith (“Smith”), with regard to the extension of time granted to Smith by this Court to object to Peck’s claim of exemptions. The chapter 7 trustee of the Peck chapter 7 estate, be it Smith or Menotte, shall have up through and including October 1, 2014, within which to object to Peck’s claim of exemptions pursuant to Fed. R. Bankr. P. 4003(b)(1).

7. Menotte has agreed not to object to the filing of applications for allowance of administrative expense claims filed in these proceedings by Smith and/or Smith’s counsel in the Peck chapter 7 case, for costs and expenses incurred and expended during the administration of the Peck chapter 7 case, through the date of this Order.

8. Menotte shall not object to the filing of any proof of claim by Maatschap QI Collectief (“MQIC”), on behalf of any individual MQIC Investor, but only to the extent that the objection would be to MQIC’s authority as agent for the filing of the individual claim or claim(s). In addition, Menotte shall not object to any proof of claim(s) filed by MQIC on behalf of any MQIC Investor on the basis that any purported assignment between MQIC and the MQIC Investor is invalid under applicable law. The language set forth in this paragraph is without prejudice to Menotte raising any other objections to the MQIC Investors’ proofs of claim otherwise available to her under the Bankruptcy Code, including the right to object to any claim filed by MQIC on behalf of itself. Nothing set forth in the Motion and herein shall constitute a finding that the purported assignments between MQIC and any MQIC Investor are valid assignments. The agreement by Menotte not to file objections to MQIC Investor claims solely on the basis of the purported assignment, shall not act as a bar to the right of any other interested party to raise an objection, and shall not act as a bar to Menotte’s right to negotiate directly with, and reach a settlement with, any MQIC Investor with regard to its claim(s). MQIC’s right to object to any settlements reached between Menotte and any MQIC Investor is reserved. At the conclusion of these bankruptcy cases, dividend checks shall be payable to the individual MQIC Investor and mailed to the addresses listed on the individual proofs of claim.

9. The right of Menotte to pursue avoidance actions and/or any other causes of action on behalf of the Debtor, the Affiliated Debtors, the Non-debtor Entities, Peck and Peck PA (collectively, the “Substantively Consolidated Entities”), and/or any subgroup or subgroups of the Substantively Consolidated Entities, against third parties is fully preserved and shall not be affected by entry of this Order.

#

Submitted by:

Leslie Gern Cloyd, Esq.
Berger Singerman LLP
350 E. Las Olas Boulevard
Suite 1000
Fort Lauderdale, FL 33301
Tel. (954) 525-9900
Fax (954) 523-2872
E-mail: lcloyd@bergersingerman.com

Copy furnished to:

Leslie Gern Cloyd, Esq.
(Attorney Cloyd is directed to serve a conformed copy of this Order upon all interested parties, and to file a Certificate of Service with the Court).