

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

In re: Chapter 7
CLSF III IV, Inc., *et al.*, Case No. 12-30081-BKC-EPK
Debtors. (Substantively Consolidated)

**TRUSTEE’S MOTION TO MODIFY CERTAIN NOTICE,
CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

Deborah C. Menotte, the duly appointed and acting Chapter 7 Trustee (the “Trustee”) for the substantively consolidated bankruptcy estates of CLSF III IV, Inc., *et al.*, hereby moves the Court for the entry of an Order modifying the notice, case management and administrative procedures establishing pursuant to the Court’s *Order Granting Trustee’s Motion to Establish Certain Notice, Case Management and Administrative Procedures* [ECF No. 419] dated July 29, 2013. In support of the Motion, the Trustee respectfully represents:

Background

1. On May 7, 2013, the Trustee filed *Trustee’s Motion to Establish Certain Notice, Case Management and Administrative Procedures* [ECF No. 350] (the “Procedures Motion”), requesting authorization to establish certain notice and case management procedures for these Chapter 7 cases so that all parties-in-interest would be assured of receiving appropriate notice of matters affecting their interests and ample opportunity to prepare for and respond to such matters.

2. On July 29, 2013, the Court entered an *Order Granting Trustee’s Motion to Establish Certain Notice, Case Management and Administrative Procedures* [ECF No. 419] (the “Procedures Order”), which, *inter alia*, (i) authorized and directed the Trustee to establish a

website to provide notice of significant events, developments, deadlines and documents filed in these Chapter 7 cases to parties in interest, including the approximately 1,050 foreign investors that invested directly or indirectly in the Debtors and related entities; (ii) directed the Trustee to post all substantive pleadings filed, notices issued and orders entered on the website; and (iii) directed parties in interest, including, without limitation, all foreign investors, who wish to consent to receive electronic mail to notify counsel for the Trustee of their desire to receive notices electronically.

Relief Requested and Basis Therefor

3. At the time of the filing of the Procedures Motion and entry of the Procedures Order, the claims bar dates in these cases had not yet passed. The bar date for the filing of proofs of claims in the CLSF III IV, Inc., *et al.* was March 3, 2014.

4. By this Motion, and since the bar date for filing claims in these case has now passed, the Trustee seeks to modify the Procedures Order to reflect that first class, U.S. Mail notices in these cases be served only upon those creditors who have filed a proof of claim and interested parties who have filed notices of appearance or requests for service.

5. As of the filing of this Motion, there are 1,105 proofs of claim on file, and, of that sum, all of the claimants, with the exception of approximately 141, receive electronic notice.

6. The undersigned counsel has received requests to receive electronic service from foreign investors who have not filed claims, however, since there is no additional cost to the estate to electronically serve documents upon these foreign investors, the Trustee is not seeking to modify the Procedures Order with respect to electronic service requests. In addition, the Trustee's counsel continues to receive consents to receive notice electronically as of the filing of this Motion.

7. The Trustee continues to post substantive pleadings, notices and orders entered on the website (www.CLSFTrustee.com) for public viewing by all foreign investors and other parties in interest in these cases.

8. The Trustee states that constant mass mailings to foreign investors who have not filed claims in these cases will be extraordinarily costly to the Debtors' estate and will require the Trustee to divert valuable resources to comply with all administrative requirements.

Applicable Authority

9. The Bankruptcy Rules and Bankruptcy Code provide authority to establish notice and case management procedures. In particular, Bankruptcy Rule 2002(a) provides that, unless otherwise ordered by the Court, notice of certain matters must be given to, among others, all of the Debtors' creditors, equity security holders, and other parties-in-interest. The Bankruptcy Rules further provide that "[t]he Court may from time to time enter orders designating the matters in respect to which the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules." *See* Fed. R. Bankr. P. 2002(m); *see also* Fed. R. Bankr. P. 9007 ("When notice is to be given under these rules, the Court shall designate, if not otherwise specified herein...the time within which, the entities to whom, and the form and manner in which notice shall be given.").

WHEREFORE, the Trustee respectfully requests that the Court enter an Order (a) granting this Motion; (b) modifying the Procedures Order to provide that service of pleadings by first class, U.S. Mail be made only upon those creditors and interested parties who have filed proofs of claims, and parties who have filed notices of appearances or requests for service; and (c) granting such further relief as is just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this 6th day of November, 2014, by electronic transmission through the Court's CM/ECF system upon all parties on the attached CM/ECF Service List, via electronic transmission upon all parties on the attached List of Creditors Who Have Consented to Electronic Service, and via first class, U.S. Mail to all parties on the attached Service Lists, to the extent that such parties were not already served electronically through the Court's CM/ECF system.

Dated: November 6, 2014

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Margaret J. Smith as Trustee
For Bankruptcy Case #14-14507
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NO LONGER TRUSTEE OF INDIV. CASE

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Michael Andreas N. Steinroetter
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**Court Matrix – Deborah C. Peck
individual Chapter 7 Case
(Reflects just those creditors who are not
already reflected on matrix for CLSF III
IV, Inc. case)**

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Geeroms Omer
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