

# (Trustee's Second Status Report)

**Deborah C. Menotte**

Federal Bankruptcy Trustee  
Southern District of Florida

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August 13, 2013

Re: CLSF III/IV, INC., Debtor (and all related cases)  
Case No. 12-30081-BKC-EPK, et al

Dear Investors and Potential Creditors:

Much has transpired since my May 2013 report.

**Noticing Procedures:** This case has presented the parties with logistical problems relating to providing information to creditors and interested parties and notice of events which may affect them. My counsel filed on May 7, 2013 a Motion to Establish Certain Notice, Case Management and Administrative Procedures (See Doc#350). These bankruptcy estates have a very large creditor/investor pool with most parties living in Europe. The photocopying and postage expense thus far have been substantial and there has been a necessary time delay in getting information to interested parties living overseas by regular mail. The Court entered an Order on July 28, 2013 (See Doc #419) setting forth procedures to try and make the process more efficient and cost effective. This Order was mailed to all investors per the Court's instructions and I suggest, if you haven't already done so, you read the Order as it relates to notices and other documents which may come to you relating to the bankruptcy cases.

**PLEASE NOTE:** Paragraph 4 and 5 of the Order allows for Foreign Investors to consent to service by email instead of regular U.S. mail of notices and other documents that may affect them. I would encourage you to give this type of service serious consideration. It will reduce the mailing expenses for the estate (which is paid from the proceeds brought into these cases) and will allow you to receive notice in a much timelier manner. Regular mail can take many days for delivery overseas and electronic mail is much quicker and much less costly for the estate. Please give this serious consideration and contact [lcloyd@bergersingerman.com](mailto:lcloyd@bergersingerman.com) (my counsel) with your consent and correct email address if you agree to this procedure. We will keep a current service list for everyone who agrees to service via email and you will receive documents served by email immediately, plus, it will save the estate money for postage and photocopies.

### **Substantive Consolidation:**

A significant topic of interest to everyone is whether or not these cases will be substantively consolidated. First, some background: MQIC filed on February 7, 2013 its Motion for Derivative Standing to file a Motion Seeking Substantive Consolidation (See Doc #196). MQIC's counsel self-calendared the matter to be heard before the Court on February 21, 2013 which was before the final hearing on Trustee election. The Court entered an Order (See Doc #236) which canceled the February 21<sup>st</sup> hearing and set a Preliminary Hearing for April 11, 2013 at which time the Court would set a date and time for a final hearing. The investors in the CLSF VIII estate filed on April 10, 2013 a limited objection to MQIC's Motion for Derivative Standing. At the April 11<sup>th</sup> preliminary hearing the Court scheduled the final hearing for July 8, 9 and 12, 2013 and set May 16, 2013 as a status conference before the Court to consider whether the CLSF VIII adversary should be consolidated with MQIC's motion. Legal memoranda relating to the motion was due to the Court by June 26, 2013. (See Doc #349). On June 13, 2013, the Trustee filed a Notice of intent to file a timely response supporting substantive consolidation and to participate in the trial set in early July on June 13, 2013 (See Doc#375).

MQIC withdrew its Amended Motion for Derivative Standing to file Motion for Substantive Consolidation on June 13, 2013, which caused the trial on that motion to be canceled. The Trustee's Motion for Substantive Consolidation was filed on July 16, 2013, and was amended to add additional parties on July 23, 2013 (see Doc #415). The Trustee's motion has been set for an evidentiary hearing on September 23 and 24, 2013(See Doc #417). All investors should have already received a copy of the Trustee's amended motion for consolidation by regular mail, as well as the order setting the trial dates.

**Litai Assets LLC:** Litai was previously retained by the Trustee to service the insurance policies, but in early April the Trustee filed a motion seeking to extend their services to allow them to order updated documents relating to the insureds, including updated HIPPA's, current medical records and new life expectancy reports. For these additional services the Trustee was authorized to pay Litai Assets LLC a cost retainer in the sum of \$25,000 to cover the actual costs associated with the document requests. The Court set the matter for hearing on May 16, 2013 and on June 3<sup>rd</sup> issued an order approving these additional services and expenses (See Doc #363).

**Consultant and Broker:** The Trustee sought to employ a consultant and broker familiar with the life settlement business to review the policies and offer suggestions on marketing and sale of the policies. My counsel and I interviewed several potential prospects for these positions. Motions to employ Longevity Market Advisors and Life Insurance Settlements, Inc. were filed. The motion to employ Longevity Market Advisors was filed first and set for hearing on May 16, 2013. No opposition to their retention was filed prior to the hearing or brought before the Court at the May 16<sup>th</sup> hearing date, and MQIC supported the engagement of the consultant on the record at the May 16<sup>th</sup> hearing. After the Order allowing employment of the consultant was entered by the Court on June 6<sup>th</sup>, MQIC filed a motion seeking reconsideration of their employment. MQIC's motion to reconsider was set for hearing on June 20, 2013, along with the Trustee's motion to approve employment of a broker. At that hearing the Court, at the request of MQIC, set both matters for an evidentiary hearing which was to be heard on July 12, 2013. MQIC thereafter withdrew its objection to employment of the broker and motion to reconsider employment of the consultant on July 2, 2013, but their objections caused delays and expense to the estate.

**Premiums:** MQIC, stating that they were dissatisfied with the consultant employed by the Trustee, stopped sending premium payments to Litai, the servicer, so NO premium payments have been made for July and August! MQIC stopped paying these premiums without notice to the Trustee or to Litai and the Trustee first learned of their decision to stop making premium payments on July 16, 2013. MQIC may believe their stopping the premium payments was somehow justified, but what it has done is put the policies in jeopardy! All of the work put into stabilizing these policies and getting payments paid timely to help increase their value has been greatly harmed. Due to the abrupt stoppage of premium payments, the Trustee has filed an Emergency Motion to Sell Assets Free and Clear (see Doc #422). The motion is set for hearing on August 15, 2013 and the policies are currently set to be sold on September 11, 2013, subject to Court approval. (See Notice of Hearing at Doc #425).

Even with a September sale date, there will be an additional time period after any order approving sale has been entered to have the official closing(s) with buyer(s). To try and eliminate lapses of policies after sale, SPQI has contacted the Trustee and, with certain terms, has offered to pay premiums for a limited period for the July, August and September premium payments. An emergency motion has been filed (See Doc #421) to approve the funding by SPQI. The matter is set for hearing on August 15, 2013 (See Doc #424).

**General Ongoing Case Activities:**

Although this is not an exhaustive list of all activities ongoing in this case: Litigation is ongoing involving several policies sold or transferred just prior to or after the bankruptcy filings of these cases. We have reached a settlement with regard to two of these policies and will bring these settlements before the Court for approval. Under the proposed settlements, the Trustee will be permitted to market and sell these policies for an amount greater than what the purchaser paid for the policies plus premium payments by the purchaser since the actual purchase. The purchasers have agreed to pay the premium payments while the Trustee markets these policies. The other two adversary proceedings are disputed and discovery is ongoing. The Trustee expects to pursue other litigation claims for the estate.

We have sent out numerous subpoenas and are reviewing financial documentation, emails, correspondence and other documents which will help the estate with future litigation.

All resources of the Trustee at present are aimed at selling the remaining active insurance policies.