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Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
September 10, 2015

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12 *Attorneys for Yvette Weinstein, Trustee*

13 UNITED STATES BANKRUPTCY COURT  
14 DISTRICT OF NEVADA

15 In re:  
16 LIONEL SAWYER & COLLINS, LTD.,  
17 Debtor.

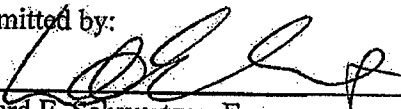
Case No. BK-S-15-10462-MKN  
Chapter 7  
**ORDER GRANTING MOTION FOR  
APPROVAL OF SETTLEMENT  
AGREEMENT WITH LEONARD MARDIAN**  
Date: September 3, 2015  
Time: 11:00 a.m.

SCHWARTZER & MCPHERSON LAW FIRM  
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21 The Trustee's *Motion for Approval of Settlement with Leonard Mardian* (the "Motion")  
22 [Dkt. #420] having come before this Court on the 3rd day of September, 2015; Yvette Weinstein,  
23 Chapter 7 Trustee (the "Trustee"), appearing by and through her counsel, Lenard E. Schwartz,  
24 Esq. of the Schwartz & McPherson Law Firm; the Court having reviewed the pleadings filed  
25 herein and the oral argument and representations made at the hearing, the Motion having been  
26 properly noticed, there being no opposition filed or raised at the hearing, the Court having made  
27 its findings of fact and conclusions of law upon the record, which are hereby incorporated herein  
28 pursuant to Fed.R.Bankr. P. 7052 and 9014, for good cause shown, it is hereby

1 **IT IS HEREBY ORDERED** that the Trustee's Motion is GRANTED and the Trustee is  
2 authorized to settle the Trustee's claims against Leonard Mardian, Susan Mardian, Silver Basin,  
3 Inc., and Arizona Land Acquisitions, LLC, pursuant to the terms set forth in the Settlement  
4 Agreement and Mutual Release (the "Agreement") attached as **Exhibit "1"**.

5 Submitted by:

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7 Lenard E. Schwartz, Esq.  
8 Jason A. Imes, Esq.  
9 SCHWARTZER & MCPHERSON LAW FIRM  
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11 Las Vegas NV 89146  
12 *Attorneys for Yvette Weinstein, Trustee*

13 **RULE 9021 CERTIFICATION**

14 In accordance with LR 9021, counsel submitting this document certifies that the Order  
15 accurately reflects the court's ruling and that (check one):

- 16  The court has waived the requirement set forth in LR 9021(b)(1).
- 17  No party appeared at the hearing or filed an objection to the motion.
- 18  I have delivered a copy of this proposed order to all counsel who appeared at the  
19 hearing, and any unrepresented parties who appeared at the hearing, and each has  
20 approved or disapproved the order, or failed to respond, as indicated above.
- 21  I certify that this is a case under Chapter 7 or 13, that I have served a copy of this  
22 order with the motion pursuant to LR 9014(g), and that no party has objected to the  
23 form or content of the order.

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25 Lenard E. Schwartz, Esq.  
26 Jason A. Imes, Esq.  
27 Schwartz & McPherson Law Firm

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# **EXHIBIT “1”**

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into as of July 21, 2015, by and between THE BANKRUPTCY ESTATE OF LIONEL SAWYER & COLLINS, LTD., Nevada Bankruptcy Case No. 15-10462-mkn (the "Bankruptcy Estate"), on the one hand, and LEONARD MARDIAN, individually, as president of Silver Basin, Inc., and as manager of Arizona Land Acquisitions, LLC, ("Mardian"), on the other hand. Each may hereinafter be referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, on January 30, 2015, LIONEL SAWYER & COLLINS, LTD. (the "Debtor"), filed a voluntary Petition for Relief under Chapter 7 of the Bankruptcy Code (Title 11 of the United States Code);

WHEREAS, Yvette Weinstein ("Trustee") is the Chapter 7 Trustee of the Bankruptcy Estate of the Debtor;

WHEREAS, pre-petition, the Debtor provided Mardian with legal services and advanced costs;

WHEREAS, from October 2009 through March 2013 the Debtor sent Mardian monthly statements for legal services and advanced costs to which Mardian made no objection;

WHEREAS, on or about July 10, 2013, Mardian executed a Deed of Trust encumbering certain real property owned by Mardian's business entity, Silver Basin, Inc. (the "LS&C Deed of Trust"). The LS&C Deed of Trust names the Debtor as beneficiary and secures indebtedness owed by Mardian to the Debtor for attorney's fees and costs pursuant to a promissory note of even date in the principal sum of \$250,000. The LS&C Deed of Trust was recorded in the Official Records of Mohave County, Arizona, on July 16, 2013, as Fee No. 2013037764.

WHEREAS, the Trustee asserts Mardian now owes the Bankruptcy Estate the sum of \$237,910.27, consisting of \$225,809.55 for legal fees and \$12,100.72 for advanced costs.

WHEREAS, the Debtor and Mardian agree that the LS&C Deed of Trust was intended to encumber a 200-acre parcel of real estate owned by Silver Basin, Inc., located in Mohave County, Arizona, designated as Mohave County Assessor Parcel No. 337-01-066 (the "Property").

WHEREAS, the Property is also subject to a prior Deed of Trust executed by Mardian (as President of Silver Basin, Inc.) for the benefit of Arizona Land Acquisitions, LLC, to secure a promissory note in the sum of \$10,000,000 (the "ALA Deed of Trust"). The ALA Deed of Trust was recorded in the Official Records of Mohave County, Arizona, on December 30, 2011, as Fee No. 2011065512.

WHEREAS, Mardian (individually, as president of Silver Basin, Inc., and as manager of Arizona Land Acquisitions, LLC) has agreed to transfer title to the 200-acre Property to the Trustee free and clear of liens in lieu of foreclosure and in exchange for a waiver and release of any of the Trustee's claims against Leonard Mardian, Susan Mardian, Silver Basin, Inc., and Arizona Land Acquisitions, LLC, relating to the Property and/or unpaid attorney's fees, costs and interest.

WHEREAS, the Parties have reviewed their respective claims and defenses, and believe it is in the best interest of those involved to settle, compromise, and resolve the disputes between the Parties mentioned above, and wish to do so through this Agreement, doing so freely and voluntarily, after having had the opportunity to seek the advice of counsel with full knowledge of the binding and conclusive nature thereof. The Trustee believes that resolution is in the best interest of the Bankruptcy Estate and its creditors;

NOW, THEREFORE, in consideration of the promises, covenants, warranties, and representations set forth herein, each of the Parties, without any admission of wrongdoing by any of them, agree as follows:

2. Recitals. All of the foregoing Recitals are true and correct. The foregoing Recitals are incorporated herein by such reference and made a part of this Agreement.

3. Consideration. As a compromise and settlement, the Parties agree as follows:

(a) Mardian, as President of Silver Basin, Inc., shall transfer to the Trustee all right, title and interest in that certain real property designated as Mohave County Assessor Parcel No. 337-01-066 (the "Property") in lieu of foreclosure.

(b) Mardian, as manager of Arizona Land Acquisitions, LLC, shall release the ALA Deed of Trust (Fee No. 2011065512) and any other lien it asserts is encumbering the Property;

(c) The parties will select a mutually agreeable escrow agent to administer certain terms of this Agreement, and agree to execute any documents reasonably necessary pursuant to the terms of this Agreement including but not limited to escrow instructions, corrected deeds of trusts, lien releases, and deeds in lieu of foreclosure. The expense of said escrow will be evenly shared by the parties. Any title policy required by the Bankruptcy Estate will be paid for by the Bankruptcy Estate.

(d) The Parties agree to the releases as provided forth in Section 4 of this Agreement below.

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4. Release and Full Satisfaction.

(a) Released Parties. The following persons and entities (the "Released Parties"), in their individual capacities and, to the extent applicable, in their capacities as owners, managers, directors, officers, or trustees of any other Released Party, and their affiliates, subsidiaries, officers, directors, shareholders, agents, employees, heirs, executors, successors, attorneys and assigns, shall be released by the Bankruptcy Estate as specifically provided in Section 4(b) below:

- LEONARD MARDIAN
- SUSAN MARDIAN
- SILVER BASIN, INC.
- ARIZONA LAND ACQUISITIONS, LLC

(b) General Releases. The Bankruptcy Estate, hereto absolutely and forever releases, acquits and discharges the Released Parties from any and all potential or actual claims, causes of action, derivative claims, promises, covenants, agreements, contracts, representations, warranties, liens, debts, liabilities, damages, expenses, attorneys' fees, and costs, which the Bankruptcy Estate now has, or ever has had, whether at law or in equity, and other disputed matters referenced in the recitals to this Agreement, except that this release shall not release or limit any future obligation, duty, or liability (whether pursuant to this Agreement or otherwise), or any ability or right to enforce this Agreement.

(c) Mardian hereto absolutely and forever releases, acquits and discharges the Bankruptcy Estate, the Trustee, and the Trustee's counsel from any and all potential or actual claims, causes of action, promises, covenants, agreements, contracts, representations, warranties, liens, debts, liabilities, damages, expenses, attorneys' fees, and costs, which Mardian has, or ever has had, whether at law or in equity, except that this release shall not release or limit any future obligation, duty, or liability (whether pursuant to this Agreement or otherwise), or any ability or right to enforce this Agreement.

5. Compromise of Disputed Claims. It is understood and agreed that this Agreement is the good faith compromise of disputed claims, and that the terms of settlement contained herein and the releases executed are not intended to be and shall not be construed as admissions of any liability or responsibility whatsoever and each Released Party expressly denies any liability or responsibility whatsoever.

6. Contingent on Bankruptcy Court Approval. The Parties acknowledge that this Agreement, and all obligations and releases contained herein, are contingent upon Bankruptcy Court approval. The Trustee shall prepare and file a motion to obtain such approval within ten (10) days of this Agreement being executed by all Parties. If the Bankruptcy Court does not approve this Agreement, this Agreement shall be deemed null and void.

7. Attorneys' Fees. With respect to the subject of this Settlement, each Party shall bear its own attorneys' fees and costs.

8. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada. The U.S. Bankruptcy Court, District of Nevada shall retain jurisdiction over performance of or disputes arising from or related to this Agreement.

9. Authority. Each Party hereby represents, warrants and covenants: (a) that the undersigned signatories for such Party have the full legal right, power and authority to bind that Party; (b) that such Party owns and has not assigned, delegated, conveyed, pledged, encumbered or otherwise transferred, in whole or in part, any of the claims released by such Party pursuant to this Agreement; and (c) that the execution, delivery and performance of this Agreement does not contravene, or result in a default, of any provision of any agreement or instrument to which any Party is bound.

10. Severability. This Agreement shall be enforced to the maximum extent permitted by law. In the event that any one or more of the phrases, sentences, sections, or paragraphs contained in this Agreement shall be declared invalid or unenforceable by order, decree or judgment of any court having competent jurisdiction, or shall be or become invalid or unenforceable by virtue of any applicable law, the remainder of this Agreement shall be construed as if such phrases, sentences, sections, paragraphs or sections had not been inserted except when such construction shall constitute a substantial deviation from the general intent and purposes of the Parties as reflected in this Agreement.

11. Entire Agreement. This Agreement embodies the entire agreement and understanding between the Parties and supersedes any and all prior or concurrent Agreements, understandings, statements, assurances, assumptions, premises, promises, agreements, discussions or representations, oral or written, relating to the foregoing matters, including oral agreements or representations, if any. Neither Party has made any representations upon which either Party has relied that are not contained in this Agreement relating to the foregoing matters. Neither Party is relying on an unstated assumption, premise or condition not contained in this Agreement relating to the foregoing matters.

12. No Modification, Waiver, or Amendment. No modification, waiver, or amendment of any of the terms of this Agreement shall be valid unless in writing and executed by the Parties with the same formality as this Agreement, and approved by the Bankruptcy Court. No waiver of any breach hereof or default hereunder shall be deemed a waiver of any subsequent breach or default of the same or similar or dissimilar nature. No course of dealing or course of conduct shall be effective to amend, modify or change any provision of this Agreement.

13. Counterparts. The Parties agree that this Agreement may be executed in counterparts and will become effective, subject to exchange of signature pages and subject to the Agreements set forth above.

14. Assignment. Neither Party shall transfer or assign any of its rights, remedies or obligations under this Agreement.

15. Successors. This Agreement shall be binding upon and inure to the benefit of the Parties and to their successors-in-interest.

16. Further Assurances. The Parties shall take, or cause to be taken, all actions and shall do, or cause to be done, all things necessary, proper or advisable to consummate each of the agreements, promises, covenants, and obligations of such Party under this Agreement.

17. Third Party Beneficiaries. This Agreement shall not confer any rights or remedies on any person or entity other than the Parties and their respective successors and permitted assigns.

LEONARD MARDIAN:

SILVER BASIN, INC.


  
LEONARD MARDIAN, *an individual*

  
Leonard Mardian, *President*

ARIZONA LAND ACQUISITIONS, LLC

THE BANKRUPTCY ESTATE OF  
LIONEL SAWYER & COLLINS, LTD.:

  
Leonard Mardian, *Managing Member*

  
Yvette Weinstein, *in her capacity as Chapter 7  
Trustee of the Bankruptcy Estate  
of Lionel Sawyer & Collins, Ltd., Nevada  
Bankruptcy Case No. 15-10462-mkn*