

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

IN RE:	)	Case No. 3:10-cv-00594
	)	Judge William J. Haynes, Jr.
GREGORY SCOTT DAILY,	)	Magistrate Judge John S. Bryant
)	
Debtor.	)	Case No. 3:10-cv-_____
_____)	
AUERBACH ACQUISITION	)	On Appeal from the United States
ASSOCIATES, INC.,	)	Bankruptcy Court for the Middle
	)	District of Tennessee
)	
Appellant,	)	In re Gregory Scott Daily
	)	Chapter 11
v.	)	Case No. 3:09-bk-05337
)	
GREGORY SCOTT DAILY; MORGAN,)	
LEWIS & BOCKIUS; RICHARD F.)	
CLIPPARD, United States Trustee; and)	
RANDAL S. MASHBURN, Chapter 11)	
Trustee,)	
)	
Appellees.)	

**AGREED ORDER GRANTING IN PART AUERBACH'S MOTION TO CONSOLIDATE
AND SETTING BRIEFING SCHEDULE IN CONSOLIDATED APPEAL**

On June 28, 2010, Auerbach Acquisition Associates, Inc. ("Auerbach") filed a Motion to Consolidate Appeals (Doc. No. 8), in which it sought consolidation of the appeal in Case No. 3:10-cv-00594 (the "Voting Appeal") with the appeal arising from Auerbach's Notice of Appeal filed June 28, 2010 (the "Election Appeal") (Bankr. Doc. No. 725). The certified record for the Election Appeal has not yet been transferred from the Bankruptcy Court, and it has not yet been assigned a case number by the Office of the Clerk for the United States District Court for the Middle District of Tennessee.

On July 8, 2010, the Debtor Gregory Scott Daily filed a response to the Motion to Consolidate. (Doc. No. 11.) On July 12, 2010, Trustee Randal S. Mashburn filed a response as well. (Doc. No. 12.) In their responses, Daily and the Trustee consented to consolidation of the Voting Appeal and Election Appeal.

On July 24, 2010, the Office of the Clerk for the United States District Court for the Middle District of Tennessee entered a Notice setting a briefing schedule for the Voting Appeal, making the Appellant's brief due August 10, 2010, and the Appellees' briefs due fifteen days after that. (Doc. No. 20.) Also pending before the Court are Motions to Dismiss filed by Daily and the Trustee in the Voting Appeal (B.A.P. 6th Cir. Case No. 10-8034, Doc. Nos. 006110643982, 006110647178) and in the Election Appeal (Doc. Nos. 11, 12).

It appearing to the Court, upon agreement of the parties and for good cause shown, that the Motion to Consolidate should be granted and the hearings and other deadlines related to the Voting Appeal and Election Appeal should be continued,

IT IS THEREFORE ORDERED THAT:

1. Upon entry of the certified record for the Election Appeal from the United States Bankruptcy Court for the Middle District of Tennessee on the docket of the United States District Court for the Middle District of Tennessee, the Election Appeal shall be consolidated with the Voting Appeal under Case No. 3:10-cv-00594.

2. The consolidated appeal shall have one briefing schedule. The Appellant's brief shall be due 28 days after the transmission of the record in the Election Appeal or 28 days after the Court rules on Daily and the Trustee's Motions to Dismiss, whichever is later;

3. The Appellee's brief shall be due 28 days after the filing of the Appellant's brief; and

4. The Appellant's reply brief shall be due 14 days after the filing of the Appellee's brief.

IT IS SO ORDERED.

s/ John S. Bryant

The Honorable John S. Bryant

APPROVED FOR ENTRY:

s/David L. Neale (with permission)

David L. Neale, CA Bar No. 141225
Levene, Neale, Bender, Rankin & Brill L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, California 90067
310.229.1234
Admitted Pro Hac Vice

-and-

s/C. Daniel Lins

Robert J. Mendes, TN Bar No. 17120
C. Daniel Lins, TN Bar No. 24571
MGLAW_{PLLC}
2525 West End Avenue, Suite 1475
Nashville, Tennessee 37203
615.846.8000
*Attorneys for Appellant Auerbach
Acquisition Associates, Inc.*