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

)

)

IN RE:
--------

GREGORY SCOTT DAILY,

Debtor.

AUERBACH ACQUISITION ASSOCIATES, INC.,

Appellant,

Appellees.

۷.

GREGORY SCOTT DAILY; MORGAN, LEWIS & BOCKIUS; RICHARD F. CLIPPARD, United States Trustee; and RANDAL S. MASHBURN, Chapter 11 Trustee, Case No. 3:10-cv-00594 Judge William J. Haynes, Jr. Magistrate Judge John S. Bryant

Case No. 3:10-cv-\_\_\_\_

On Appeal from the United States Bankruptcy Court for the Middle District of Tennessee

In re Gregory Scott Daily Chapter 11 Case No. 3:09-bk-05337

## 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;

2

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.