



**IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.**

**Dated: July 16, 2010**

*Craig A. Gargotta*  
CRAIG A. GARGOTTA  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

-----X  
In re : Chapter 11  
CRESCENT RESOURCES, LLC, *et. al.*, : Case No. 09-11507 (CAG)  
Debtors. : Jointly Administered  
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**ORDER APPROVING STIPULATION BY AND AMONG THE PREPETITION AGENT, ON BEHALF OF ITSELF AND THE OTHER PREPETITION LENDERS, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND CERTAIN DEBTORS AUTHORIZING SUCH DEBTORS TO CONTINUE TO USE CASH COLLATERAL AND GRANTING ADEQUATE PROTECTION TO THE PREPETITION LENDERS**

This Court having considered the *Stipulation By and Among the Prepetition Agent, on Behalf of Itself and the Other Prepetition Lenders, the Official Committee of Unsecured Creditors and Certain Debtors Authorizing Such Debtors to Continue to Use Cash Collateral and Granting Adequate Protection to the Prepetition Lenders* (the "Stipulation") attached hereto as Exhibit A; the Court having determined that good and adequate cause exists for approval of the Stipulation; and the Court having determined that no further notice of the Stipulation must be given.

**IT IS HEREBY ORDERED** that the Stipulation is approved.

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**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

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<b>In re:</b>	:	
	:	<b>Chapter 11</b>
<b>CRESCENT RESOURCES, LLC, et al.,</b>	:	
	:	<b>Case No. 09-11507 (CAG)</b>
<b>Debtors.</b>	:	
	:	<b>(Jointly Administered)</b>
-----X		

**STIPULATION AND ORDER BY AND AMONG THE PREPETITION AGENT, ON BEHALF OF ITSELF AND THE OTHER PREPETITION LENDERS, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND CERTAIN DEBTORS AUTHORIZING SUCH DEBTORS TO CONTINUE TO USE CASH COLLATERAL AND GRANTING ADEQUATE PROTECTION TO THE PREPETITION LENDERS**

This stipulation (the “Stipulation”) is entered into as of June 9, 2010 by and among (i) Bank of America, N.A., as Administrative Agent under the Prepetition Credit Agreement (“Prepetition Agent”), (ii) the Official Committee of Unsecured Creditors (the “Creditors’ Committee”) and (iii) Hampton Ridge Developers, LLC, Club Villas Developers, LLC, Brooksville East Developers, LLC, Hawk’s Haven Developers, LLC and Hawk’s Haven Golf Course Community Developers, LLC (collectively, the “Specific Debtors”) and together with the Prepetition Agent and the Creditors’ Committee, collectively, the “Parties”). The Prepetition Agent, for itself as Prepetition Agent and on behalf of the other Prepetition Lenders, and the Specific Debtors agree, subject to the approval of the United States Bankruptcy Court for the Western District of Texas (the “Bankruptcy Court”), as follows:<sup>1</sup>

**RECITALS**

A. On June 10, 2009 (the “Petition Date”), each of the Debtors filed a voluntary case under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the “Bankruptcy Code”). The Debtors are authorized to continue operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. By Order of the

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Plan (as defined below).

Court, the Debtors' Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure. On July 6, 2009, the United States Trustee for the Western District of Texas appointed the Creditors' Committee.

B. Pursuant to the terms of the Prepetition Credit Agreement, the Prepetition Lenders made prepetition extensions of credit and other financial accommodations to Crescent Resources and the applicable Debtors<sup>2</sup>, including without limitation the Specific Debtors, from time to time. Crescent Resources and the other applicable Debtors, including without limitation the Specific Debtors, entered into the Prepetition Credit Agreement and related loan documents with the Prepetition Lenders, pursuant to which the Prepetition Agent, on behalf of the Prepetition Lenders, was granted a first priority lien on, and security interest in, among other things, (i) substantially all of the real property and improvements owned by Crescent Resources and its wholly-owned direct and indirect subsidiaries, (ii) Crescent Resources' equity interests in such subsidiaries, and (iii) certain assets of non-wholly owned joint venture entities affiliated with the Debtors, and the proceeds and recoveries of the foregoing, each as more particularly described in the Prepetition Credit Agreement and related loan documents. For purposes of this Stipulation, the term "Prepetition Collateral" encompasses any and all aforementioned assets of the Specific Debtors in which the Prepetition Agent, on behalf of the Prepetition Lenders, was granted a lien or security interest. For the avoidance of doubt, the Prepetition Collateral includes "cash collateral" as that term is defined in section 363 of the Bankruptcy Code ("Cash Collateral").

C. On July 27, 2009, the Bankruptcy Court entered the Final Order (I) Approving Debtors' Motion for Order Authorizing Debtors to Incur Post-Petition Secured Indebtedness; (II) Granting Security Interests and Superpriority Claims Pursuant to Sections 105(a), 364(c) and (d) of the Bankruptcy Code; (III) Granting Adequate Protection To the Prepetition Lenders; (IV) Authorizing the Debtors to Use Cash Collateral; And (V) Modifying the Automatic Stay (the "Final DIP and Cash Collateral Order") (Doc. No. 231).

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<sup>2</sup>The Debtors which are "Credit Parties" (as a borrower or guarantor) under the Prepetition Credit Agreement and related loan documents are identified on Schedule 2 of the Final DIP and Cash Collateral Order.

D. Pursuant to the Final DIP and Cash Collateral Order, (i) the Debtors were authorized to use Cash Collateral consistent with the terms therein and (ii) the Creditors' Committee was entitled to investigate the validity, perfection and enforceability of the Prepetition Agent's liens and security interests held on behalf of itself and the other Prepetition Lenders or to assert any other claims or causes of action against the Prepetition Agent and the Prepetition Lenders through the earlier of (i) one hundred (100) days after the Petition Date or (ii) the confirmation of a plan of reorganization or liquidation in the Debtors' Chapter 11 Cases (the "Investigation Period"). The relevant parties consensually extended the Investigation Period multiple times, but in each case never past confirmation of a plan of reorganization or liquidation.

E. On March 31, 2010, the Debtors filed the *Revised Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* (the "Plan") (Doc. No. 880).

F. On May 18, 2010, the Debtors filed the Motion to Continue Confirmation of Debtors' Revised Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code with Respect to Certain Debtors (the "Extension Motion") (Doc. No. 1027). In the Extension Motion, the Debtors sought to continue confirmation of the Plan with respect to the Specific Debtors to afford the Specific Debtors additional time to consummate certain transactions, which are more particularly described in the Extension Motion.

G. On May 20, 2010, the Court entered the Order Granting Debtors' Motion to Continue Confirmation of Debtors' Revised Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code with Respect to Certain Debtors (Doc. No. 1061), granting the Extension Motion in full and continuing confirmation of the Plan with respect to the Specific Debtors.

H. On May 24, 2010, the Court entered the Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Revised Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (as Modified), confirming the Plan (the "Confirmation Order") (Doc. No. 1069) as to the Debtors, other than the Specific Debtors. As a result of the entry of the Confirmation Order, the Investigation Period terminated.

I. The Effective Date of the Plan is expected to occur on or about June 9, 2010. Pursuant to Section 2.3 of the Plan, except to the extent that a DIP Lender agrees to a different treatment, the DIP Claims shall be paid in full, in Cash, on the Effective Date.

J. The Specific Debtors desire to use Cash Collateral through the Court's confirmation of a plan of reorganization as to the Specific Debtors, and the Prepetition Lenders holding a majority of the obligations arising under the Prepetition Credit Agreement (collectively, the "Prepetition Loan Obligations") have instructed the Prepetition Agent not to oppose the Specific Debtors' use of the Prepetition Lenders' Cash Collateral in the ordinary course of business up to the Maximum Expenditure Amount (as defined below), subject to the express terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements set forth below and for other good, valuable and adequate consideration hereby deemed received, the Parties hereby stipulate and agree, subject to the approval of the Bankruptcy Court, as follows:

1. Maximum Expenditure Amount. The Specific Debtors may use Cash Collateral up to an amount that shall not exceed \$200,000.00 (the "Maximum Expenditure Amount") in accordance with the terms of this Stipulation, which includes, without limitation, the Specific Debtors' granting of adequate protection to the Prepetition Agent and the other Prepetition Lenders for, among other things, such use of Cash Collateral and the Specific Debtors' use, and any resulting diminution in the value, of the Prepetition Collateral.

2. Authorized Term of Use of Cash Collateral. For so long as the Specific Debtors remain in compliance with the terms of this Stipulation and no Termination Event (as defined below) has occurred, the Specific Debtors are hereby authorized to continue to use the Prepetition Lenders' Cash Collateral in accordance with and subject to the terms and conditions of this Stipulation. The Specific Debtors' right to use Cash Collateral shall expire on earliest to occur of: (i) the fifth (5th) business day following the Prepetition Agent's delivery of written notice to the Specific Debtors of any breach or default by the Specific Debtors of the terms and provisions of this Stipulation, which breach or default has not been waived by the "Required Lenders" under the Prepetition Credit Agreement (the "Prepetition

Required Lenders”); (ii) the conversion of the Chapter 11 Cases to a chapter 7 case or appointment of a trustee or examiner with expanded powers; or (iii) September 15, 2010 (each such event described in (i) through (iii) above being a “Termination Event” and each such date being the “Termination Date”). In no event shall the Specific Debtors be authorized to use the Prepetition Lenders’ Cash Collateral for any purposes or under any terms other than those set forth herein or as may otherwise be approved by this Court following notice and hearing as may be required.

3. Prepetition Lenders’ Adequate Protection. The Prepetition Agent and the other Prepetition Lenders are entitled, pursuant to sections 361 and 363(e) of the Bankruptcy Code, to adequate protection of their interest in the Prepetition Collateral to the extent that there is a diminution in the value of the Prepetition Agent’s and the other Prepetition Lenders’ interest in the Prepetition Collateral from and after the Petition Date resulting from the sale, lease or use by the Specific Debtors (or other decline in value) of Cash Collateral and the Prepetition Collateral and the imposition of the automatic stay. As adequate protection for such diminution from and after the Petition Date, the Prepetition Agent, for itself and on behalf of the other Prepetition Lenders, is hereby granted, valid, perfected and enforceable security interests (the “Replacement Liens”) pursuant to sections 361 and 363(e) of the Bankruptcy Code in and upon all of the property, assets or interests in property or assets of the Specific Debtors, of any kind or nature whatsoever, real or personal, now existing or hereafter acquired or created, including, without limitation, all property of the Specific Debtors’ estates (within the meaning of the Bankruptcy Code), including, without limitation, all causes of action, accounts, inventory, chattel paper, contract rights, instruments, documents, general intangibles (including, without limitation, all copyrights, deposit accounts, licensing agreements, patents, trademarks and trade names), machinery and equipment, real property, fixtures, leases, cash, bank accounts and investment property, together with all proceeds, rents, products and profits of any of the foregoing (all of the foregoing, collectively, the “Replacement Collateral”) in existence prior to the Petition Date or created after the Petition Date. The Replacement Liens shall be subject only to (i) the liens, security interests and other encumbrances on the Specific Debtors’ respective assets and properties existing as of the Petition Date (other than liens and security

interests in favor of the Prepetition Agent and the other Prepetition Lenders) that are valid, perfected, enforceable and unavoidable, and (ii) the Carve-Out Expenses (as defined below).

(a) The Replacement Liens granted herein: (i) are and shall be in addition to all security interests, liens and rights of set-off existing in favor of the Prepetition Agent and the other Prepetition Lenders on the Petition Date; (ii) are and shall be valid, perfected, enforceable and effective as of the Petition Date without any further action by the Specific Debtors, the Prepetition Agent or the other Prepetition Lenders, and without the necessity of the execution, filing or recordation of any financing statements, security agreements, vehicle lien applications, filings with the United States Patent and Trademark Office, mortgages or other documents; (iii) shall secure the payment of indebtedness to the Prepetition Agent and the other Prepetition Lenders, as the case may be, in an amount equal to any diminution in value of the Prepetition Lenders' cash collateral or any other Prepetition Collateral (including after-acquired property); (iv) shall not be subject to any lien or security interest that is avoided and preserved for the benefit of the Specific Debtors' estates under section 551 of the Bankruptcy Code; and (v) shall not hereafter be subordinated to or made *pari passu* with any other lien or security interest arising after the Petition Date, under section 364(d) of the Bankruptcy Code or otherwise, absent the consent of the Prepetition Agent and the Prepetition Required Lenders.

(b) In addition to the Replacement Liens granted to the Prepetition Agent on behalf of itself and the other Prepetition Lenders, the Prepetition Agent and the other Prepetition Lenders are hereby granted a superpriority administrative expense claim under sections 503(b)(1), 507(a), and 507(b) of the Bankruptcy Code (the "Prepetition Lenders' Superpriority Claims") for the amount by which adequate protection afforded herein for any diminution of value of the Prepetition Lenders' Cash Collateral from and after the Petition Date or any other Prepetition Collateral proves to be inadequate. Such Prepetition Lenders' Superpriority Claims shall be allowed and have priority over all other costs and expenses of the kind specified in or ordered

pursuant to sections 105, 326, 328, 330, 331, 503(b), 506(c), 507, 546(c), 726, 1113 or 1114 of the Bankruptcy Code, and shall be subject only to the Carve-Out Expenses.

(c) As further adequate protection for the Specific Debtors' use of Prepetition Lenders' Cash Collateral and other Prepetition Collateral, Crescent Resources shall promptly pay to (1) the Prepetition Agent (or as it shall direct) all actual and reasonable fees, costs and out-of-pocket expenses of the Prepetition Agent, including, without limitation, reasonable fees, costs and out-of-pocket expenses of counsel for the Prepetition Agent (including local counsel), and (2) the leaders of an ad hoc steering committee of the Prepetition Lenders, all actual and reasonable fees, costs and out-of-pocket expenses of their respective counsel (Bracewell & Giuliani LLP and Paul, Weiss, Rifkind, Wharton & Garrison LLP), in each case incurred prepetition or postpetition, without the need for compliance with the U.S. Trustee guidelines or filing any further application or statement with this Court; provided that the Court shall have jurisdiction to determine any dispute concerning such invoices and the Prepetition Lenders shall deliver statements of fees and expenses incurred to the Creditors' Committee and the U.S. Trustee; provided further that the U.S. Trustee and the Creditors' Committee shall have a period of twenty (20) days after receipt of such statements to file with the Court any objection to such fees and expenses, with service of such objection being made upon Crescent Resources, the Prepetition Agent and the party whose fees and expenses are the subject of such objection, and unless such dispute is resolved consensually among the parties, it shall be subject to a hearing and determination by the Court concerning the reasonableness of such fees and expenses. Pending any such determination of the Court, Crescent Resources shall not pay the portion of such fees and expenses which are the subject of such objection but shall pay all such fees and expenses which are not subject to any such objection and all fees and expenses for which no objection is timely filed during such ten-day period.

(d) The Specific Debtors shall not seek to grant, from and after the Petition Date, any liens or security interests in any of the Prepetition Collateral or the Replacement Collateral,

pursuant to section 364(d) of the Bankruptcy Code or otherwise, which are senior to or made *pari passu* with the liens of the Prepetition Lenders in the Prepetition Collateral or the Collateral.

4. Carve-Out Expenses. “Carve-Out Expenses” shall mean:

(a) amounts payable pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court (the “UST/Clerk’s Fees”); and

(b) all allowed fees and expenses (exclusive of success fees or transaction fees of similar type or nature) of attorneys, accountants, and other professionals retained in these Chapter 11 Cases (“Priority Professional Expenses”) pursuant to sections 327 and 1103 of the Bankruptcy Code by the Specific Debtors and by the Creditors’ Committee in an aggregate amount not to exceed (i) \$200,000.00, plus (ii) an amount up to \$25,000 for the reasonable fees and expenses of a chapter 7 trustee and any professional retained by such trustee (collectively, the “Professional Expense Cap”); provided that any payments actually made to such professionals or incurred by a chapter 7 trustee (subject to the limitation set forth herein) under sections 330 or 331 of the Bankruptcy Code or any other provision of the Bankruptcy Code or order of the Bankruptcy Court after the occurrence of a Termination Event (and during the continuance of such a Termination Event) on account of fees and expenses actually incurred after the occurrence of a Termination Event shall reduce the Professional Expense Cap on a dollar-for-dollar basis.

(c) Nothing contained in this Paragraph 4 shall (i) be construed to exempt those attorneys, accountants, and other professionals retained in these Chapter 11 Cases pursuant to sections 327 and 1103 of the Bankruptcy Code by the Specific Debtors and by the Creditors’ Committee hereafter receiving interim compensation payments or reimbursement of expenses from compliance with any Court-approved procedure for compensation or otherwise from applicable provisions of bankruptcy law, including but not limited to requirements that such compensation or reimbursement be allowed on a final basis after the filing of appropriate fee applications, and when applicable, any subsequent order of this Court requiring that such payments be disgorged, (ii) be construed as consent to the allowance of any fees and expenses

referred to above, or (iii) be construed to affect any right of the Prepetition Lenders to object to the reasonableness of such amounts.

5. Limitation Upon Additional Surcharges. In consideration of the treatment and priority afforded the Carve-Out Expenses hereunder, neither the Replacement Collateral, the Prepetition Collateral, nor the Prepetition Lenders shall be subject to any surcharge, pursuant to sections 506(c) or 105(a) of the Bankruptcy Code or otherwise, of the Specific Debtors or any other party in interest without the prior written consent of the Prepetition Lenders, and no consent to a charge against the Replacement Collateral, the Prepetition Collateral or the Prepetition Lenders pursuant to sections 506(c) or 105(a) of the Bankruptcy Code shall be implied from any action, inaction or acquiescence by the Prepetition Lenders in these Chapter 11 Cases, including but not limited to the funding and use of Cash Collateral of the Debtors' ongoing operations by the Prepetition Lenders. In no event shall the Prepetition Lenders be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Replacement Collateral or the Prepetition Collateral without their consent.

6. Limitations under Section 552(b) of the Bankruptcy Code. The prepetition liens on the Prepetition Collateral and the Replacement Liens extend to rents and proceeds and at no time during the Chapter 11 Cases shall the limitation permitted by Bankruptcy Code Section 552(b), based on the equities of the case, on the extension of the liens and Replacement Liens granted to the Prepetition Lenders to cover proceeds of the Prepetition Collateral provided by such section be imposed on or against the Prepetition Lenders or the Prepetition Collateral.

7. Information Available to Prepetition Agent. The Specific Debtors shall furnish to the counsel of the Prepetition Agent, for the benefit of the other Prepetition Lenders, such financial and other information as the Prepetition Agent shall reasonably request including, but not limited to, the following:

(a) Simultaneously with their filing, any financial information and pleadings filed with the Bankruptcy Court; and

(b) All financial information and reports prepared by the Specific Debtors, as required by the Bankruptcy Court or by the Operating Guidelines and Reporting Requirements of the U.S. Trustee's Office.

8. Successors and Assigns. The provisions of this Stipulation shall be binding upon the Prepetition Agent, the other Prepetition Lenders, the Specific Debtors, Crescent and their respective successors and assigns, including any trustee appointed in these Chapter 11 Cases, and shall inure to the benefit of the Prepetition Agent, the other Prepetition Lenders, the Specific Debtors and their respective successors and assigns.

9. Subsequent Reversal or Modification. Based on the recitals set forth in this Stipulation and the reliance of the Prepetition Agent and the other Prepetition Lenders in good faith on the terms thereof, if any of the provisions of this Stipulation are hereafter modified, vacated or stayed by an Order of this Court or another court, such stay, modification or vacation shall not affect the validity and enforceability of any lien, security interest, priority or any other rights, benefits or protections authorized by this Stipulation for the benefit of any of the Prepetition Agent and the other Prepetition Lenders hereunder, and any use of Cash Collateral by any of the Specific Debtors pursuant to this Stipulation prior to the effective date of such modification, stay or vacation shall be governed in all respects by the original provisions of this Stipulation.

10. No Waiver. This Stipulation shall not be construed in any way as a waiver or relinquishment of any rights that the Prepetition Lenders may have to bring or be heard on any matter brought before this Court.

11. No Lender Control of Specific Debtors' Operations. By limiting the Specific Debtors' use of Cash Collateral to the Maximum Expenditure Amount and by taking any other actions pursuant to this Stipulation, the Prepetition Lenders shall not be deemed (i) to be in control of the operations or any liquidation of the Specific Debtors; or (ii) to be acting as a "responsible person" or an "owner or operator", as such terms are used in the United States Comprehensive Environmental Response,

Compensation and Liability Act, as amended, or any similar federal or state statute, with respect to the operation, management, or any liquidation of the Specific Debtors.

12. This Stipulation and Order may be executed in any number of counterparts, whereby each counterpart, when so executed and delivered, shall be deemed an original and all counterparts, taken together, shall constitute but one and the same Stipulation and Order.

13. The undersigned represent that they are fully authorized to enter into the terms and conditions of, and to exercise, this Stipulation and Order on their own behalf and on behalf of their clients(s).

14. The Bankruptcy Court shall retain exclusive jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation and Order.

*[signature page follows]*

IN WITNESS WHEREOF, the Parties have executed this Stipulation and Order on this June 11, 2010.

**On behalf of the Prepetition Agent:**

/s/ Alan W. Pope  
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47<sup>th</sup> Floor  
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**On behalf of the Creditors' Committee:**

/s/ Rebecca McElroy  
Martinec, Winn, Vickers & McElroy, P.C.  
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**On behalf of the Specific Debtors:**

/s/ Martin A. Sosland  
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