

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES
LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Ref. Docket Nos. 2958 & 3033

**DECLARATION OF BRADLEY D. SHARP IN OPPOSITION TO MOTION OF LISE
LA ROCHELLE AND OTHER NOTEHOLDERS FOR A STAY
PENDING APPEAL OF THE ORDER CONFIRMING DEBTORS' FIRST AMENDED
JOINT CHAPTER 11 PLAN OF LIQUIDATION**

I, Bradley D. Sharp, hereby declare as follows:

1. I am President and CEO of Development Specialists, Inc. ("DSI") and the Chief Restructuring Officer of WGC Independent Manager LLC, a Delaware limited liability company ("WGC Independent Manager"), which is the sole manager of debtor Woodbridge Group of Companies, LLC, a Delaware limited liability company and an affiliate of each of the debtors and debtors in possession (each, a "Debtor" and collectively, the "Debtors") in the above-captioned jointly administered chapter 11 cases. I am also Chief Restructuring Officer of each of the Debtors.

2. I submit this Declaration in opposition to the *Motion of Lise La Rochelle and Other Noteholders for a Stay Pending Appeal of the Order Confirming Debtors' First Amended Joint Chapter 11 Plan of Liquidation* [Docket No. 2958] (the "Stay Motion") and in support of

¹ The last four digits of Woodbridge Group of Companies, LLC's federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Boulevard #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of such information may be obtained on the website of the Debtors' noticing and claims agent at www.gardencitygroup.com/cases/WGC.

the *Debtors' Opposition to Motion for Stay Pending Appeal of the Confirmation Order* [Docket No. 3033].

3. All facts set forth in this Declaration are based on one or more of the following: (a) my direct personal knowledge of the Debtors' assets, operations, and finances from my involvement in these cases; (b) information learned from my review of relevant business records and similar documents; or (c) opinion based on experience, including being a restructuring professional for 25 years and being involved in hundreds of chapter 11 cases. If I were called upon to testify, I could and would testify competently to the facts set forth herein.

4. On February 13, 2018, the Court entered an order authorizing the Debtors to retain and employ DSI as their restructuring advisor and to designate me as Chief Restructuring Officer, *nunc pro tunc* to January 26, 2018. In that capacity, I became, and now am, familiar with the day-to-day operations and financial affairs of the Debtors. I am one of the individuals responsible for devising and implementing the Debtors' wind-down and liquidation strategies and overseeing the Debtors' financial and operational affairs. I have been consistently involved in or am familiar with the Debtors' wind-down activities and development of the *First Amended Joint Chapter 11 Plan of Liquidation of Woodbridge Group of Companies, LLC and Its Affiliated Debtors* [Docket No. 2397] (as amended, supplemented, or modified from time to time pursuant to the terms thereof, the "Plan"). I personally participated in the negotiations that produced the Plan. I have reviewed and am familiar with the terms and provisions of the Plan.

5. On December 4, 2017, a total of 279 Debtors commenced voluntary cases under chapter 11 of the Bankruptcy Code. Thereafter, on February 9, 2018, March 9, 2018, March 23, 2018, and March 27, 2018, additional affiliated Debtors (27 in total) commenced voluntary cases under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the

Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession. There are presently 306 Debtors and 306 corresponding bankruptcy cases.

6. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No trustee has been appointed in the Chapter 11 Cases. An official committee of unsecured creditors (the “Unsecured Creditors’ Committee”) was appointed on December 14, 2017 [Docket No. 79]. On January 23, 2018, the Court approved a settlement providing for the formation of an official ad hoc noteholder group (the “Noteholder Committee”) and an official ad hoc unitholder group (the “Unitholder Committee” and with the Noteholder Committee and the Unsecured Creditors’ Committee, the “Committees”), as well as a replacement board (the “New Board”) and management for the Debtors [Docket No. 357].

7. Immediately following the appointment of the New Board, the Debtors focused on bringing the Chapter 11 Cases to a rapid consensual resolution, so as to return as much money as possible, as promptly as possible, to creditors.

8. As set forth in substantial detail in my declaration in support of confirmation of the Plan and abbreviated here, the Plan is the product of substantial, lengthy, complex and interrelated negotiations and agreements.²

9. Although there are many aspects of the Plan and the agreements incorporated in the Plan that were and are important to the multiple different affected constituencies, speed of implementation was among the most important.

² See Declaration of Bradley D. Sharp in Support of Confirmation of the First Amended Joint Chapter 11 Plan of Liquidation of Woodbridge Group of Companies, LLC and Its Affiliated Debtors [Docket No. 2829]. I attest that this prior declaration remains true and complete and incorporate it herein in its entirety by this reference.

10. As relayed to me by members and representatives of the Noteholder Committee and the Unitholder Committee as well as by a significant number of Noteholders and Unitholders (“Investors”) in calls and in person, and as my own observations as well as my review of the Debtors’ books and records corroborated, the underlying scheme perpetrated by the Debtors’ former principal, Robert Shapiro, was particularly pernicious in that it preyed upon elderly and unsophisticated victims. The result is that many of the 8,000 to 10,000 Investors are elderly (some in their 80s, in their 90s and older), financially strapped, and with few, if any, options available to them for employment or other income.

11. Getting Investors distributions rapidly was a substantial motivator for the Noteholder Committee and Unitholder Committee to agree on a Plan that contained meaningful compromises. Counsel for the Committees often argued that they could obtain more if they fought to the end rather than settled, but the needs of their constituencies required they opt for resolution and speed rather than trying to maximize returns for a subset of creditors and Investors (at the expense of the other creditors and Investors). Members of and representatives of the Noteholder Committee and Unitholder Committee repeatedly affirmed that money today was very meaningful to these individuals because their quality of life will be immediately impacted. Indeed, Mr. Sarachek is personally aware of this, as he has attempted to bring elder abuse claims premised upon precisely these circumstances.

12. The simple reality is that staying the effectiveness of the Plan will both delay distributions to the Investors, including those represented by Mr. Sarachek, and reduce those distributions.

13. Additionally and separately, Plan § 5.4.12 provides for Investors to receive Liquidation Trust Interests that the Liquidation Trust will seek to have registered under the

Exchange Act in order to make them tradeable. This is highly significant to many Investors and was also an important component of the settlements that form the backbone of the Plan. If the Liquidation Trust is successful in registering the Liquidation Trust Interests, that could enable Investors to cash out early at a reasonable, market-generated non-distressed price. However, the process cannot even begin until the Plan is effective, which will not happen until the appeal is resolved if the Stay Motion is granted.

14. I am aware that Mr. Sarachek has posited that granting a stay will not delay or diminish distributions to Investors. This is incorrect (and also ignores the possibility of obtaining an early cash-out via sale of Liquidation Trust Interests, as discussed in the preceding paragraph). Based on my experience as a restructuring professional, I am firmly of the opinion that a stay will not only delay distributions but result in reducing those distributions. These bankruptcy cases are to a large extent “zero-sum” exercises in that every incremental dollar spent litigating with Mr. Sarachek or otherwise flowing from his conduct, such as a potential stay, ultimately is taken from the pockets of the Investors.

15. Selling property in a bankruptcy case is simply more cumbersome than selling it outside a bankruptcy case. There are procedures that must be followed, all appropriate and legitimate, but they take time and result in incremental transaction costs.

16. Further, buyers are hesitant to buy property from a bankruptcy estate. There are uncertainties as to the bankruptcy process over the normal sales process, delays and costs not only for a debtor but also for buyers, all of which shrink the available pool of buyers, increase transaction costs, and lengthen the process of sale.

17. Additionally, the future path of real estate prices is not knowable. We have been experiencing an unprecedented period of escalating prices, low inventory, and short time to sale.

The market has begun to normalize and it is likely that the normalization process will continue, resulting over time in withdrawn offers to purchase, an unwillingness by buyers to negotiate, and challenges and delays in sale closings. There is absolutely no guarantee that prices in the future will be as high as or higher than they are at present. Staying in bankruptcy risks delay and delay could easily translate into lower prices in the future, a risk that the estate and its creditors should not have to run. The Debtors are at risk of continually diminished demand, softening asset prices (and hence lower recoveries for Investors) over time.

18. The Debtors own approximately \$620 million in real property at the present time concentrated in one market area.³ If the Debtors remain in bankruptcy, it is my professional opinion that it will take longer to sell that portfolio and selling prices received will be less than they would be outside bankruptcy. At best, the impact on realized proceeds will be lower by 3% to 10% during the pendency of an appeal – that is during the time that the Plan has not gone effective – as a result of delay, higher sale expenses, fewer and more opportunistic buyers and lower pricing. The impact could easily be 10% to 20% if the events of the recent past repeat or even if there is simply a downturn, which is always a possibility.

19. There are numerous other costs that the Debtors will incur if the stay is granted, many caused by the fact that 306 Debtors will continue to exist and be subject to all the attendant government required fee and reporting requirements rather than only the two Remaining Debtors following effectiveness. These additional costs include:

- a. U.S. Trustee fees for 306 Debtors rather than for only two, resulting in additional fees of close to \$1.0 million per quarter.

³ See Declaration of Frederick Chin in Support of Confirmation of the First Amended Joint Chapter 11 Plan of Liquidation of Woodbridge Group of Companies, LLC and Its Affiliated Debtors [Docket No. 2833], ¶ 10.

- b. California state taxes for 306 entities rather than for only two, resulting in additional payments to the California Franchise Tax Board of at least \$243,200 per year (\$800 minimum tax per entity, whether or not a taxpayer or pass-through).⁴
- c. Increased monthly operating report costs of \$5,000 per month as the result of there being 306 Debtors rather than two.
- d. Fees and costs for professionals (lawyers and financial advisors) for the three Committees. In my professional opinion, these expenses (none of which would otherwise be incurred) will run at least \$950,000 per month for each month that the Plan does not go effective.
- e. Increased fees and costs for Debtors' professionals, which will be substantially higher if the Plan does not go effective. In my professional opinion, these additional expenses will run at least \$1.7 million per month.
- f. Additional fees to various state government agencies to keep entities in good standing with their respective Secretary of State as well as fees to maintain a registered agent. Under the Plan, the entities will be deemed dissolved but if the Plan does not go effective the entities will need to maintain their good standing. In my professional opinion, these additional expenses will run approximately \$45,000 per year.

20. In order to provide a best estimate of the harm imposed on the estates by reason of a stay, I have estimated that the appeal process will conclude in 18 months. I recognize that this is a somewhat uncertain assumption that assumes two appeals decided with some speed. If there is only one level of appeal, the delay could be less. If there are three levels of appeal, the delay could be more.

21. In terms of the reduced sale proceeds, premised on an 18-month stay period, during which I believe approximately 60% of the real estate portfolio would be sold, my professional opinion is that the diminished sale proceeds will be in the range of \$20 to \$30

⁴ These fees are generally payable if an entity is in existence for even a single day during a year. It is uncertain whether the Plan can go effective in 2018, avoiding the payment of 2019 fees. The issuance of a stay would assure that effectiveness in 2018 could not happen. I have assumed that there would be fees for both 2019 and 2020 which would not be incurred in the absence of a stay.

million. This amount has been computed by applying the discounts discussed earlier of 3% to 10% to the value of properties that are in the process of being sold or are currently listed for sale. To be conservative, I have chosen the low end of the range and have not assumed a market-wide downturn or recession.

22. In terms of additional costs, as itemized above in paragraph 19, there would be close to \$1.0 million per quarter in increased U.S. Trustee fees (for a total of \$6.0 million over the 18 months that an appeal would be pending), \$243,200 per year in increased California taxes and similar costs for 2019 and 2020 (for a total of \$486,400 over the 18 months that an appeal would be pending), \$5,000 per month in increased reporting expenses (for a total of \$90,000 over the 18 months that an appeal would be pending), at least \$950,000 per month in increased Committee expenses (for a total of \$17.1 million over the 18 months that an appeal would be pending), at least \$1.7 million per month in increased expenses for Debtors' professionals (for a total of \$30.6 million over the 18 months that an appeal would be pending), and approximately \$45,000 in increased LLC and registered agent fees over the 18 months that an appeal would be pending. The preceding total exceeds \$54 million over the 18 months that an appeal would be pending. To that should be added the low end of the anticipated diminished sale proceeds resulting from being in bankruptcy of \$20 million, bringing the total harm to the estate from a stay to in excess of \$74 million. This does not assume any market deterioration at all.

23. The calculations above understate the true costs, as the delays especially and the decreased returns to a lesser degree, will result in irreparable damage to Investors who are elderly and in financial straits. Many of the 8,000 to 10,000 Investors fall into one or both categories.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and was executed on the 19th day of November, 2018.

/s/ Bradley D. Sharp

Bradley D. Sharp
Chief Restructuring Officer
WGC Independent Manager LLC