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7 Attorneys for Continental Country Club, Inc.

8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF ARIZONA**

10 In re:

11 CONTINENTAL COUNTRY CLUB,
12 INC., an Arizona non-profit corporation,

13 Debtor.

Chapter 11

Case No. 3:21-bk-00956-EPB

**DEBTOR'S: (1) APPLICATION FOR
ORDER AUTHORIZING
EMPLOYMENT OF COLLIERS
INTERNATIONAL AS PRICE
OPINION CONSULTANT FOR THE
DEBTOR; AND (2) BANKRUPTCY
RULE 2014(a) STATEMENT**

16
17 Debtor and debtor-in-possession Continental Country Club, Inc. ("Debtor"), pursuant
18 to Bankruptcy Code § 327 and Bankruptcy Rule 2014, hereby applies for the entry of an order
19 authorizing the Debtor to retain and employ Colliers International ("Colliers") as its price
20 opinion consultant, effective as of the date of this Application.

21 This Application is supported by the following Memorandum of Points and
22 Authorities, the "Verified Statement of Keith Cubba in Support of Debtor's Application to
23 Employ Colliers International" filed concurrently herewith and the papers and pleadings on
24 file, all of which are incorporated herein by this reference.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FACTS AND PROCEDURAL HISTORY.**

3 **A. Parties and Jurisdiction.**

4 1. On February 9, 2021, Debtor filed its voluntary bankruptcy petition pursuant to
5 chapter 11 of the U.S. Bankruptcy Code (the “Petition Date”).

6 2. No trustee, examiner, or official committee of unsecured creditors has been
7 appointed to date.

8 3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1334(a) and
9 157(a). This is a “core” matter pursuant to 28 U.S.C. §157(b)(2)(A).

10 4. The statutory basis for the relief requested herein are Bankruptcy Code § 327(a)
11 and Federal Rule of Bankruptcy Procedure (“Rule”) 2014.

12 **B. Debtor’s Organization and Business Operations.**

13 5. Debtor is a non-profit homeowners association responsible for enforcing the
14 deed restrictions for the Continental Country Club & Estates development in Flagstaff,
15 Arizona (the “Development”), which includes a golf course and clubhouse facility (the “Golf
16 Club”).

17 6. The Golf Club comprises the Debtor’s primary non-cash asset.

18 **II. RELIEF REQUESTED.**

19 7. Through this Application, Debtor seeks to employ and retain Colliers as its
20 price opinion consultant and expert witness with regard to the Golf Club. Debtor requires a
21 price opinion consultant to support testimony by the Debtor or its experts that may be
22 required at the eventual hearing on confirmation of its plan of reorganization. Thus, Debtor
23 respectfully requests that the Court enter an order under Bankruptcy Code § 327(a)
24 authorizing the Debtor to retain and employ Colliers as its price opinion consultant to,
25 initially, conduct a broker’s price opinion of the Development, on the terms set forth in the
26 Engagement Letter attached hereto as **Exhibit A** (the “Services”).
27

1 8. The Debtor submits that Colliers is qualified to perform the Services for the
2 Debtor based upon its expertise in real property and golf course price opinions. Mr. Cubba
3 serves as Sr. Vice President and National Director, Golf Course Advisory Services is
4 particularly qualified to provide a broker's opinion on the Golf Club. See biographical
5 information of Keith Cubba, attached hereto as **Exhibit B**.

6 **III. COMPENSATION.**

7 9. Subject to the Court's authorization of employment of Colliers, it is agreed that
8 Colliers will charge \$3,000.00 for the broker's price opinion, which will include a market
9 overview, explanation of pricing terms and applications and pricing for the Golf Club in the
10 event of a liquidation sale (*see* Exhibit A).

11 10. The above fee is based on the customary rates charged by Colliers for broker's
12 price opinions, which are periodically adjusted in accordance with Colliers' standard policies.
13 Rates are subject to periodic increases in the normal course of Colliers' business, often due to
14 changes in local conditions in the market for comparable services.

15 11. Upon court approval of this Application, Colliers will produce the broker's
16 price opinion to the Debtor with an invoice for the \$3,000.00 fee, and Debtor will pay the fee
17 without hearing or further Court order. If and when the Debtor wishes to have Colliers
18 provide further services for the Debtor, the Debtor will supplement this Application.

19 12. At this time, no other arrangement is proposed between the Debtor and Colliers
20 for compensation to be paid in relation to this case.

21 13. Debtor submits that the fee arrangement with Colliers described above is
22 reasonable in light of industry practice, prevailing market rates, Colliers' experience as a
23 pricing consultant for golf course properties and in bankruptcy proceedings, and the scope of
24 the work to be performed.

25 **IV. DISINTERESTEDNESS.**

26 14. Prior to making this Application, the Debtor provided its list of creditors to
27 Colliers, and Colliers reviewed it for conflicts of interest. To the best of the Debtor's and

1 Colliers' knowledge, Colliers has no connection with any other party-in-interest in this
2 proceeding that is adverse to the interest of the Debtor or its estate and Colliers is a
3 "disinterested person" within the meaning of Bankruptcy Code §§ 101(14) and 327. Keith
4 Cubba, on behalf of Colliers, has disclosed in his Verified Statement filed concurrently
5 herewith any connection to the Debtor and/or creditors of the Debtor.

6 **V. CONCLUSION.**

7 For the foregoing reasons, Debtor respectfully requests that the Court enter the
8 attached order (a) granting this Application; (b) authorizing the employment of Colliers as
9 price opinion consultant for the Debtor, effective as of the date of this Application and
10 pursuant to the terms of the engagement agreement, including payment of the \$3,000.00 fee;
11 (c) allowing the Debtor to supplement this Application should it seek to retain Colliers for
12 other and further work in this matter; and (d) granting such other relief as the Court deems
13 appropriate.

14 **RESPECTFULLY SUBMITTED** this 3rd day of December 2021.

15 **ENGELMAN BERGER, P.C.**

16 By /s/ Patrick A. Clisham

17 Scott B. Cohen
18 Patrick A. Clisham
19 Bradley D. Pack
20 2800 North Central Avenue, Suite 1200
21 Phoenix, Arizona 85004
22 Attorneys for the Debtor

23 **COPY** of the foregoing transmitted
24 via the Court's ECF system, and
25 as indicated this 3rd day of December, 2021
26 to the following parties:

27 Larry L. Watson
OFFICE OF THE U.S. TRUSTEE
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EXHIBIT A

Keith Cubba
Senior VP, National Director
Golf Course Advisory Services

3960 Howard Hughes
Parkway, Suite 150
Las Vegas, NV 89169

Main: +1 702 836
3733
Mobile: +1 375 0809



December 1, 2021

Attn: Patrick A. Clisham
Managing Shareholder
Engleman Berger, P.C.
2800 N. Central Ave., suite 1200
Phoenix, AZ 85004

Re: Engagement Letter | Brokers Price Opinion Continental Country Club

Dear Patrick,

Below I have outlined terms relating to our discussion on consulting services. Upon notification of your acceptance via email, I will forward an invoice from Colliers International.

Scope of Assignment

Broker Keith Cubba will provide a Brokers Price Opinion for Continental Country Club that will include a market overview, explanation of pricing terms and applications and pricing for the asset in the form of a liquidation sale. The services are collectively referred to as Brokers Price Opinion.

Compensation

Flat fee of One Three Thousand Dollars (\$3,000.00)

Best Regards,

Keith Cubba
Colliers International
Sr. Vice President | National Director
Golf Course Advisory Services
702.375.0809
Keith.cubba@colliers.com

EXHIBIT B



Keith Cubba

Senior Vice President, National Director Golf

License # NV-S.0065153

About



Professional Summary

Keith Cubba serves as the National Director of the [Colliers Golf Course Advisory Services \(GCAS\)](#) and he has specialized exclusively in Golf Course sales since 2009. Keith has been recognized in Golf Inc. as one of the top brokers in the industry, and he has become a regular contributor to Golf Digest senior editor Peter Finch's articles on the business of golf, as well as a contributor to articles by the National Golf Foundation on industry trends. In addition, Keith is one of 30 industry professionals surveyed by the Society of Golf Course Appraisers in regards to investment and lending benchmarks, and he is also a regular invitee to the annual, 100 person, invitation only National Golf Foundation Industry Symposium.

Accomplishments

Career highlights include recording two of the Nation's largest brokered golf course sales transactions over 2013 and 2014, the largest transaction nationally in 2015, sale of the number 53 ranked course in country in 2016, the sale of the number 83 ranked course in the world in 2018, and the sale of 10 top 166 ranked residential courses in the country. He has been the lead or sole broker, on the sale of 60 courses across 18 states and Canada with 9 sales closed in 2020.

Keith has won multiple company awards including Top Multi City Assignment Producer, Platinum achievement and biggest deal of the year.

Education

BA Loyola Marymount University; Masters Degree UCLA where Keith graduated Summa Cum Laude.

Memberships & Involvements

Member National Golf Course Owners Association

Clients

Bank of America, Wells Fargo, Textron Financial Corporation, FDIC, Pacific Life Insurance Company, Pulte Homes, Century Communities, Howard Hughes Corporations, Price Waterhouse Coopers, TD Bank, Situs, CVSL, Rialto Capital, StanCorp Mortgage, New Orleans Firefighters Pension and Relief Fund, Pacific Links International.

Testimonials

Keith Cubba and the Colliers team were brought on board to help Pacific Links International execute on its strategy to divest its assets in North America so the company could remain focused on building its international network of reciprocal golf properties. Keith helped us organize this planned divestiture program and took responsibility as listing broker for a club in West Virginia and 2 clubs in Las Vegas, Nevada. At all times, Keith's expertise in the golf market greatly helped us identify suitable buyers and close on these assets in the shortest time possible.

Rudy Anderson

President & CEO, Pacific Links International

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"If it had been any other broker representing the seller, I probably would not have done this deal." (in reference to Colliers broker, Keith Cubba)"

President of Four Virtues LLC Buyer, Longaberger Golf Club

Services

Specializations

Golf Course Advisory Group