



CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed January 21, 2020

  
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

In re: § Chapter 11  
4 WEST HOLDINGS, INC., et al., § Case No. 18-30777-HDH  
REORGANIZED DEBTORS. § (Jointly Administered)

ORDER DENYING MOTION TO RECONSIDER FILED BY CREDITOR THE  
RIDGE REHABILITATION (CHARLIE MOSS POA FOR LOTTIE MOSS)

On this day came on for consideration the *Motion to Reconsider* [Docket No. 1832] (the "Motion to Reconsider") filed on November 12, 2019, by Charlie Moss, as power of attorney for Lottie Moss ("Mr. Moss"), requesting that this Court reconsider its *Order Sustaining Distribution Trustee's Objection to Claim of The Ridge Rehabilitation (Charlie Moss POA for Lottie Moss)* [Docket No. 1810] (the "Claim Order") entered on October 25, 2019. GlassRatner Advisory & Capital Group, LLC, Trustee of the 4 West Distribution Trust (the "Trustee"), timely objected to the Motion to Reconsider with the filing of its *Objection to Motion to Reconsider Order Sustaining Distribution Trustee's Objection to Claim of The Ridge Rehabilitation (Charlie Moss POA for Lottie Moss)* [Docket No. 1851] (the "Objection to Reconsideration"). After considering Mr. Moss's Motion to Reconsider, the

Trustee's Objection to Reconsideration, all evidence presented at the Hearing (defined below), and all relevant pleadings and other filings related to this matter, the Court finds that:

1. On May 16, 2019, Mr. Moss filed Proof of Claim No. 358 as an administrative expense claim in the amount of \$100,000,000.00 based upon an alleged personal injury or wrongful death ("**Mr. Moss's Claim**" or the "**Claim**").<sup>1</sup>

2. On August 15, 2019, the Trustee filed an *Objection to Claim of The Ridge Rehabilitation (Charlie Moss POA for Lottie Moss)* [Docket No. 1637] (the "**Claim Objection**") seeking to disallow Mr. Moss's Claim. As evidenced by the Certificate of Service attached thereto, the Trustee served the Claim Objection upon Mr. Moss via first-class mail, postage prepaid, on the date it was filed.

3. On September 9, 2019, the Trustee filed and served a *Notice of Hearing* [Docket No. 1654] (the "**Notice of Hearing**") advising that the Claim Objection would be heard on September 25, 2019. As evidenced by the Certificate of Service attached thereto, the Trustee served the Notice of Hearing upon Mr. Moss via first-class mail, postage prepaid, on the date it was filed.

4. On September 25, 2019, the Court held a hearing on the Trustee's Claim Objection. Mr. Moss did not appear at the hearing or otherwise respond to the Claim Objection prior to the hearing. Having found that Mr. Moss's Claim lacked necessary information and supporting documentation and that Mr. Moss failed to appear at the hearing or otherwise respond to the Trustee's Claim Objection, and for the additional reasons set forth in the Claim Objection, the Court thereafter entered the Claim Order sustaining the Trustee's Claim Objection and disallowing Mr. Moss's Claim.

5. On November 12, 2019, Mr. Moss filed the Motion to Reconsider alleging that he was deprived of due process and an opportunity to defend against the Trustee's Claim Objection. However, Mr. Moss concedes in the Motion to Reconsider that he timely received service of the

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<sup>1</sup> The Claim actually lists The Ridge Rehabilitation, 226 WA Reel Drive, Edgefield, South Carolina 29824 as the creditor, but it was in fact filed by Charlie Moss, POA for Lottie Moss, and the Claim appears to in fact belong to Mr. Moss.

Trustee's Claim Objection, the Notice of Hearing, and the Claim Order; and each of these pleadings (as received by Mr. Moss) were attached as exhibits to the Motion to Reconsider. The Motion to Reconsider was originally set for hearing on December 20, 2019 [*see* Docket No. 1839].

6. On December 13, 2019, the Trustee filed the Objection to Reconsideration asserting that due process was satisfied in that Mr. Moss timely received actual notice of the Trustee's Claim Objection and the hearing thereon. As evidenced by the Certificate of Service attached thereto, the Trustee served the Objection to Reconsideration upon Mr. Moss via first-class mail, postage prepaid, on the date it was filed to the same address at which Mr. Moss received service of the previous pleadings.

7. On December 16, 2019, Mr. Moss filed a *Motion for Continuance* [Docket No. 1853] seeking to continue the hearing on the Motion to Reconsider set for December 20, 2019. Mr. Moss filed a second *Motion for Continuance* [Docket No. 1856] on December 17, 2019. The Trustee raised no objections to the requested continuance.

8. On December 18, 2019, the Court entered an *Order Granting Motion for Continuance* [Docket No. 1858], thereby continuing the hearing on the Motion to Reconsider to January 15, 2020 at 10:30 a.m. As evidenced by the Court's *Certificate of Mailing* [Docket No. 1860], the Court served such order upon Mr. Moss via first-class mail on December 20, 2019, to the same address at which Mr. Moss received service of the previous pleadings.

9. The Motion to Reconsider was heard on January 15, 2020, at 10:30 a.m. (the "**Hearing**"). Counsel for the Trustee appeared at the Hearing. Mr. Moss did not appear at the Hearing or otherwise respond to the Trustee's Objection to Reconsideration prior to the Hearing.

Based upon the foregoing findings of fact, the Court concludes that: (a) Mr. Moss was not deprived of due process as to the Trustee's Claim Objection, but rather the merits of due process were satisfied in that Mr. Moss timely received actual notice of the Claim Objection and the hearing

thereon; (b) Mr. Moss failed to prosecute his Motion to Reconsider in that he failed to appear at the Hearing, failed to request an additional continuance of the Hearing, and failed to otherwise respond to the Trustee's Objection to Reconsideration prior to the Hearing; and (c) no sufficient cause has been presented for reconsideration of the Claim Order. Accordingly, the Court finds that good cause exists for entry of the following order.

**IT IS THEREFORE ORDERED** that, for the reasons set forth herein, the Trustee's Objection to Reconsideration [Docket No. 1851] is hereby **SUSTAINED** and that Mr. Moss's Motion to Reconsider [Docket No. 1832] is hereby **DENIED**.

**### END OF ORDER ###**

**ORDER SUBMITTED BY:**

*/s/ S. Kyle Woodard* \_\_\_\_\_

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