

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

|                                 |   |                         |
|---------------------------------|---|-------------------------|
| In re:                          | ) | Case No. 06-20586       |
|                                 | ) |                         |
| UNION STAMPING & ASSEMBLY, INC. | ) | Chapter 11              |
|                                 | ) |                         |
| Debtor.                         | ) | Judge Ronald G. Pearson |
|                                 | ) |                         |
| <hr/>                           |   |                         |
|                                 | ) |                         |
| OFFICIAL COMMITTEE OF           | ) |                         |
| UNSECURED CREDITORS,            | ) |                         |
|                                 | ) |                         |
| Plaintiffs,                     | ) |                         |
|                                 | ) | A.P. No. 07-2068        |
| v.                              | ) |                         |
|                                 | ) |                         |
| TOWNLEY ENTERPRISES,            | ) |                         |
|                                 | ) |                         |
| Defendant.                      | ) |                         |
|                                 | ) |                         |
|                                 | ) |                         |
|                                 | ) |                         |

**JOINT MOTION OF ROBERT L. JOHNS, LIQUIDATING TRUSTEE AND  
CLAIMANTS TOWNLEY ENTERPRISES, LLC, SOUTH PARK I, LLC, MOXAHELA  
AUTOMOTIVE, LLC AND GILMAR INVESTMENTS, LLC TO CONSOLIDATE  
ADVERSARY PROCEEDINGS NUMBERS 07-2068, 07-2075, 07-2076, AND 07-2077**

Now come Robert L. John, Liquidating Trustee (the “Trustee”), and Claimants Townley Enterprises, LLC, South Park I, LLC, Moxahela Automotive, LLC, and Gilmar Investments, LLC (the “Claimants” and together with the Trustee, collectively, the “Joint Movants”), by and through their respective counsel, and file the following Joint Motion to Consolidate Adversary Proceedings 07-2068, 07-2075, 07-2076, and 07-2077:

1. On September 20, 2006, an involuntary bankruptcy case was entered against the Debtor, Union Stamping and Assembly, LLC. On October 3, 2006, the Debtor consented to an order for relief in Chapter 11. On February 1, 2007, the Debtor filed a Chapter 11 plan of reorganization. Included in the plan was a liquidating trust agreement, which provided for a trust

(“the Liquidating Trust”) to be created and payments to creditors to be made through a Trustee after the effective date. On June 7, 2007, the Debtor’s Chapter 11 plan was confirmed, and the effective date was established as of June 21, 2007. Mr. Robert L. Johns was approved by the Court as the Trustee for the Liquidating Trust.

2. On May 18, 2007, the Official Committee of Unsecured Creditors filed its Objection to Claim of Insiders [Dkt. 415] (“the Objection”). The claims that are subject to the Objection are the claims filed by the following entities: (1) Townley Enterprises, LLC [Claim No. 115]; (2) South Park I, LLC [Claim No. 116]; (3) Moxahela Automotive, LLC [Claim No. 117], and (4) Gilmar Investments, LLC [Claim No. 120] (collectively “the Claimants”). Pursuant to his duties under the confirmed plan, the Trustee has assumed authority to prosecute the Objection on behalf of the estate.

3. On November 6, 2007, by agreement of the Trustee and the Claimants, the Objection was converted to an adversary proceedings, originally docketed as No. 07-2068. On December 6, 2007, the Court amended the November 6, 2007 order by separately docketing each Adversary Proceeding as Nos. 07-2068, 07-2075, 07-2076, and 07-2077 respectively (the “Adversary Proceedings”). In its December 6, 2007 order, the Court stated that there appeared to be distinct issues to be addressed with each Claimant. The Joint Movants respectfully suggest that the interest of judicial economy would be served by consolidating the Adversary Proceedings.

4. Rule 42(a) of the Federal Rules of Civil Procedure (as made applicable in adversary proceedings by Federal Rule of Bankruptcy Procedure 7042) grants a court “broad powers to consolidate actions involving common questions of law or fact if, in its discretion, such consolidation would facilitate the administration of justice.” *United States v. Dentsply Int’l, Inc.*, 190 F.R.D. 140, 142-43 (Del. 1999). In determining whether to consolidate actions, courts

balance “the savings of time and effort gained through consolidation against the inconvenience, delay, or expense that it might cause.” *Id.* at 143. After weighing the factors, a motion to consolidate “should be granted if there are common questions of fact or law in the cases.” *Nigro v. Pittsburgh Post-Gazette (In re Appliance Store)*, 171 B.R. 525, 528 (Bankr. W.D. Pa. 1994).

5. The Adversary Proceedings should be consolidated because the issues underlying the claims of all four Claimants are the same. The Adversary Proceedings turn on whether funds contributed by the Claimants were loans, as the Claimants contend, or equity contributions, as the Trustee contends. The legal issues and factual underpinnings of the Adversary Proceedings are the same, thereby satisfying the “common questions of fact or law” test set forth above.

**WHEREFORE**, the Trustee and the Claimants respectfully request that their Joint Motion to Consolidate be granted.

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**CERTIFICATE OF SERVICE**

I hereby certify the foregoing Joint Motion to Consolidate Adversary Proceedings 07-2068, 07-2075, 07-2076, and 07-2077 was served electronically by the Court's CM/ECF system on all subscribed parties on this 15<sup>th</sup> day of February, 2008.

*/s/ John Lucian*