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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re: PACIFIC CAPITAL FUNDING GROUP INC., *et al.* Debtors.	Lead Case No. 26-30538 (WJL) Chapter 11 **SALUDA GRADE'S RESPONSE TO MOTION FOR ENTRY OF AN ORDER SUBSTANTIVELY CONSOLIDATING THE DEBTORS' ESTATES AND FOR RELATED RELIEF** **Hearing:** Date: November 18, 2026 Time: 10:30 a.m. Place: Courtroom 220 U.S. Bankruptcy Court 1300 Clay Street, Suite 300 Oakland, CA 94612

Saluda Grade Mortgage Funding LLC (together with certain of its affiliates, "Saluda Grade") hereby submits this Response with respect to the *Motion for Entry of an Order Substantively Consolidating the Debtors' Estates and for Related Relief* (the "Motion") [Docket No. 182] filed by the Official Committee of Unsecured Creditors (the "Committee").

I. INTRODUCTION

While Saluda Grade understands and appreciates that the Motion is an exemplar for the showing the Committee would seek to make when its investigation is more complete, Saluda Grade

wants to be sure the outcome sought in the motion is the product of careful consideration and full due process. The Committee's work (and the work of its central expert witness declarant, forensic accountant Kristin Rivera of PriceWaterhouse Coopers) is admittedly not complete. Indeed, how could it be with the claims bar date being set for December 1, 2026? For this simple reason, Saluda Grade suggests that the Court postpone setting a briefing and potential trial schedule for the Court to consider the major decision that is substantive consolidation. Instead, Saluda Grade suggests that the Court defer consideration of the question until more evidence is available, more work is done, and a chapter 11 plan solicitation effort based on a Bankruptcy Code Section 1125(a) "adequate information" finding has been voted on by creditors.

II. ANALYSIS

In the Motion, the Committee asks the Court to substantively consolidate the assets and liabilities of thirteen debtors.[1] The fundamental reason offered in the Motion is found on page 2:

> "The basis for the Motion is that creditors dealt with the Debtors as a single economic unit and did not rely on their separate identity in extending credit, and/or that the affairs of the Debtors are so entangled that consolidation will benefit all creditors."

See Motion, page 2, Lines 19-22. While all of the foregoing may ultimately prove to be the case, the fact remains that (a) the claims bar date of December 1, 2026, has not yet expired (thus negating the possibility that any expert has been able to review the universe of soon to be available claims information) and (b) the declaration in support of the Motion reveals that no expert has even considered the effect of the Motion on *any* non-investor creditor.[2] Without a more fulsome picture of the claims against, and the liabilities of, each debtor silo it is not possible, at this early juncture, to compare the projected recoveries under separated and consolidated scenarios. The touchstone of substantive

[1] While the Debtors have several affiliates that are not in bankruptcy, no narrative in the Motion explains what the inclusion of those additional debtors would mean for these estates. Nor is there any explanation of what it would mean to the creditors of any estates – debtors or non-debtors. This is surprising since the Rivera declaration states in paragraph 43 that there were 1,130 entries and approximately $303 million of funds used by those non-Debtors.

[2] This effect of substantive consolidation on creditors is core to any process hoping to satisfy the rules set forth in *In re Bonham*, 229 F.3d 750, 766 (9th Cir. 2000). Here, the effect on non-investor creditors is of particular importance to Saluda Grade, which expects to timely file one or more proofs of claim alleging more than $50 million in damages arising from the Debtors' malfeasance. There are undoubtedly other third-party creditors with similar concerns.

Case: 26-30538 Doc# 190 Filed: 11/13/26 Entered: 11/13/26 10:42:01 Page 2 of 5

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consolidation is fairness to all creditors — without the accompanying disclosures showing the financial impact of consolidation on creditors, a showing of fairness is plainly challenging.

Two recent Bay Area real estate Ponzi scheme cases provide important guidance regarding when and how courts in this district have found substantive consolidation to be warranted when faced with similar circumstances of financial fraud. The first began in July 2020 – the *Professional Financial Investors* ("PFI") chapter 11 case, Case No. 20-30406 before Judge Blumenstiel. The second began in August 2024 – the *LeFever Mattson* ("LFM") chapter 11 case, Case No. 24-10545 before Judge Novack. In each of those cases, the question of substantive consolidation was deferred to plan confirmation when (a) the record was replete with evidence justifying the remedy and (b) creditors had been given the information and opportunity to vote on the question in conjunction with a fulsome factual showing by the plan proponents.[3]

These cases are just a few months old, and the showing made in the Motion and its supporting Rivera declaration reinforce this truth. For instance:

1. The conclusions suggested by the Committee are based on the review of the Debtors' documents only. In LFM, the same forensic team led by Ms. Rivera at PriceWaterhouse Coopers had access to more than one million third party documents produced in third party discovery that the committee and debtors conducted in that case before making the Committee's final showing on substantive consolidation at confirmation.

2. The statements in the Rivera declaration are based on review of the Debtors' general ledger only because certain bank statements are not yet available (and consequently have not been reviewed). In LFM, the same forensic team led by Ms. Rivera at PriceWaterhouse Coopers tied-out many hundreds of ledger entries to the two most-important "slush fund" bank accounts.

3. As mentioned above, no creditor claim review has been done, and could not meaningfully be done until the December 1, 2026 bar date passes. In LFM, the same

[3] As the Committee observes in its Motion, *Bonham* demands a "searching review of the record on a case-by-case basis." Motion at 11-12. The avoidance of delay and expense, while understandable, does not itself provide a satisfactory basis to skip to the end. This is particularly true in these cases where true adversity of interest, and the corresponding rigorous testing of the evidence, is comparatively scant.

Case: 26-30538 Doc# 190 Filed: 11/13/26 Entered: 11/13/26 10:42:01 Page 3 of 5

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forensic team led by Ms. Rivera at PriceWaterhouse Coopers had 2,647 investor claims that it reviewed in order to understand what investors believed about the debtors and their operations.

4. The showing made thus far of "investor overlap" among debtor investment vehicles is not in any way comprehensive. While the Rivera declaration here in paragraphs 53 and 54 suggests there may be multi-debtor overlap among roughly 20% of all investors, the showing made by the committee in LFM at confirmation (again with the help of PriceWaterhouse Coopers) established that between 66% of KSMP creditors also claimed against LFM, while 79% of LFM investors also put forward claims against co-debtor KSMP.

5. The "investor confusion" showing made in paragraph 55 of the Rivera declaration is incomplete because it is based solely on shared letterhead and document footers. Indeed, the Court need look no further than paragraph 56 of the Rivera declaration to learn that PwC's analysis "is not complete."

6. So far, the Committee has made no showing that the Debtors in these cases funded one another's payment obligations. In LFM, Price Waterhouse established that this "borrowing from Peter to pay Paul" happened routinely and that hundreds of millions of dollars moved among the subject accounts.

7. The depth of the forensic review to date is also cause for concern. Thus far, the Committee has reviewed the Debtors' governing organizational documents only. In contrast, in LFM title (and the chain of title) reports for each and every property were scrutinized, followed by multiple updates to the court made in advance of the confirmation hearing.

8. Finally, it goes without saying that no asset tracing has been performed. This sort of forensic work is the backbone of most substantive consolidation showings.

The Committee believes that "no creditor group stands to lose a legitimate entitlement" following consolidation. Motion at 26. But this over-simplifies the creditor body here. Of course, many creditors are purely investors in the various mortgage loan investment funds. Others, however, may

Case: 26-30538 Doc# 190 Filed: 11/13/26 Entered: 11/13/26 10:42:01 Page 4 of 5

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wear different hats, as lenders of funded debt, purchasers of mortgage loans, or ordinary trade vendors and employees. These creditors may have more clearly defined payment entitlements against very specific entities (such as Pacific Private Money, which appeared to act as a hub for the debtors' financing activities and mortgage loan securitization sales). Until the creditor body is fully known and allocated, at least facially, to each debtor silo, it is hard to see how the Committee can conclude, at this early stage, that no creditor can establish "bargained-for reliance on [any] entity's separate credit." Motion at 26. In fact, consolidation of only the five investment funds (permissible under *Bonham*, which expressly accommodates "less than complete substantive consolidation") may be one potential outcome that would achieve some of the Committee's goals. Until the bar date passes, however, such alternatives cannot be knowledgably assessed.

III. CONCLUSION

Saluda Grade files this Response understanding that the Court wanted to see the evidentiary and legal landscape before it. Because the Committee currently lacks the ability to explain the dollars and cents implications of substantive consolidation for each creditor class, fundamental bankruptcy notions of due process and informed creditor participation cannot be met here. Without the availability of a liquidation analysis under 1129(a)(7) that shows exactly how substantive consolidation would work, Saluda Grade suggests that further consideration of the question be deferred until these concerns can be satisfied in a fashion consistent with the approach taken in the PFI and LFM cases.

Dated: November 13, 2026

PACHULSKI STANG ZIEHL & JONES LLP

By /s/ *John D. Fiero*
John D. Fiero

Counsel for Saluda Grade Mortgage Funding LLC and Certain Affiliates

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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re: PACIFIC CAPITAL FUNDING GROUP INC., *et al.* Debtors.	Lead Case No. 26-30538 (WJL) Chapter 11 **CERTIFICATE OF SERVICE**

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STATE OF CALIFORNIA)
)
CITY OF SAN FRANCISCO)

I, Oliver Carpio, am employed in the city and county of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is One Sansome Street, Suite 3430, San Francisco, CA 94104.

On November 13, 2026, I caused to be served the ***MOTION FOR ENTRY OF AN ORDER SUBSTANTIVELY CONSOLIDATING THE DEBTORS' ESTATES AND FOR RELATED RELIEF*** in the manner stated below:

☑	TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document was served by the court via NEF and hyperlink to the document. On **November 13, 2026**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below. See Attached
☐	(BY MAIL) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. See Attached
☐	(BY EMAIL) I caused to be served the above-described document by email to the parties indicated on the attached service list at the indicated email addresses. See Attached.

I declare under penalty of perjury, under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on November 13, 2026, at San Francico, California.

/s/ Oliver Carpio
Oliver Carpio

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