

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
OCT 09 2003  
KENNETH S. GARDNER, CLERK  
PS REP. - DR

In re: ) Chapter 11  
)  
Conseco, Inc., et al.,<sup>1</sup> )  
)  
Debtors. ) Case No. 02 B49672  
) Honorable Carol A. Doyle  
) (Jointly Administered)  
)  
In re: ) Case No. 02 49675  
) Honorable Carol A. Doyle  
Conseco Finance Corp., et al.,<sup>2</sup> ) (Jointly Administered)  
)  
Debtors. )  
) Hearing Date: February 4, 2004, at 11:00 a.m.  
) Objections Deadline: TBD

**NOTICE OF FILING REGARDING THE VERIFIED  
FINAL APPLICATION OF KIRKLAND & ELLIS LLP  
FOR ALLOWANCE OF ADMINISTRATIVE CLAIM FOR  
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

**PLEASE TAKE NOTICE**, that on October 9, 2003, we filed with the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, located at 219 S. Dearborn Street, Chicago, IL 60604, the **Verified Final Interim Application of Kirkland & Ellis LLP for Allowance of Administrative Claim for Compensation and Reimbursement of Expenses for the Period December 17, 2002, Through September 9, 2003 (the "Application")**.

<sup>1</sup> The CNC Debtors comprise the following entities: Conseco, Inc., ("CNC"), CIHC, Incorporated, ("CIHC"), CIHC, Inc., Partners Health Group, Inc., (collectively the "CNC Debtors").

<sup>2</sup> The CFC Debtors comprise the following entities: (i) Conseco Finance Corp. ("CFC") and Conseco Finance Servicing Corp., (ii) Conseco Finance Corp. - Alabama, Conseco Finance Credit Corp., Conseco Finance Consumer Discount Company, Conseco Finance Canada Holding Company, Conseco Finance Canada Company, Conseco Finance Loan Company, Rice Park Properties Corporation, Landmark Manufactured Housing, Inc., Conseco Finance Net Interest Margin Finance Corp. I, Conseco Finance Net Interest Margin Finance Corp. II, Green Tree Finance Corp. - Two, Conseco Agency of Nevada, Inc., Conseco Agency of New York, Inc., Green Tree Floorplan Funding Corp., Conseco Agency, Inc., Conseco Agency of Alabama, Inc., Conseco Agency of Kentucky, Inc., and Crum-Reed General Agency, Inc., Green Tree Finance Corp. - Five and Green Tree Residual Finance Corp. I, and Conseco Finance Credit Card Funding Corp., (the "CFC Debtors" and the CNC Debtors are collectively the "Debtors").

**PLEASE TAKE FURTHER NOTICE**, that on **February 4, 2004, at 11:00 a.m.**, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Carol A. Doyle in Courtroom 742 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, 60604, or in her absence, before any other Judge who may be sitting in her place or stead, and shall then and there present the **Application**. The hearing on this **Application** may be continued from time to time without further notice except as it may be given in open court.

Chicago, Illinois  
Dated: October 9, 2003

Respectfully submitted,  
KIRKLAND & ELLIS LLP



---

James H.M. Sprayregen, P.C. (ARDC No. 6190206)  
Richard L. Wynne (Admitted pro hac vice)  
Anne Marrs Huber (ARDC No. 6226828)  
Anup Sathy (ARDC No. 6230191)  
Roger J. Higgins (ARDC No. 6257915)  
Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, IL 60601-6636  
(312) 861-2000 (telephone)  
(312) 861-2200 (facsimile)

Counsel for the Debtors and Debtors In Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
OCT 09 2003  
KENNETH S. GARDNER, CLERK  
PS REP. - DR

<p><b>In re:</b></p> <p><b>Conseco, Inc., <u>et al.</u>,<sup>1</sup></b></p> <p style="padding-left: 100px;"><b>Debtors.</b></p> <hr/> <p><b>In re:</b></p> <p><b>Conseco Finance Corp., <u>et al.</u>,<sup>2</sup></b></p> <p style="padding-left: 100px;"><b>Debtors.</b></p>	<p>) <b>Chapter 11</b></p> <p>)</p> <p>)</p> <p>) <b>Case No. 02 B49672</b></p> <p>) <b>Honorable Carol A. Doyle</b></p> <p>) <b>(Jointly Administered)</b></p> <p>)</p> <p>) <b>Case No. 02 49675</b></p> <p>) <b>Honorable Carol A. Doyle</b></p> <p>) <b>(Jointly Administered)</b></p> <p>)</p> <p>) <b>Hearing Date: February 4, 2004</b></p> <p>) <b>Objections Deadline: <u>TBD</u></b></p>
---	--

Pursuant to sections 327, 330 and 331 of title 11 of the United States Code (the "Bankruptcy Code"), Fed. R. Bankr. P. 2016 (the Federal Rules of Bankruptcy Procedure are referred to herein as the "Bankruptcy Rules"), Rule 607 of the Bankruptcy Rules for the United States District Court and the United States Bankruptcy Court for the Northern District of Illinois (the "Local Bankruptcy Rules"), the Retention Orders (as defined below) and the Administrative Order Under Sections 105(a) and 331 of the Bankruptcy Code Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Committee Members (the "Interim Compensation Order"), the law firm of Kirkland & Ellis LLP ("Kirkland & Ellis" or "K&E"), bankruptcy counsel for the debtors and debtors-in-possession (the "Debtors") in the above-captioned chapter 11 cases, hereby applies for a final order pursuant to

<sup>1</sup> The CNC Debtors comprise the following entities: Conseco, Inc., ("CNC"), CIHC, Incorporated, ("CIHC"), CTHC, Inc., Partners Health Group, Inc., (collectively the "CNC Debtors").

<sup>2</sup> The CFC Debtors comprise the following entities: (i) Conseco Finance Corp. ("CFC") and Conseco Finance Servicing Corp., (ii) Conseco Finance Corp. - Alabama, Conseco Finance Credit Corp., Conseco Finance Consumer Discount Company, Conseco Finance Canada Holding Company, Conseco Finance Canada Company, Conseco Finance Loan Company, Rice Park Properties Corporation, Landmark Manufactured Housing, Inc., Conseco Finance Net Interest Margin Finance Corp. I, Conseco Finance Net Interest Margin Finance Corp. II, Green Tree Finance Corp. - Two, Conseco Agency of Nevada, Inc., Conseco Agency of New York, Inc., Green Tree Floorplan Funding Corp., Conseco Agency, Inc., Conseco Agency of Alabama, Inc., Conseco Agency of Kentucky, Inc., and Crum-Reed General Agency, Inc., Green Tree Finance Corp. - Five and Green Tree Residual Finance Corp. I, and Conseco Finance Credit Card Funding Corp., (the "CFC Debtors" and the CNC Debtors are collectively the "Debtors").

this fee application (the "Final Fee Application") allowing it (i) compensation in the amount of **\$22,646,466.50** for the reasonable and necessary legal services K&E has rendered to the Debtors (the "Fees") and (ii) reimbursement for the actual and necessary expenses that K&E incurred in the amount of **\$2,123,122.64** (the "Expenses"), in each case for the period from December 17, 2002, through September 9, 2003 (the "Final Fee Period"). With respect to the Final Fee Period, K&E has voluntarily waived time for all attorneys and paraprofessionals billing fewer than 4 hours during these Chapter 11 Cases. In this respect, K&E has waived 48.60 hours worked by 37 different attorneys and 72.20 hours worked by 37 different paraprofessionals, totaling over \$32,671.00 in actual fees. Additionally, K&E has waived approximately 620 hours spent traveling on behalf of the Debtors in these Chapter 11 cases, representing more than \$260,000 at K&E's standard hourly rates. **In all, K&E has voluntarily waived over \$292,000.00 in actual fees for services rendered during these Chapter 11 Cases.** In support of this Final Fee Application, K&E respectfully states as follows:

#### **Background**

1. When K&E began representing Conseco, Inc., and its subsidiaries (collectively "Conseco") in August 2002, the companies were in crisis. Most notably, the holding company was buckling under the weight of its debt service, which at the time totaled over \$6 billion. Further, CNC's finance company subsidiaries, having lost access to the securitization markets, were unable to finance new receivables and were losing money on the servicing of existing securitized loans. Finally, Conseco's insurance subsidiaries, by virtue of their affiliation with a group having higher debt leverage than their competitors, suffered ratings downgrades and faced an uncertain future.

2. During the fall of 2002, K&E worked with Conseco to explore various restructuring alternatives. Due to the widely-held nature of its public debt, and in light of the

complexity and interrelatedness of the overall debt structure, Conseco determined that a chapter 11 filing would be needed to de-leverage the balance sheet, restructure the finance company subsidiaries and restore Conseco to its historic place among this nation's elite insurance companies. K&E worked with Conseco for several months preparing for the chapter 11 filing, while simultaneously working with the CNC Debtors' primary creditor constituents to develop the framework for a restructuring. During this time, K&E attorneys also helped Conseco evaluate restructuring options for the CFC Debtors, including the potential sale of assets and the restructuring of servicing fees, and kept in nearly constant contact with Conseco's various insurance regulators to ensure that the transition into bankruptcy would be as smooth as possible.

3. On December 17, 2002, Conseco filed for chapter 11 in what was reported to be the third largest corporate bankruptcy in U.S. history (the "Chapter 11 Cases"). Not only were these cases extraordinarily large, they were also extraordinarily complex. The restructuring of the CFC Debtors, with their unique set of circumstances and separate restructuring goals, had to be pursued on essentially a separate track from the CNC Debtors. However, given the significant overlap in their debt structures, the restructuring of each debtor group was practically contingent on the restructuring of the other, requiring both plans to be confirmed on essentially the same general timetable. Notwithstanding these obstacles, from the very first day of the Chapter 11 Cases, where K&E helped obtain an order approving an interim servicing arrangement for CFC's manufactured housing ("MH") servicing business, the Debtors progressed steadily towards their goal of an efficient overall restructuring. On January 31, 2003, the CNC Debtors filed their initial plan of reorganization. On March 14, 2003, the CFC Debtors obtained final approval of the restructuring of the servicing fee for MH trusts, and received final approval of the CFN and GE sale orders. On April 1, 2003, the CFC Debtors filed their initial

plan of reorganization. Ultimately, on September 9, 2003, after having filed no fewer than six amended versions of both the CNC Debtors' and CFC Debtors' plans of reorganization, the Debtors' respective plans of reorganization were confirmed. On September 10, 2003, the CNC Debtors emerged from bankruptcy, followed by the CFC Debtors on September 15, 2003.

4. The CNC Debtors have emerged from bankruptcy having shed over five billion dollars in debt from their balance sheet, and have an meaningful opportunity to improve the ratings and strength of their insurance subsidiaries. Having sold substantially all of their assets through the chapter 11 process, the CFC Debtors have transferred substantially all of their remaining assets to the Post Consummation Estate, which the Plan Administrator is administering for the benefit of the CFC creditors.

5. K&E worked tirelessly for over a year to make this restructuring a success. During the course of the Chapter 11 Cases, K&E attorneys and paraprofessionals worked over 71,900 hours on the restructuring. In many areas, K&E attorneys and paraprofessionals developed and prosecuted novel solutions to critical issues facing Consec. In addition to the team of dedicated bankruptcy attorneys devoted almost exclusively to the Consec cases (which limited the amount of learning time), K&E was also able to draw on and utilize experienced attorneys from the firm's other departments, including corporate, litigation, tax, real estate, and employee benefits, among others.

**Retention of and Continuing Disinterestedness of Kirkland & Ellis**

6. By this Court's order dated January 14, 2003, the Debtors were authorized to retain K&E as their counsel, effective as of the Petition Date, with regard to the filing and prosecution of the Chapter 11 Cases and all related matters (the "Retention Order"). The Retention Order applies to all Debtors who filed voluntary petitions after the initial Petition Date by way of the various applicability orders entered in connection with each subsequent chapter 11

filing. The Retention Order authorizes the Debtors to compensate K&E at its hourly rates charged for services of this type and to be reimbursed for actual and necessary out-of-pocket expenses incurred, subject to application to this Court in accordance with the Bankruptcy Code, Bankruptcy Rules, the Local Bankruptcy Rules, and orders of this Court.<sup>3</sup>

7. K&E does not hold or represent any interest adverse to the estates, and is a disinterested person as that term is defined in section 101(14) of the Bankruptcy Code as modified by section 1107(b) of the Bankruptcy Code. During the course of these Chapter 11 Cases, K&E filed the following affidavits:

- (a) Affidavit of James H.M. Sprayregen, P.C., in Support of Application to Retain Kirkland & Ellis as Counsel to the Debtors under 11 U.S.C. § 327(a) (the "Original Affidavit") filed on December 17, 2002;
- (b) the First Supplemental Affidavit of James H.M. Sprayregen Under 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in Connection with the Kirkland & Ellis Retention Application (the "First Supplemental Affidavit"), filed on January 13, 2003;
- (c) Second Supplemental Affidavit Of James H.M. Sprayregen Under 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in Connection with the Kirkland & Ellis Retention Application (the "Second Supplemental Affidavit"), filed on March 4, 2003;
- (d) Third Supplemental Affidavit of James H.M. Sprayregen Under 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in Connection with the Kirkland & Ellis Retention Application (the "Third Supplemental Affidavit"), filed on March 31, 2003;
- (e) Fourth Supplemental Affidavit of James H.M. Sprayregen Under 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in Connection with the Kirkland & Ellis Retention Application (the "Fourth Supplemental Affidavit"), filed on July 7, 2003;
- (f) Fifth Supplemental Affidavit of James H.M. Sprayregen Under 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in

<sup>3</sup> The Retention Order specifically approved the K&E Retention Application, which provided that K&E's hourly rates "are subject to periodic adjustments, without further notice to the Court or any other entity, to reflect economic and other conditions..." The tables below reflect those changes in K&E's hourly rates as of January 1, 2003, pursuant to K&E's standard fee adjustment procedures.

Connection with the Kirkland & Ellis Retention Application (the "Fifth Supplemental Affidavit"), filed on August 5, 2003;

- (g) Sixth Supplemental Affidavit of James H.M. Sprayregen Under U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in Connection with the Kirkland & Ellis Retention Application (the "Sixth Supplemental Affidavit"), filed on September 5, 2003; and
- (h) Seventh Supplemental Affidavit of James H.M. Sprayregen Under U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure in Connection with the Kirkland & Ellis Retention Application (the "Seventh Supplemental Affidavit"), filed on September 11, 2003 (the Original Affidavit, the First Supplemental Affidavit, the Second Supplemental Affidavit, the Third Supplemental Affidavit, the Fourth Supplemental Affidavit, the Fifth Supplemental Affidavit, the Sixth Supplemental Affidavit and the Seventh Supplemental Affidavit are collectively referred to herein as the "Affidavits").

8. K&E may have in the past represented, may currently represent, and likely in the future will represent, parties-in-interest in connection with matters unrelated to the Debtors and these cases. In the Affidavits, K&E disclosed its connections to parties-in-interest that it has been able to ascertain using its reasonable efforts.

9. K&E performed the services for which it is seeking compensation on behalf of or for the Debtors and their estates and not on behalf of any committee, creditor or other person.

10. Except to the extent of the advance payment retainers paid to K&E that K&E previously disclosed to this Court and payments made in accordance with the Interim Compensation Order, K&E has received no payment and no promises for payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the Chapter 11 Cases.

11. Pursuant to Fed. R. Bankr. P. 2016(b), K&E has not shared, nor has K&E agreed to share (a) any compensation it received or may receive with another person other than with the partners, counsel and associates of K&E, or (b) any compensation another person or



party has received or may receive.

12. K&E has submitted the monthly fee applications covering the 9 monthly periods of December 17, 2002 through September 9, 2003 listed on Exhibit A.<sup>4</sup> K&E has already received **\$17,960,383.04** for its fees and **\$1,831,295.05** for its expenses incurred during the Final Fee Period,<sup>5</sup> pursuant to the Interim Compensation Order.

13. Also included in this Final Fee Application is K&E's request for final allowance and approval of compensation for the reasonable and necessary legal services K&E has rendered and reimbursement of actual and necessary expenses for the period August 1, 2003 through September 9, 2003, (the "Final Monthly Fee Period") that were posted to K&E's accounting system after K&E's fee application for the Final Monthly Fee Period was filed, and certain fees and expenses that have otherwise not appeared in previous fee applications (the "Supplemental Fees and Expenses"). On account of such fees and expenses, K&E seeks compensation in the amount of **\$109,968.00** for actual and necessary services that K&E rendered and reimbursement in the amount of **\$18,926.55** for actual and necessary expenses that K&E incurred. Attached hereto as Exhibit E is a detailed itemization and description of the Supplemental Fees and Expenses.<sup>6</sup> Attached hereto as Exhibit F is a summary of the Supplemental Fees incurred and time spent for each of the Subject Matters (as defined herein) during the Final Fee Period. Attached hereto as Exhibit G is a summary of the Supplemental Expenses by type for the Final Fee Period. The amounts on account of the Supplemental Fees and Expenses included in Exhibits E, F, and G are included in the Final Fee Application.

<sup>4</sup> The monthly fee applications, and their respective certificates of no objection, are referenced on Exhibit A attached hereto, and are available on the Court's docket, or by requesting copies in writing from K&E, at the address below.

<sup>5</sup> As of the filing of this Final Fee Application, K&E has not been paid for the fees and expenses requested in its August 1, 2003-September 9, 2003, monthly fee application, although may be paid in the future before the hearing on this Final Fee Application.

<sup>6</sup> References to Exhibits B, C, and D appear below.

**Reasonable and Necessary Services Rendered by K&E -- Generally**

14. The K&E attorneys and paraprofessionals who rendered professional services in these chapter 11 cases during the Final Fee Period are listed in Exhibit B by month.

15. K&E has advised and represented the Debtors in connection with the operation of their businesses and all other matters arising in the performance of their duties as a debtors-in-possession. Furthermore, K&E has prepared various pleadings, motions, and other papers submitted to this Court for consideration, has appeared before this Court during hearings regarding these cases, and has performed all of the other professional services that are described in this Final Fee Application.

16. The rates described above are K&E's hourly rates for services of this type. Based on these rates and the services performed by each individual, the reasonable value of such services is **\$22,646,466.50**. K&E worked a total of **71,904.10** hours for these cases during the Final Fee Period. The blended rate for K&E attorneys working on this engagement was \$383.77, while the blended rate for paraprofessionals was \$140.27. In accordance with the factors enumerated in 11 U.S.C. § 330, the amount of fees requested is fair and reasonable given (a) the complexity of these cases, (b) the time expended, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the costs of comparable services other than in a case under the Bankruptcy Code.

**Reasonable and Necessary Services Rendered  
by K&E - Categorized by Matter**

17. The professional services that K&E rendered during the Final Fee Period are grouped into the numbered and titled categories of the subject matters (the "Subject Matter(s)") described in Paragraphs 18 - 44 herein. Attached hereto as Exhibit C are summary charts of the time spent and fees incurred for each of the Subject Matters during the Final Fee

Period on a month-by-month basis.

18. Matter 3: Bankruptcy Filing

(Fees: \$50,152.50; Hours: 175.40)

This Subject Matter includes time spent by K&E preparing for the initial first-day hearing, preparing the subsequent bankruptcy filings of various subsidiaries, and filing various other pleadings during the course of the Chapter 11 Cases.

To initiate these Chapter 11 Cases, K&E assembled, prepared, filed and served six voluntary petitions and 39 pleadings on the Court, 35 creditor constituencies and all professionals associated with three ad hoc creditor committees.

In addition to the initial bankruptcy filings, K&E also facilitated several subsequent bankruptcy filings during the course of the Chapter 11 Cases. On February 3, 2003 an additional 18 subsidiaries filed voluntary bankruptcy petitions. On June 12, 2003, an additional two entities filed for bankruptcy--Green Tree Residual Finance Corp. I and Green Tree Finance Corp. Five. On June 26, 2003, Conseco Finance Credit Card Funding Corp filed a voluntary petition for bankruptcy. K&E spent substantial time and resources preparing pleadings and coordinating service related to these filings.

This Subject Matter, in conjunction with the "Case Administration" matter, also contains some of the time spent by K&E filing and coordinating service of various pleadings filed throughout the Chapter 11 Cases.

19. Matter 4: Automatic Stay Matters

(Fees: \$362,313.00; Hours: 1,259.70)

This Subject Matter includes time spent by K&E (a) responding to various lift stay motions, (b) developing and implementing lift stay procedures, and (c) developing and implementing lien claim procedures.

*Lift stay motions*

K&E reviewed and responded to over 150 motions for relief from the automatic stay filed pursuant to section 362(a) of the Bankruptcy Code. These motions included, among other things, requests to (a) continue litigation, arbitration and other adversary proceedings against the CFC Debtors; (b) foreclose on collateral financed and serviced by the CFC Debtors; and (c) recover superseded bonds posted by the CFC Debtors in connection with litigation. In this regard, K&E participated in telephone conferences with the CFC Debtors, local counsel to the CFC Debtors and movants' counsel. K&E resolved these lift stay motions by negotiating stipulations and orders with movants' counsel or by preparing objections to lift stay motions and, where necessary, contesting such motions at omnibus hearings.

*Lift Stay Procedures*

In order to save court time, docket space and fees for all parties, K&E prepared and prosecuted a motion to establish lift stay procedures ("Lift Stay Procedures") for foreclosure actions involving CFC's home equity and home improvement loans ("HE/HI Loans"). The Lift Stay Procedures enabled movants to obtain relief from stay to pursue foreclosure actions against property secured by an HE/HI Loan by submitting written documentation to CFC, K&E and the Office of United States Trustee, in lieu of filing motions for relief from stay in the Bankruptcy Court.

### *Lien Claim Procedures*

K&E also prepared and prosecuted a motion to establish lien claim procedures ("Lien Claim Procedures") for lienholders alleging possessory liens against property secured by CFC MH loans. These Lien Claim Procedures were designed to enforce the automatic stay against possessory lienholders who were preventing CFC from liquidating its collateral on a timely basis. In connection with the Lien Claim Procedures, K&E analyzed the interplay between applicable state lien law and the Bankruptcy Code, numerous related securitization issues, and the validity of liens asserted against the CFC Debtors' collateral. Finally, K&E resolved several objections to interim and final implementation of the Lien Claim Procedures. This involved telephone conferences with lienholders' counsel, the CFC Debtors and other professionals of the CFC Debtors.

20. Matter 5: Avoidance Actions

(Fees: \$30,513.00; Hours: 98.30)

This Subject Matter includes time spent by K&E analyzing potential avoidance actions under sections 544, 545, 546, 547, 548 and 549 of the Bankruptcy Code for the benefit of the CFC Debtors and CNC Debtors' estates. This Subject Matter does not include time spent analyzing potential recoveries under the D&O loan program.

21. Matter 6: Case Administration

(Fees: \$1,196,238.00; Hours: 7,113.90)

This Subject Matter encompasses a number of different activities undertaken by K&E in the general administration of these Chapter 11 Cases. In particular, this Subject Matter included the following activities:

### *Preparation of Pleadings for Filing and Service*

The Debtors and other parties in these Chapter 11 Cases filed voluminous numbers of pleadings. In particular, the Debtors filed over 900 pleadings in these Chapter 11 Cases. For each such pleading, K&E prepared notices of motion, minute orders, certificates of service, exhibits and schedules, as applicable. K&E filed each such pleading with the Court and coordinated service on the Core Group, the 2002 List (which included more than 300 parties), and all other affected parties by hand delivery, facsimile, U.S. Mail, or e-mail. Additionally, K&E coordinated the hand delivery of such pleadings to chambers and to the Office of the United States Trustee (the "UST"). Coordinating service also entailed significant collaboration with Bankruptcy Management Corporation, the Debtors' notice and claims agent ("BMC").

### *Monitoring Docket, Distributing Pleadings and Tracking Critical Dates*

K&E also monitored the dockets in these Chapter 11 Cases (and the 15 related adversary proceedings) in order to track the filing of pleadings by other parties-in-interest in the Debtors' cases and to stay apprised of key dates related to such pleadings. Monitoring the docket, on which over 6,000 pleadings were filed, was a monumental task. For each pleading filed by the Debtors or another party, K&E ensured that the appropriate attorneys and business persons stayed apprised of objection and response deadlines, hearing dates, and other critical dates related to these Chapter 11 Cases. In addition, K&E distributed the appropriate pleadings, transcripts and other documents to attorneys and business persons as needed.

### *Preparation of Notices, Press Releases and Suggestions of Bankruptcy*

Based on the size and notoriety of the Chapter 11 Cases, ensuring that parties-in-interest as well as the press and general public received accurate and complete information related to the Chapter 11 Cases greatly concerned the Debtors. As a result, K&E devoted a great deal of attention to preparing and disseminating notices and press releases related to the Chapter

11 Cases. In particular, K&E prepared, served, and coordinated publication of notices such as the notice of commencement, the various sale notices, the various bar date notices, the notice of equity trading restrictions, and the notices of the confirmation hearing. In addition, K&E assisted the Debtors in preparing various press releases related to the Chapter 11 Cases. Finally, K&E also coordinated the preparation and filing of hundreds of suggestions of bankruptcy in cases pending against the Debtors prior to the Petition Date to ensure that such litigation did not proceed in violation of the automatic stay of section 362 of the Bankruptcy Code.

*Development and Maintenance of the Chapter 11 Cases Website*

In addition to collaborating with BMC with respect to service of pleadings, K&E helped facilitate the development and maintenance of the BMC website for these Chapter 11 Cases. K&E attorneys and paraprofessionals not only provided information to BMC for inclusion on the website, but they were instrumental in developing the content and format for the website and ensuring the accuracy of the information provided on the website. The website proved to be useful tool for attorneys and creditors in these Chapter 11 Cases, as shown by the over 130,000 documents downloaded during the Chapter 11 Cases.

*Maintenance of Central Files and Due Diligence Files*

Given the size and complexity of the Chapter 11 Cases, it was essential that K&E maintain comprehensive central files and due diligence files. Consequently, K&E spent significant time and energy collecting, organizing, documenting, and retaining various documents, correspondence, financial data, and other types of information to support K&E and other professionals involved in these Chapter 11 Cases. Such information was utilized throughout the Chapter 11 Cases, including in preparing pleadings, in negotiating sales and other transactions, developing and preparing the plans and disclosure statements, and responding to document production requests.

### *Compliance with Case Management Procedures*

In order to efficiently and effectively administer these Chapter 11 Cases, K&E developed, on behalf of the Debtors, case management procedures that were approved by an order of this Court early in the Chapter 11 Cases. This order provided procedures for filing and service of requests for relief, objections thereto and replies to objections. In order to ensure that the case management procedures were of maximum benefit in these Chapter 11 Cases, K&E dedicated much of its efforts to ensure that not only the Debtors but other parties-in-interest in these Chapter 11 Cases complied with the case management procedures. On behalf of the Debtors, this included the proper filing and service of, among other papers, notices of motion, certificates of service, certificates of no objection, and hearing agendas. With respect to other parties, K&E collaborated regularly with interested parties to ensure that they were aware of and complied with the case management procedures. These efforts aided in the smooth administration of these Chapter 11 Cases. Moreover, K&E established efficient internal processes for the administration of the Chapter 11 Cases, as evidenced by the fact that more than 80% of the time spent by K&E on Case Administration was spent by paraprofessionals. Indeed, the blended hourly rate for K&E attorneys and paraprofessionals in this matter was \$168.

#### 22. Matter 7: Cash Management

(Fees: \$12,335.00; Hours: 35.60)

The Subject Matter includes time spent by K&E working to initiate and maintain an efficient and orderly transition of both the CNC and CFC Debtors' bank accounts into debtor-in-possession bank accounts, coordinating with Consecro and banking industry professionals to minimize disruptions to cash flow and payment processes and to ensure the availability of funds for ongoing business transactions.



K&E also responded to significant liquidity concerns faced early in the Chapter 11 Cases by the CFC Debtors. K&E responded to various cash management issues arising from these liquidity concerns, as well as cash management issues arising in connection with the DIP credit facilities.

23. Matter 8: Claims Estimate, Objection & Resolution

(Fees: \$1,352,881.00; Hours: 4,941.10)

This Subject Matter includes time spent analyzing, handling and objecting to claims filed against the CNC Debtors and the CFC Debtors. K&E created and followed a systematic approach in the constant review and processing of thousands of claims, whereby claims would be received by its claim agent, initially reviewed by K&E attorneys and forwarded to the company for cross-referencing with the Debtors' books and records.

*CNC Debtors*

The claims process in this matter, particularly in regard to the CNC Debtors, was critical and time sensitive because a cap on allowed general unsecured claims against CIHC had to be met in order for the CNC Debtors' plan to be confirmed and consummated. That is, pursuant to the CNC Debtors' plan, it was a condition precedent to confirmation that the deemed general unsecured claims against CIHC total no more than \$60 million. At the outset, there were 862 general unsecured claims totaling \$5,352,585,071.76 filed against CIHC. On September 9, 2003, the date the CNC plan was confirmed, only 186 claims against CIHC remained totaling merely \$21,853,639.26. Similarly, the total claims against CNC were successfully reduced from 7,031 claims totaling \$12,264,533,158.89, to 162 claims totaling only \$77,901,310.49.

In the course of this claims resolution process, K&E also created and implemented a procedure for estimating claims. Through this claims estimation process, K&E

successfully reduced claims of over \$1 billion against CIHC. In particular, K&E litigated and prevailed on four guaranty claims by certain Lehman Brother entities, thereby expunging four \$125 million claims against CIHC. K&E was required to conduct discovery as well as file numerous pleadings related to the estimation of these claims. Following extensive briefing and oral argument, K&E prevailed on estimating Lehman's claim at zero, despite the existence of an admitted guaranty obligation. Lehman appealed the Court's decision and K&E was required to file designations for the appellate record as well as brief the issues on appeal. The Debtors subsequently settled with Lehman whereby the appeal was dismissed and, additionally, another \$12 million of Lehman's claims against CIHC and CNC were disallowed upon confirmation of the CFC Debtors' plan.

Additionally, through the estimation process, K&E successfully negotiated: (i) the voluntary dismissal of US Bank's \$1 billion claim against CIHC; (ii) the reduction of General Electric Capital Corporation's claims against the Debtors by approximately \$14 million; (iii) the reduction of Fleet's claims against CIHC by approximately \$10 million; and (iv) the reduction of JP Morgan's claim against CNC by \$4.5 million.

Furthermore, K&E successfully settled a \$100 million dollar personal injury/wrongful death claim against CIHC filed on behalf of the special administrator of the estate of Lawrence Inlow, a former officer and director of Consec, for a final claim of \$800,000 against the Debtors' estates.

Perhaps more importantly, K&E facilitated the overall reduction of claims against the CNC Debtors in an expeditious manner and with minimal time before the Court, especially in light of the volume of claims asserted against the Debtors and the magnitude of the dollar amounts at issue.

### *CFC Debtors*

K&E applied the same systematic approach to the more than 14,000 claims filed against the CFC Debtors, totaling approximately \$6.5 billion. Through this process K&E drafted, filed and served 11 separate omnibus objections, objecting to over 2,000 claims to date. In addition to the preparation and filing of these objections, K&E spent numerous hours fielding and responding to the myriad of questions and responses received from claimants regarding the treatment of their claims.

As a result of these objections and efforts, K&E has successfully expunged over 2,000 claims totaling approximately \$4.5 billion.

#### 24. Matter 9: Contested Matters/Adversary Proceedings

(Fees: \$928,705.50; Hours: 2,736.50)

This Subject Matter includes time spent by K&E litigating or participating in 15 different adversary proceedings filed in connection with these Chapter 11 Cases. Specifically, the Debtors were required to litigate: (i) Consecro Inc. v. London Subscribing To Excess Directors, et al., (ii) Textron Financial Corp. v. Consecro Finance Corp. et al., (iii) Nauert v. US Bank, et al., (iv) Carmel Fifth LLC et al. v. 767 Manager LLC et al., (v) Fire Retirement System et al. v. CIHC Inc., et al., (vi) Official Committee of Trust Originated Preferred Stock v. JP Morgan Chase Bank, et al., (vii) Matrix Asset Management Corp. v. Consecro Finance Servicing Corp., (viii) Indymacbank v. Consecro, Inc., (ix) Consecro, Inc. v. Lehman Commercial Paper, Inc., et al., (x) Textron Financial Corp. v. Consecro Finance Corporation, et al., (xi) Jeanette & RC Bradford et al. v. Mitchell, (xii) Consecro Finance Servicing Corp., et al. v. Bazzle-Lackey, et al., (xiii) Consecro Finance Corp. v. Alltel Information Services, Inc., (xiv) Consecro Finance Servicing Corp. v. Chipman et al., (xv) Consecro Finance Servicing Corp. v. Harper et al.

Additionally, this matter includes time spent by K&E representing the Debtors and their insurance subsidiaries in connection with claims asserted and pending litigation commenced by Elizabeth Georgakopoulos, the former president of non-debtor affiliate Conseco Insurance Group, related to the termination of her employment.

In connection with these adversary proceedings, K&E was required to conduct discovery, prepare for hearings, and draft pleadings. For example, the following are highlights from some of the more notable adversaries.

*Bazzle-Lackey*

In the Bazzle-Lackey matter, the Debtors have been litigating many complex multi-jurisdictional and commercial issues before this Court. Additionally, as a result of certain conduct of Bazzle-Lackey, K&E was required to draft, prepare for and proceed with a preliminary injunction, which they obtained.

*Fire Retirement System*

Similarly, the Fire Retirement System adversary was the cause of voluminous pleadings and litigation, including large scale discovery disputes and dispositive motions relating to the Fire Retirement Systems claims. Furthermore, K&E participated in mediation proceedings and negotiation conferences with Fire Retirement Systems and certain related insurance entities that ultimately resulted in the settlement and withdrawal of millions of dollars of claims and various adversary actions without any recovery against the Debtors' estates.

*Nauert*

In the Nauert action, K&E was required to bring, and was successful in, a motion to disqualify Nauert's original counsel, which had a direct conflict of interest related to the

underlying litigation. In addition, K&E has prosecuted the underlying claims that Mr. Nauert allegedly has against the Debtors.

*Carmel Fifth (Trump)*

The Carmel Fifth LLC adversary involved contentious litigation with Donald Trump and associated entities relating to the ownership rights over the GM Building in New York. The Debtors were required to litigate the jurisdiction of the Court over the adversary complaint. That litigation resulted in this Court's adoption of a condensed timeline and Court oversight on the progress of an external arbitration. The Debtors were then required to prepare for and participate in the multi-day New York arbitration where the Debtors won the arbitration and, as a result, were able to enter into a favorable settlement agreement with Trump. Consequently, the Debtors were able to hold an auction for the GM Building and subsequently close a sale of the property for a record \$1.4 billion, thereby substantially benefiting the Debtors' estates.

25. Matter 10: Corporate & Securities Matters

(Fees: \$1,511,745.00; Hours: 3,582.40)

This Subject Matter includes time spent by K&E advising the Debtors on general corporate matters and negotiating and drafting various corporate documents. K&E rendered corporate advice and services on many different issues, including, but not limited to, (a) the Debtors' plans of reorganization and plan supplements, (b) taking steps to effectuate the plans of reorganization and emerge from bankruptcy, (c) public filings, and (d) corporate governance.

*Plan Related Documents*

K&E spent considerable time negotiating the various agreements referenced in the Debtors' plans of reorganization and embodied in the Debtors' respective plan supplements.

Specifically, K&E negotiated the New CNC Credit Facility and the terms of the New CNC Preferred Stock terms with the CNC creditors' committee. K&E also drafted and negotiated the charter and bylaws for New CNC. K&E drafted and negotiated separate registration rights agreements for the holders of New CNC Preferred Stock and New CNC Common Stock. K&E also drafted and negotiated the Warrant Agreement with the TOPrS committee and also negotiated a warrant agreement with the lenders that was ultimately not part of the reorganization. Finally, K&E also drafted and negotiated the Management Incentive Plan, employment contracts and the related agreements.

*Implementation of the Plan and Emergence from Bankruptcy*

K&E spent considerable time taking all the required steps to allow the Debtors to emerge from bankruptcy. Towards this end, K&E formed New CNC as a Delaware corporation and completed the necessary steps to effectuate the G-Reorganization under the U.S. Tax Code, including drafting and negotiating the declaration of trust and schedule of fees with Wilmington Trust Company. K&E also reviewed and commented on all corporate resolutions of Old CNC and New CNC required to effectuate the reorganization.

K&E coordinated the issuance and distribution of New CNC securities among BMC, Lazard, Freres & Co., LLC ("Lazard"), Wachovia Bank, N.A., as transfer agent ("Wachovia"), and the Depository Trust Company ("DTC"). K&E was involved in ongoing discussions with each of BMC, Lazard, Wachovia and DTC regarding issuance and distribution issues. In addition, K&E worked directly with representatives of DTC to make the New CNC Preferred Stock, Warrants and Common Stock DTC eligible, including the preparation and negotiation of letters of representation with DTC regarding the New CNC Preferred Stock and Warrants.

Further, K&E worked directly with the New York Stock Exchange, Inc. ("NYSE") to secure the listing of both the New CNC Common Stock and Warrants on the NYSE, including preparation of the original listing application, participation in meetings and telephone conferences with representatives of the NYSE, preparation and submission of various ancillary agreements and preparation and negotiation of a legal opinion to the NYSE. As a contingency, K&E also worked with representatives of Nasdaq to secure a listing of the New CNC securities.

#### *Public Securities Filings*

K&E prepared and/or reviewed several SEC filings on behalf of both New CNC and Old CNC, including Form 10-K filings, Form 10-Q filings, Form 8-K filings, Forms 8-A filings, Form 15 filings, Form S-8 filings and post-effective amendments to Form S-8s and Form S-3s.

#### *Corporate Governance*

K&E spent significant time researching numerous securities, corporate and Sarbanes-Oxley Act of 2002 issues in connection with the reorganization. K&E advised the existing Board of Old CNC and the prospective Board of New CNC on numerous issues in connection with the reorganization, including corporate, corporate governance, indemnification and bankruptcy issues. K&E prepared numerous memoranda advising the Board of New CNC on matters relating to director independence and compliance with the Sarbanes-Oxley Act of 2002 and related SEC regulations and NYSE rules. K&E prepared charters for each standing committee of New CNC's Board. K&E prepared securities trading policies applicable to New CNC's directors and officers, and to all personnel of New CNC. K&E worked with the

Company to obtain D&O insurance policies. K&E also continually advised the Debtors regarding executive officer compensation, retention and separation issues.

26. Matter 11: Creditors/Shareholder's Inquiries

(Fees: \$317,253.50; Hours: 1,419.80)

This Subject Matter includes time spent by K&E responding to the high volume of creditor and shareholder inquiries directed to the Debtors and to K&E during the Chapter 11 Cases. Inquiries included, but were not limited to, questions regarding (a) the creditors' committee formation meeting, (b) notices of filing, (c) the impact of the Chapter 11 Cases on the Debtors' insurance subsidiaries, (d) the claims process, (e) the status of the Chapter 11 Cases, and most significantly, (f) questions regarding distributions under the plans. K&E also responded to inquiries from creditors of the CFC Debtors regarding sale of estate assets, loan servicing, liens, relief from automatic stay, repossession, rejection of executory contract, trade vendors, claims submission, status and payment, reporter inquiries and general case status. In addition, K&E spent considerable time responding to formal and informal requests for information from the statutory committees.

*Interacting with the Official Committees*

The UST appointed the following three committees in these Chapter 11 Cases: (i) the Official Unsecured Creditors Committee for the Holding Company Debtors (the "CNC Committee"); (ii) the Official TOPrS Committee (the "TOPrS Committee"); and (iii) the Official Unsecured Creditors Committee for the CFC Debtors (the "CFC Committee" and collectively, the "Official Committees"). In order to effectively prosecute and quickly conclude these Chapter 11 Cases, K&E dedicated significant time and effort interacting with the Official Committees with respect to the latter's information and document requests and other needs. K&E often acted



as a liaison between the Official Committees and the Debtors, advising each with respect to various aspects of the Chapter 11 Cases, including, but not limited to, the formulation, solicitation, confirmation, and consummation of the Debtors' plans and the bar date and other matters relating to claims administration in these Chapter 11 Cases. K&E's efforts were thus instrumental to the Official Committees' functions in these Chapter 11 Cases.

27. Matter 12: Executory Contracts/Leases

(Fees: \$526,047.50; Hours: 1,729.10)

This Subject Matter includes legal services related to executory contracts and unexpired leases. The CFC Debtors were party to more than 36,000 executory contracts and unexpired leases at the commencement of the Chapter 11 Cases, including highly sophisticated securitization agreements, servicing and sub-servicing agreements, dealer services agreements, software and other intellectual property licenses and leases, real property leases and employment agreements. Likewise, the CNC Debtors were also party to several thousand executory contracts and unexpired leases.

*CFC Debtor Contracts*

The legal services K&E provided in connection with executory contracts and unexpired leases included: (a) a comprehensive review of contracts and leases for assumption or rejection in preparation for the sales of the CFC Debtors' assets; (b) preparation of motions to assume or reject executory contracts or unexpired leases; (c) strategic and legal analysis of the effects of assumption or rejection of executory contracts; and (d) the design, preparation and implementation of novel rejection procedures, which allowed the Debtors to reject contracts or

leases on 14 days' negative notice, saving the Debtors the additional legal expense associated with the preparation and hearing of motions to reject contracts and leases.<sup>7</sup>

#### *CNC Debtor Contracts*

On behalf of the CNC Debtors, K&E spent time analyzing contracts for assumption or rejection. These agreements included complex employment agreements and service agreements, requiring the coordination of bankruptcy and employee benefits attorneys. Given the default provision under the CNC plan that all contracts would be assumed unless explicitly rejected, K&E spent considerable time working with the Debtors and others to determine cure obligations associated with the many contracts to be assumed. Further, K&E prepared multiple motions to reject contracts, and also prepared various notices of assumption and proposed cure amounts sent to those counterparties to contracts assumed by the CNC Debtors.

#### *Contracts of Both CNC Debtors and CNC Debtors*

Finally, in many instances, the CFC and CNC Debtors were parties to the same agreements, but differed as to whether the agreement should be assumed or rejected. Each of these agreements was a multi-party agreement, the renegotiation of which required K&E to coordinate and address the issues of diverse constituencies. Moreover, a number of these agreements were highly complex intellectual property agreements requiring review by intellectual property, bankruptcy and corporate attorneys. K&E designed and implemented innovative techniques for splitting these agreements to allow one or both parties to assume the agreement, to provide for the assignment of the agreement, or to allow one party to assume the agreement and the other to reject the agreement.

---

<sup>7</sup> Several K&E attorneys who reviewed CFC Debtor Contracts in connection with the sale of these Debtors' assets billed time to matter # 22, as described below.

28. Matter 13: Hearings

(Fees: \$841,664.00; Hours: 3,447.10)

This Subject Matter includes time spent by K&E preparing for and attending hearings during the Chapter 11 Cases. K&E prepared for and attended over 36 post-petition hearings--including those for bidding procedures, sale procedures, DIP financing, omnibus hearings, omnibus objection to claims hearings, confirmation and related issues, solicitation issues, release issues, and hearings approving settlements--at which more than 580 agenda items were presented to the Court. Matters presented or defended in Court included those that concerned DIP financing, bidding procedures, rejection of contracts and leases, motions to lift the automatic stay, administrative claims, approvals of sales, key employee retention, applicability motions, omnibus objections to claims, and status hearings on adversary proceedings.

K&E filed and served an agenda before each hearing. Further, before each hearing, K&E compiled applicable copies of pleadings and resources for use by the Court in preparing for and presiding over the hearing. For internal purposes, K&E also gathered case precedent for contested matters, drafted talking points memoranda as necessary, and prepared presentations on substantive matters to be presented to the Court.

When necessary, K&E set up a remote office space at Court for hearings, where proposed orders and stipulations could be revised based upon negotiation between the parties or guidance by the Court. Orders and stipulations entered for docketing by the court at hearings were served by K&E to the relevant service lists. Finally, hearing summaries were drafted and circulated internally following each hearing.

29. Matter 14: K&E Fee Applications

(Fees: \$238,919.50; Hours: 1,049.90)

This Subject Matter includes legal services related to the preparation of K&E fee applications. In connection with the Chapter 11 Cases, over 300 attorneys and paraprofessionals rendered services to the Debtors. To ensure compliance with the procedures and standards of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, guidelines of the UST and orders of the Court, K&E bankruptcy attorneys reviewed the individual time entries of each professional and paraprofessional. Due to the volume, complexity and nature of the Chapter 11 Cases, the review of K&E's billing statement in preparation for its monthly and quarterly fee applications typically required the coordination of several attorneys working in conjunction.

The total time spent by K&E in preparation of fee applications is 1,049.90 hours or 1.46% of the total hours billed and 1.06% of the total amount of fees requested. This amount is well within the 3% guideline proffered by courts in this jurisdiction. *See, In re Wildman*, 72 B.R. 700, 711 (Bankr. N.D. Ill. 1987) ("In the absence of unusual circumstances, the hours allowed by this Court for preparing and litigating the attorney fee application should not exceed three percent of the total hours in the main case.") Further, the average billing rate for the preparation of K&E fee applications was approximately \$225 per hour, indicating that the fee applications were prepared primarily by paraprofessionals and junior attorneys.

30. Matter 15: Plan/Disclosure Statement/Confirmation

(Fees: \$5,116,274.50; Hours: 15,513.00)

This Subject Matter describes perhaps the most difficult and challenging aspect of the Chapter 11 Cases: time spent by K&E negotiating the Debtors' plans of reorganization, preparing and obtaining approval of the disclosure statements and solicitation materials, and

working towards confirmation of the plans. Specifically, significant amounts of time were spent (i) preparing and obtaining approval of the Debtors' disclosure statements, (ii) negotiating and drafting the Debtors' plans of reorganization, (iii) negotiating and documenting the various settlement agreements ultimately embodied in the Debtors' plans of reorganization, and (iv) preparing for and participating in the valuation trial and related hearings.

#### *CNC Debtors*

On January 31, 2003, a little over a month after filing for chapter 11 protection, the CNC Debtors filed their initial Plan and disclosure statement. Preparation of the CNC disclosure statement required considerable time and interfacing between K&E bankruptcy, corporate and tax attorneys, as well as attorneys from other departments. The CNC disclosure statement was amended twice, in response to comments and objections. There were at least 11 formal objections filed to the CNC Debtors' disclosure statement. K&E worked diligently to resolve many of these objections out of Court. The CNC Debtors' disclosure statement was ultimately approved on March 18, 2003. Additionally, K&E drafted, negotiated and obtained approval of the solicitation procedures and materials used to solicit votes on the CNC Debtors' plans of reorganization.

K&E began developing the framework of the CNC Debtors' plan of reorganization well before the filing of the Chapter 11 Cases, drafting close to 40 different versions of a restructuring term sheet before drafting and negotiating the CNC Debtors' initial plan of reorganization. The CNC Debtors filed their initial plan of reorganization on January 31, 2003. Ongoing negotiations resulted in the subsequent filing of multiple amended versions of the CNC Debtors' plan. The plan negotiation process was exceedingly complex. Various insurance ratings and regulatory agencies set a maximum debt-to-equity ratio, allocations had to

be negotiated as between different bondholder classes, and a strategy had to be developed with respect to the different debt obligations that were shared by both the CNC Debtors and the CFC Debtors. Ultimately, K&E filed six different amended versions of the CNC Debtors' plan, on March 12, March 18, June 16, July 15, August 18, and September 9, 2003.

Additionally, K&E prepared extensive briefs in support of the CNC plan, including multiple briefs on the issue of third-party releases. K&E also sought and obtained several extensions of the voting deadline and postponements of the confirmation hearing. K&E also successfully challenged a motion by the TOPrS Committee to modify the Debtors' exclusive period in an effort to file a competing plan of reorganization.

K&E also spent a considerable amount of time preparing for the confirmation hearing, including, most notably, the TOPrS valuation trial. Leading up to the confirmation hearing, K&E participated in approximately 26 depositions (21 of which were noticed by the TOPrS), produced over 200,000 pages of documents from the Debtors and over 120 boxes of documents from Milliman, produced thousands of e-mails and other electronic files, and responded to numerous lengthy discovery requests. Additionally, K&E spent time developing an overall trial strategy, preparing opening and closing statements, preparing witnesses, preparing to cross-examine opposing witnesses, and actually participating in the trial itself. As the Court will no doubt recall, the valuation trial took place over 18 days, and required significant time and resources.

Finally, K&E drafted and negotiated the confirmation order for the CNC Debtors. This order was signed by the Court on September 9, 2003.

### *CFC Debtors*

The CFC Debtors filed their initial disclosure statement and plan of reorganization on April 1, 2003. Preparation of the CFC disclosure statement required considerable time and attention from K&E bankruptcy, corporate and tax attorneys, with attorneys from other departments participating as well. The CFC disclosure statement was amended twice, in response to comments and objections. There were at least 12 formal objections filed to the CFC Debtors' disclosure statement. K&E worked diligently to resolve many of these objections out of court. The CFC Debtors' disclosure statement was approved on May 7, 2003. Additionally, K&E drafted, negotiated and obtained approval of the procedures and materials used to solicit votes on the CFC Debtors' plans of reorganization.

The development of the CFC Debtors' plan of reorganization began in earnest upon the approval of the GE and CFN asset sales. The CFC Debtors filed their initial plan of reorganization on April 1, 2003, and also ended up filing an additional six amended versions of the plan before confirmation, on April 25, May 7, June 17, July 16, August 18 and September 9, 2003.

Additionally, K&E prepared and filed an extensive brief in support of the CFC Debtors' plans of reorganization. On June 19, 2003, after several hearings and extensive briefing, the Court entered an order conditionally confirming the CFC Debtors' plan of reorganization.

### *Negotiating and Documenting Plan Settlements*

Due in large part to the overlapping debt structures of the CNC Debtors and CFC Debtors, a number of compromises and settlements needed to be negotiated and implemented in the respective plans of reorganization. Notably, K&E was the architect of the intercompany settlement, which resolved issues such as the payment of the 93/94 Notes, CNC's ability to retain

its B-2 Guarantee Claims, the payment of administrative expense claims allocable to both the CNC and CFC Debtors, and the resolution of over \$500 million of intercompany claims. Additionally, K&E negotiated a full resolution of the Lehman claims, including the Lehman appeal of this Court's decision on the estimation motion. K&E also negotiated a resolution of Gary Wendt's objection to the CNC Debtors' plan of reorganization. Finally, K&E participated in the resolution of the TOPrS objections and worked to implement the settlement in the CNC Debtors' final plan of reorganization.

In addition to negotiating and implementing these settlements, K&E also briefed and argued the issue of resolicitation under section 1127 of the Bankruptcy Code and Fed. R. Bankr. P. 9019, and negotiated, obtained approval of, and coordinated the distribution of the supplemental notices sent to various parties in connection with these settlements, including the TOPrS opt-out notice.

#### *Summary*

In all, K&E spent over 15,000 hours working directly towards confirmation of the CNC and CFC Debtors' plans of reorganization. Given the large amount of debt to be restructured, the complexity created by the overlap in the CFC and CNC Debtors' capital structures, the myriad of well-represented parties-in-interest, the ever-present media attention, and the fast pace of these Chapter 11 Cases, the confirmation process was fluid and dynamic, and required a tremendous dedication of time and effort by K&E. The overlapping capital structures further dictated that the CFC and CNC plans of reorganization be confirmed on essentially the same time table, and indeed, consummation of the CFC plan was conditioned upon the CNC plan having gone effective first. K&E approached the labyrinth of issues with novel and creative solutions to interrelated problems. In the end, both plans were approved by final confirmation



orders on the same day, and the CNC and CFC debtors emerged from bankruptcy within five days of each other. Notwithstanding the other successes achieved during the Chapter 11 Cases, confirmation of the plans and the restructuring of the CNC Debtors' \$6 billion prepetition debt load represent among the most significant highlights of these Chapter 11 Cases.

31. Matter 16: Retention of Professionals

(Fees: \$182,505.50; Hours: 657.50)

*Ordinary Course Professionals*

The Subject Matter includes time spent by K&E coordinating the Debtors' retention of over 500 ordinary course professionals ("OCPs") to provide services to the Debtors in their ordinary course of business. In this regard, K&E prepared letters to OCPs explaining the terms of the Court's Order Authorizing the Debtors to Employ and Compensate Professionals in the Ordinary Course of the Debtors' Business, dated January 14, 2003 (the "OCP Order"), participated in numerous telephone conferences with OCPs in connection with their retention, reviewed affidavits of disinterestedness submitted by OCPs pursuant to the OCP Order, prepared supplemental notices retaining additional OCPs and quarterly statements showing payments to OCPs.

*Section 327 Professionals*

K&E also reviewed and revised retention pleadings for the employment of numerous professionals pursuant to section 327 of the Bankruptcy Code. The Debtors retained these professionals to provide services in connection with the Chapter 11 Cases. Such professionals included, but were not limited to, Lazard, BMC, Bridge Associates, as crisis managers, Korn/Ferry, as a retention consultant for CNC, Baker & Daniels, as special corporate counsel to the CNC Debtors, and Dorsey & Whitney, as securitization counsel to the CFC

Debtors. K&E also reviewed all professional applications filed by other parties in interest in the Chapter 11 Cases.

32. Matter 17: Schedules/Statement of Financial Affairs

(Fees: \$82,702.00; Hours: 300.80)

This Subject Matter includes time spent by K&E preparing, filing, and amending schedules of assets and liabilities (“Schedules”) and statements of financial affairs (“Statements”) for the Debtors. This included preparing initial Schedules and Statements, responding to inquiries and reviewing documents related to the preparation of the Schedules and Statements, and coordinating the filing of them. K&E also conducted various UCC lien searches, and updated the schedules as necessary throughout the course of the Chapter 11 Cases.

K&E reviewed the Schedules and Statements requirements with representatives of the Debtors. Initially, K&E attorneys, in conjunction with Bankruptcy Management Corp. (“BMC”), prepared Schedules and Statements for the CNC Debtors on January 2, 2003. K&E, in conjunction with BMC, reviewed and prepared Schedules and Statements for: CFC and CFSC for filing on February 5, 2003, for the CFC Subsidiary Debtors on February 19, 2003, for the New Debtors on June 17, 2003, and for CFCCFC on July 3, 2003. Subsequently, K&E amended the Schedules and Statements for the CNC Debtors on February 6, 2003, and March 14, 2003, and amended the Schedules and Statements for the CFC Subsidiary Debtors on February 7, 2003, and April 22, 2003. In total, the Debtors’ Schedules and Statements were almost 5,000 pages long. Each preparation and filing of an installment the voluminous Schedules and Statements required the coordination of a team of K&E paraprofessionals, multiple K&E attorneys and a number of outside service providers. Due to K&E’s coordination of these efforts, the Debtors made a large amount of information available to creditors electronically, in a searchable and

easy-to-use CD-ROM format, saving creditors the time it would have taken to review these records manually.

33. Matter 18: Subsidiary Matters

(Fees: \$155,418.50; Hours: 558.80)

This Subject Matter includes legal services related to the Debtors' many subsidiaries, including but not limited to analysis of legal issues pertaining to and impacting upon the Debtors' various subsidiaries. Given the regulated environments in which many of the Debtors' subsidiaries operate, K&E needed to provide periodic advice regarding the impact of events in the Chapter 11 Cases upon the Debtors' subsidiaries. Further, this matter, along with Subject Matter 6, includes time spent by K&E preparing certain of CFC's subsidiaries for bankruptcy filings at different points throughout these Chapter 11 Cases.

34. Matter 19: Tax Matters

(Fees: \$829,046.00; Hours: 1,848.40)

This Subject Matter number describes time spent providing tax advice to the Debtors, including, but not limited to, (a) analysis of the Debtors' corporate structure and general corporate planning, (b) transactional analysis, and (c) restructuring analysis.

*Corporate Structure / Corporate Planning*

K&E spent considerable time providing the Debtors with advice and analysis with respect to basic corporate structure issues, including analysis of how to effectively use the Chapter 11 Cases to create a more efficient structure. Specifically, K&E analyzed the overall corporate ownership structure, analyzed issues surrounding the conversion of CFSC to an LLC structure, analyzed the conversion of CIHC into an insurance company, analyzed issues related

to G-Reorganizations, and analyzed the issue of leaving the stock of certain residual subsidiaries under Old CNC after the effective date.

Further, K&E advised the Debtors with respect to a myriad of general operational issues. Specifically, K&E advised on the implementation of certain court orders, including the order preserving NOLs, advised on the old tax sharing agreement and helped create the new tax sharing agreement, and prepared several private letter ruling requests.

#### *Transactional Analysis*

K&E also analyzed tax issues related to the many corporate transactions occurring during the Chapter 11 Cases. Notably, K&E analyzed tax issues and consequences stemming from the sale of substantially all of the assets of the CFC Debtors. Towards this end, K&E tax attorneys reviewed the various competing bids received for the CFC Debtors' assets, and helped prepare certain schedules to the purchase agreements for the CFC Debtors' assets. Further, K&E tax attorneys analyzed and helped negotiate the replacement DIP facility.

#### *Restructuring Analysis*

In addition to general corporate and M&A advice, K&E tax attorneys were also instrumental in the overall restructuring effort, providing analysis and input for the Debtors' disclosure statements and plans of reorganization. K&E tax attorneys were also instrumental in the resolution of several objections to the Debtors' plans and disclosure statements, including, most notably, the objections of the IRS and the Illinois Department of Revenue.

K&E was also directly and substantially involved in reviewing the director and officer loan program, since all of the participants in that program were extremely concerned about the tax implications of the program. K&E worked with the company in developing a creative and equitable solution to the program, and then was directly involved in explaining to

each of the various constituencies. Towards this end, K&E presented the proposed purchase price reduction program to the former Board of Directors, the loan participants, the banks, the Committees, and the SEC. In order to effectively explain the program, K&E prepared various power points and memos regarding the program for each of the various constituencies. K&E also fielded a great deal of follow up questions from the prospective participants in the program. The purchase price reduction program is designed to resolve the obligations owed by eligible participants under the former D&O loan programs, and has been structured to minimize the negative personal tax consequences for individual participants.

35. Matter 20: Travel

(Fees: \$265,711.50; Hours: 629.10)

This Subject Matter number involves time spent traveling while representing the Debtors. K&E billed the Debtors for one-half of the total time that K&E professionals spent for non-working travel. **Accordingly, over 600 hours of K&E travel time has been waived.**

36. Matter 21: U.S. Trustee

(Fees: \$33,835.50; Hours: 117.70)

This Subject Matter includes legal services related to the UST. K&E analyzed and discussed with the Debtors the Chapter 11 Operating Instructions and Reporting Requirements of the United States Trustee for the Northern District of Illinois. K&E also reviewed the monthly operating reports of the Debtors and prepared each for filing on a monthly basis. Additionally, during the pendency of the Chapter 11 Cases. On May 22, 2003, and July 30, 2003, K&E prepared for and participated in the section 341 meeting of creditors, and prepared for and participated in the Committee formation meeting. On each occasion K&E

reviewed the schedules of assets and liabilities and statements of financial affairs with representatives of the United States Trustee in anticipation of possible questions from creditors.

37. Matter 22: Use, Sale/Lease of Property/Abandonment

(Fees: \$3,912,046.50; Hours: 11,564.20)

This Subject Matter includes legal services related to the use, sale, lease or abandonment of property. During the Chapter 11 Cases, K&E presided over a highly successful auction and completed what was reported as the largest all-cash asset sale in the history of chapter 11. The sale process included the sale of substantially all of the CFC Debtors' assets (the "CFC Assets") to CFN Investment Holdings, LLC ("CFN" and the "CFN Sale") and General Electric Capital Corporation ("GE" and the "GE Sale", and together with the CFN Sales, the "CFC Sales"), respectively. As part of the CFC Sales, K&E developed and negotiated a restructuring of the servicing fees received by CFC with respect to its MH servicing business, assisted CFC in several sales of the remainder of its assets pursuant to section 363 of the Bankruptcy Code, and prepared and implemented innovative procedures for the sale and abandonment of de minimis assets.

*Sale of CFC Assets*

On December 19, 2002, K&E filed a motion on behalf of CFC seeking approval of the sale of CFC assets to CFN pursuant to section 363 of the Bankruptcy Code. K&E prepared and negotiated the terms of the Motion, the bidding procedures, the forms of sale notice, the final sale order and the asset purchase agreement with counsel for CFN, finalizing the coordination of several complex documents on an expedited basis. K&E structured the CFN sale in novel fashion, providing an option to CFN for the sale of some of the CFC assets to GE in a separate sale. K&E reviewed the over 36,000 CFC executory contracts and unexpired leases and

prepared the schedules of purchased and excluded assets for the CFN and GE purchase agreements. Due to the complexity of the Debtors' business, the review of these contracts and subsequent discussion and negotiation with opposing counsel were exceptionally time consuming, requiring several attorneys from a number of specialty and sub-specialty areas, including: securitization, private equity, corporate finance, securities, intellectual property, real estate, and mergers and acquisitions. Moreover, the complexity of these contracts often required review by senior K&E attorneys.

A separate team of K&E corporate attorneys drafted, edited, negotiated and reviewed the CFN asset purchase agreement and the GE asset purchase agreements. In connection with the negotiation of the asset purchase agreements, K&E negotiated the restructuring of the MH servicing fee (the "MH Servicing Fee"), with the Securitization Trustees. Prior to the Chapter 11 Cases, CFC was the largest servicer of manufactured housing loan contracts in the United States. Due to various factors, the MH Servicing Fee received by CFC became grossly insufficient to cover the costs associated with the MH business, with CFC spending approximately \$15 million more per month to service the manufactured housing loans than it was receiving in cash each month on the MH Servicing Fee. K&E's assistance in the novel restructuring of the MH Servicing Fee was instrumental in the creation of a positive income stream for CFC, dramatically increasing the value of the CFC assets and creating the opportunity for the profitable sale of the assets.

More than 25 objections to the sale of CFC Debtors' assets were filed by different interested parties. K&E drafted responses to and negotiated withdrawals for each of these objections. In negotiating the withdrawal of these objections, K&E designed and implemented procedures for the determination and payment of cure amounts for the assumption of the CFC

Debtors' executory contracts and unexpired leases. On March 14, 2003, the Court overruled each of the remaining objections to the CFN Sale and the GE Sale, with prejudice, allowing the CFC Sales to proceed as planned.

*Auction of CFC Assets*

On March 4-5, 2003, K&E oversaw an auction for the sale of the CFC Debtors' assets. During the course of the auction, K&E supervised the implementation and application of the bidding procedures to ensure orderly bidding amongst the three groups of qualified bidders. During the course of the non-stop 23 hour auction, K&E negotiated the terms of several competing bids and potential bids from at least 5 different bidders. At the conclusion of the auction, on the morning of March 5, 2003, pursuant to the bidding procedures, the Debtors declared CFN's bid of \$970 million in cash and the assumption of certain liabilities to be the highest and best bid. The terms of the sale included the option to sell certain assets to GE for approximately \$287 million in cash plus certain assumed liabilities and the opportunity to realize up to approximately \$36 million in additional cash through the sale of certain other assets. The option, if exercised would provide CFN with a credit of \$270 million to its winning bid.

On March 6, 2003, following the conclusion of the auction, one of the bidders, Berkadia Equity Holdings, LLC ("Berkadia") submitted an offer for the CFC assets that purported to be a bid in the recently concluded auction. In conjunction therewith, Berkadia also filed an objection to the sale (the "Objection"), on March 7, 2003. K&E, having recently concluded the auction, subsequently prepared and filed a response to the Objection. At a hearing before the Court on March 7, 2003, the Bankruptcy Court heard oral arguments from counsel for Berkadia and K&E, on behalf of CFC, and summarily dismissed the Objection.



Subsequently, during the March 7-14, 2003, period, CFN and GE significantly increased the amount of cash to be paid for the CFC Debtors' assets, bringing the total purchase price for the CFC Debtors' assets to approximately \$1.3 billion, representing approximately \$1.11 billion in cash and approximately \$200 million in assumed liabilities, subject to certain purchase price adjustments. Notably, the value ultimately received for the CFC assets was almost \$500 million above the initial CFN bid. Ultimately, each of the major constituencies, including the CFC Committee, the Ad Hoc Securitization Holders' Committee, U.S. Bank, as securitization trustee for the securitization trusts, and the Federal National Mortgage Association, as a major certificate holder, agreed to support the sale of the CFC Debtors' assets to CFN and GE. While the Debtors reached resolution with the major constituencies, such resolution was not immediate and was not a foregone conclusion, and K&E spent time and resources preparing for contested sale hearings.

Following the successful conclusion of the auction, K&E continued the preparation, negotiation and finalization of amendments and schedules to the respective asset purchase agreements. K&E also obtained the Court's permission to pay commitment fees to backup bidders Bear Stearns and Charlesbank, and negotiated purchase agreements with these backup bidders as a contingency. K&E also finalized the payment of cure amounts and the rejection of certain executory contracts and unexpired leases pursuant to the terms of the respective purchase agreements. The CFN Sale and GE Sale closed on June 23, 2003, and June 27, 2003, respectively.

#### *Other Asset Sales*

K&E also facilitated eight other sales of assets pursuant to section 363 of the Bankruptcy Code. Ranging in size from \$200,000 to approximately \$28 million, although

significantly smaller than the CFN Sale and the GE Sale, each of these sales required K&E to review the subject matter of the sale, prepare the relevant asset purchase agreements and schedules, draft motions, orders, and notices, and prepare for and attend sale hearings.

#### *Sales of Receivables*

CFC, as a lender, owned a number of accounts receivable where either the obligor on the account had filed for personal bankruptcy protection, but reaffirmed its obligations to CFC or the obligor had remained seriously delinquent in its obligations to CFC for an extended period of time. The majority of these accounts were not expected to produce revenue for the CFC Debtors. However, in an effort to maximize the recovery of creditors, K&E negotiated and facilitated the sale of a number of the accounts receivable to third parties. The sale of these accounts receivable increased the cash available to the estate and greatly reduced the administrative burden associated with attempting to collect these delinquent accounts during the pendency of the Chapter 11 Cases.

#### *SPI Sale*

Additionally, CIHC sold the outstanding capital stock of Specialty Planners, Inc. ("SPI") and Ardiel Insurance Services, Inc. ("Ardiel") (the "SPI Sale"). On August 14, 2003, K&E, on behalf of CIHC, filed an emergency motion seeking approval of the SPI Sale on an expedited basis. K&E attorneys worked on an expedited basis to prepare the emergency motion and to negotiate the terms of the stock purchase agreement, the bidding procedures and the sale order with counsel for the stalking horse bidder.

After negotiations with several other potential bidders, on September 2, 2003, K&E oversaw an auction for the sale of the outstanding capital stock of SPI and Ardiel. At the conclusion of the auction, the Debtors declared the stalking horse bidder, LTC Capital, Inc., the

successful bidder. On September 3, 2003, the Bankruptcy Court approved the SPI Sale to LTC Capital, Inc., for \$27.5 million

38. Matter 23: Utilities

(Fees: \$7,333.50; Hours: 26.90)

This Subject Matter includes time spent by K&E responding to requests received by the Debtors for adequate assurance made by various utility companies pursuant to section 366 of the Bankruptcy Code and other related activities. On multiple occasions after the Petition Date, the Debtors received requests for adequate assurance from utility companies and/or were informed by utility companies that their utilities services would be discontinued. In relation to such requests, the Debtors negotiated with such utility companies to place deposits or otherwise provide adequate assurances. Given the dependence of the Debtors on their utilities services, these K&E activities were invaluable to the Debtors' ongoing business operations during these Chapter 11 Cases.

39. Matter 24: DIP Financing/Cash Collateral

(Fees: \$903,930.00; Hours: 2,329.20)

This Subject Matter includes time spent by K&E related to DIP financing matters. Prior to and at the beginning of the Chapter 11 Cases, on behalf of the CFC Debtors, K&E secured a \$125 million DIP Facility (later increased to \$150 million) from FPS, Inc., an affiliate of Fortress, Flowers and Cerberus (the "FPS DIP Facility"). In so doing, K&E negotiated extensively with Fortress, Flowers and Cerberus over the course of several weeks, which negotiations were intimately interconnected with the negotiation of the stalking horse bid from CFN. Additionally, there were many other constituencies who were involved in the negotiation of FPS DIP Facility, including the lenders, the CNC Committee and the CFC Committee.

On December 17, 2002, K&E filed an emergency motion for interim and final approval of the FPS DIP Facility, a two-step process required by sections 363 and 364 of the Bankruptcy Code and Fed. R. Bankr. Proc. 4001(c). The initial hearing considering the FPS DIP Facility was held on December 20, 2002, and an interim order approving the FPS DIP Facility was entered on that date. Subsequent to entry of the interim order, the CFC Committee objected to the entry of a final order approving the FPS DIP Facility, alleging that the CFC Debtors failed to satisfy the Bankruptcy Code's requirements for approval thereof. The Court overruled this objection, and entered a final order approving the FPS DIP Facility at a hearing held on January 14, 2003 (the "Final FPS DIP Order").

K&E also negotiated and documented a second DIP facility, whereby the CFC Debtors obtained financing from GTFC and GTRFC, subsidiaries of CFC, in an amount of up to \$25 million (the "GTFC/GTRFC DIP Facility"). The GTFC/GTRFC DIP Facility provided that the CFC Debtors' primary prepetition lender, Lehman, would allow approximately \$25 million that would otherwise be payable to Lehman (by GTFC) to be lent to the CFC Debtors as a superpriority administrative expense. The source of the loan was funds pledged to Lehman by GTFC pursuant to the terms of a \$1.2 billion credit facility funded by a Lehman affiliate, LCPI.

On December 17, 2002, K&E filed an emergency motion for interim approval for the GTFC/GTRFC DIP Facility and final approval thereof. The initial hearing considering the GTFC/GTRFC was held on December 20, 2002, concurrently with that considering the FPS DIP Facility. An interim order approving the GTFC/GTRFC DIP Facility was entered on that date. Subsequent to entry of the interim order, the CFC Committee objected to the entry of a final order approving the GTFC/GTRFC DIP Facility, alleging that the CFC Debtors' failed to satisfy the Bankruptcy Code's requirements for approval thereof. The Bankruptcy Court overruled this

objection, and entered a final order approving the GTFC/GTRFC Facility at a hearing held on January 14, 2003 (the "GTFC/GTRFC Final DIP Order", and together with the FPS Final DIP Order, the "Final DIP Orders").

As required by developments in the Chapter 11 Cases, K&E negotiated with FPS, CFN (as a potential purchaser of the CFC Debtors), and the CFC Committee to amend the FPS DIP Facility. All told, the K&E negotiated seven amendments to the FPS DIP Facility. The First Amendment to the FPS DIP Facility (the "First Amendment") provided for, among other things, a condition precedent to each Loan made after January 14, 2003, related to the lenders receiving documentation and comfort in connection with Mill Creek Bank, Inc.'s regulatory status. Additional changes from this First Amendment related to amending the definition of "Net Cash Proceeds" and extending the amount of time to January 10, 2003 at which the CFC Debtors (the "Borrowers") had to deliver certain pledged stock.

The Second Amendment to the FPS DIP Facility (the "Second Amendment") provided for, among other things, a more specific definition of "Budgeted Amount" (allowing a budgeted amount of \$22 million for the Borrowing on December 27, 2002) and a modified definition of "Excess Cash" to include good faith estimates by the Borrowers.

The Third Amendment to the FPS DIP Facility (the "Third Amendment") provided for, among other things, a revised and more structured borrowing procedure. The Third Amendment also revised Section 2.8(b), which was related to prepayment of excess cash. Section 9.1(o) was modified by additional language to provide the parties additional flexibility with regard to waiving adverse variations in the Budget. The Third Amendment also added several definitions to the credit agreement (i.e., "Borrowing Period", "Daily Borrowing Period", "Daily Mode Notice", "Weekly Borrowing Period") and amended the definitions of "Budgeted

Amount”, “Carve-out” (reducing the amount of money to investigate bankruptcy claims from \$1,250,000 to \$500,000) and “Final Order.”

The Fourth Amendment to the FPS DIP Facility (the “Fourth Amendment”) provided for, among other things, a revision to Section 9.1(p) extending the time to February 12, 2003 at which an Event of Default would be triggered with respect to entering the 9019 Order.

The Fifth Amendment to the FPS DIP Facility (the “Fifth Amendment”) provided for, among other things, a \$25 million increase in the amount of the revolving credit facility (from \$65 million to \$90 million) and an extension of the scheduled termination date of the FPS DIP Facility from its current termination date of on or about April 16, 2003, through the earlier of (x) the termination of the asset purchase agreements with CFN; (y) the later of the closing of the Sale Transactions; and (z) May 31, 2003.

The Sixth Amendment to the FPS DIP Facility (the “Sixth Amendment”) provided for, among other things, the sale of Convergent Lending Services, LLC to ATM Corporation of America for no less than \$400,000 and a corresponding reduction in the Revolving Credit Commitment (as defined in the FPS DIP Agreement) based on the net cash proceeds received from such sale (such reduction would apply to the sale specified in the Seventh Amendment (as defined herein)).

Finally, the Seventh Amendment to the FPS DIP Facility (the “Seventh Amendment”) provided for, among other things, the sale of the Countrywide Assets to Countrywide Home Loans, Inc. pursuant to a purchase agreement, dated as of April 17, 2003.

Pursuant to the Final DIP Orders, the CFC Debtors and their lenders had authority to execute such amendments without the need for court approval. Nevertheless, the CFC Debtors did file a motion seeking approval of the Fifth Amendment on April 1, 2003. On

April 8, 2003, the South Dakota Board of Economic Development filed a statement in response to that motion, stating that the Fifth Amendment did not affect their rights. The K&E attorneys analyzed this position, found it to be correct, and stated the same on the record on April 14, 2003. The Court then entered an order approving the Fifth Amendment.

From time to time during the Chapter 11 Cases, the CFC Debtors were not in technical compliance with certain covenants regarding the maximum permissible variance of the budgets provided to the FPS DIP Facility lenders in connection with the FPS DIP Facility. In each instance, K&E worked with FPS to secure the appropriate waivers. In total, six waivers were entered into between the CFC Debtors and FPS, including (i) Waiver No. 1, entered into on January 7, 2003; (ii) Waiver No. 2, entered into on February 3, 2003; (iii) Waiver No. 3, entered into on February 7, 2003; (iv) Waiver Nos. 4 and 5, entered into on April 8, 2003; and (v) Waiver No. 6, entered into on April 14, 2003. K&E also negotiated to resolve certain alleged breaches of the FPS DIP Facility, the GTFC/GTRFC DIP Facility and certain prepetition credit facilities arising from the CFC Debtors' failure to obtain entry of a final order with the Securitization Trustee resolving the issues relating to servicing the MH loan portfolio after February 12, 2003.

On February 10, 2003, the CFC Debtors filed their motion for an order directing that the final order approving the FPS DIP Facility be made applicable and operative in the chapter 11 cases filed by certain of the CFC Subsidiary Debtors (the "DIP Applicability Motion"). Two objections were filed to this motion -- one by American Modern Home Insurance Company ("American Modern") and another by the CFC Committee. Both objections were ultimately resolved. American Modern's objection requested clarification that American Modern's assets were not part of FPS's liens. They were not; and upon the CFC Debtors'

confirmation thereof, American Modern withdrew their objection. The CFC Committee's objection raised issues regarding the grant of liens to FPS on the assets of the CFC Subsidiary Debtors. This objection was resolved as part of the global 9019 settlement with the Securitization Trustee. The Court, therefore, entered an order approving the DIP Applicability Motion on February 19, 2003.

In late February 2003, K&E began to negotiate and document a replacement DIP Facility with the CFC Debtors and Goldman Sachs (the "Replacement DIP") in the amount of \$845 million. The Replacement DIP was designed as an alternative DIP facility for the CFC Debtors' use in the event that CFN was not the successful bidder (which it, of course, ultimately was) in the sale of the CFC Assets.

The CFC Debtors would have used the Replacement DIP as a source of post-petition financing through the confirmation of a plan of reorganization to pay off the FPS DIP Facility and GTFC/GTRFC DIP Facility. The CFC Debtors could also have converted the Replacement DIP into an exit financing facility post-confirmation. On March 4, 2003, K&E filed an emergency motion to obtain interim approval of the Replacement DIP. After additional negotiations with the CFC Committee, and after the Court entered orders on March 14, 2003, approving the sale of the CFC Assets to CFN and GE, respectively, the CFC Debtors withdrew the motion.

In early June 2003, GTFC and GTRFC (the "New CFC Debtors") filed chapter 11 petitions as part of the process of closing the CFN Sale. As part of this process, K&E explored various issues relating to the New CFC Debtors' use of cash collateral, and drafted pleadings seeking an order requiring Lehman, the New CFC Debtors' prepetition lenders, to permit the CFC Debtors to use the cash collateral to operate their businesses until the CFN Sale closed.



Lehman ultimately agreed to permit the New CFC Debtors to use the cash collateral without the need for Court intervention.

On June 16, 2003, the CFC Debtors filed a motion seeking authority for Green Tree Credit, LLC ("GTC") to obtain postpetition financing from U.S. Bank, N.A., pursuant to sections 105, 361, 362, 364(c)(1) and 364(c)(2) of the Bankruptcy Code, which financing was necessary for GTC to continue operations in New York state pending the closing of the Sale Transactions (the "GTC DIP Motion"). This motion was granted on an interim basis on June 18, 2003. Upon the closing of the GE Sale and CFN Sale the following week, GTC no longer needed the facility. Accordingly, the CFC Debtors' withdrew the motion prior to the final hearing on the GTC DIP Motion.

Finally, during the Chapter 11 Cases, K&E conducted an extensive analysis of the existing credit facilities and capital structure of the CNC Debtors. K&E also worked with various constituencies, including regulators and lenders, to negotiate and draft the credit agreements and related schedules, documents and motions securing the Holding Company Debtors' exit facility (the "Exit Facility"), which Exit Facility helped to finance the Holding Company Debtors' emergence from chapter 11. In doing so, K&E obtained the governmental and insurance certificates necessary to execute the Exit Facility. Finally, K&E attorneys drafted a legal opinion with respect to the Exit Facility and its related credit agreements.

40. Matter 25: Employee Matters

(Fees: \$537,916.00; Hours: 1,226.40)

This Subject Matter includes time spent by K&E advising the Debtors on implementation of first-day employee wages orders, drafting and negotiating a Key Employee

Retention Program ("KERP"), negotiating various employment contracts and settlement agreements, and counseling the Debtors on general employee benefit issues.

#### *Implementation of First Day Wages Orders*

On December 18, 2002, the Court entered an Order Authorizing (i) the Holding Company Debtors to Continue to Reimburse Conseco Services For Prepetition Employee Obligations and (ii) the CFC Debtors to Pay Prepetition Employee Obligations. Following the entry of this order, K&E spent considerable time working with and advising the Debtors' human resources executives regarding the application of the order to the Company's employee wage and benefit programs.

#### *Key Employee Retention Programs*

K&E also drafted, negotiated, obtained approval of, and advised the Debtors regarding the implementation of KERP programs for both the CNC and CFC Debtors. On January 14, 2003, the Court approved the CFC Debtors' KERP and gave interim approval of the CNC Debtors' KERP. Final approval of the CNC Debtors' KERP was granted on January 29, 2003. After obtaining interim approval of the KERP for the CNC Debtors, K&E negotiated with parties objecting the KERP, including the TOPrS Committee. K&E also worked closely with outside compensation experts, Towers Perrin, retained by the Debtors to help develop the KERP programs.

#### *Contract Negotiations*

During the course of the Chapter 11 Cases a number of the Debtors' employees, including several officers, left the Debtors' employ. K&E spent considerable time negotiating and seeking approval of various severance and settlement agreements related to these