

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	Chapter 11
)	
OAKWOOD HOMES CORPORATION,)	Case No. 02-13396 (PJW)
<u>et al.</u> ,)	
Debtors.)	Jointly Administered
)	
)	Hearing Date: February 18, 2003 @ 3:00 p.m.
<hr style="width: 350px; margin-left: 0;"/>)	Objections Due: February 10, 2003 @ 4:00 p.m.

**DEBTORS' APPLICATION TO RETAIN AND EMPLOY NAI MAXWELL AS
REAL ESTATE CONSULTANTS, NUNC PRO TUNC TO JANUARY 2, 2003**

Oakwood Homes Corporation, et al., debtors and debtors in possession in the above-referenced cases (the "Debtors"), hereby apply pursuant to section 327(a) of title 11 of the United States Code ("Bankruptcy Code") and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to retain and employ NAI Maxwell ("NAI") as real estate consultants to the Debtors (the "Application") nunc pro tunc to January 2, 2003. In support of this Application, the Debtors submit the Declaration of Robert V. Perkins (the "Perkins Declaration"), attached hereto as Exhibit B and incorporated herein by reference, and respectfully represent as follows:

JURISDICTION

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. § 327(a). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these proceedings and this Application is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory basis for the relief requested herein are sections 105, 327, 328, 330 and 331 of the Bankruptcy Code and Bankruptcy Rules 2014 and 2016.

BACKGROUND

3. The Debtors, together with their non-debtor affiliates and related parties (collectively, the “Oakwood Companies”), design, manufacture and market manufactured and modular homes and finance the majority of their retail sales and a portion of the retail sales of their homes by their independent dealer network. The Debtors also provide a variety of insurance products to their customers. Debtor Oakwood Homes Corporation was incorporated in North Carolina in 1971 and the Debtors currently maintain their headquarters in Greensboro, North Carolina.

4. For over three years, the Oakwood Companies have undertaken specific, proactive efforts designed to counter their deteriorating financial performance. The Debtors developed a strategy to reduce overhead and create and improve their cash flow. The principal element of these efforts was a contraction of operations from a peak of over 425 sales centers and 34 plants to the current planned 119 sales centers and 14 plants. Additionally, the Debtors aggressively cut costs, tightened underwriting standards, deferred capital spending wherever practicable and embarked on a significant inventory reduction program.

5. Outside of bankruptcy, the Debtors have been unable to accomplish all the restructuring needed due to their current high debt load, poor operating performance in certain geographic markets, and high credit losses coupled with subordination of the loan servicing revenue. The Debtors have been negotiating for an extended period of time with their principal lenders and largest bondholder to develop a consensual, negotiated bankruptcy process designed to allow the Debtors to emerge as a leaner, profitable enterprise.

6. On November 15, 2002 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “Court”).

7. On December 2, 2002, the United States Trustee appointed an official committee of unsecured creditors (the "Committee") in these cases.

RELIEF REQUESTED

8. By this Application, the Debtors seek authority to employ and retain NAI as real estate consultants for the Debtors, nunc pro tunc to January 2, 2003.

9. NAI is a national real estate consulting firm located in Greensboro, North Carolina. NAI is a duly licensed real estate broker in the State of North Carolina, and the Debtors have selected NAI as real estate consultants because of its knowledge and experience in the area of helping companies sell real estate holdings (including fee and leasehold interests) and re-negotiate leases with respect to properties located in and around North Carolina. The NAI consultants who will work with the Debtors have assisted numerous companies in disposing of excess real estate holdings, including companies involved in similar Chapter 11 proceedings. As such, NAI is well-qualified to assist the Debtors as they restructure their businesses and formulate a plan of reorganization. NAI will be retained pursuant to an engagement letter dated January 22, 2003 (the "Engagement Letter"), a copy of which is attached hereto as Exhibit A.

10. The services of NAI are necessary to enable the Debtors to faithfully execute their duties as Chapter 11 debtors in possession. Subject to further order of this Court, NAI will be required to render, inter alia, the following professional services to the Debtors:

- (a) analysis of the marketability and disposition potential of the fee interests held by the Debtors in the properties listed on Schedule A to the Engagement Letter ("Schedule A"); and
- (b) marketing and sales of the properties listed on Schedule A.

11. NAI has indicated a willingness to represent the Debtors on the terms and conditions set forth in this Application.

12. The Debtors request this Court's approval to employ NAI pursuant to an agreement whereby NAI will be incentivized to sell the properties on Schedule A at the highest possible price in the shortest period of time. Each of the sites listed on Schedule A have been assigned a "Target Price." Should NAI obtain an offer to purchase (in a form reasonably acceptable to the Debtors) for 90% (or greater) of the Target Price, then NAI shall receive a fee of 5% of the total purchase price for that property. Should NAI obtain an offer to purchase (in a form reasonably acceptable to the Debtors) for between 60% and 90% of the Target Price, then NAI shall receive a fee of 4% of the total purchase price for that property. Should NAI obtain an offer to purchase (in a form reasonably acceptable to the Debtors) for 60% (or less) of the Target Price, then NAI shall receive a fee of 3% of the total purchase price for that property. In addition, should NAI present an offer to purchase (in a form reasonably acceptable to the Debtors) on or before May 13, 2003, NAI shall receive an additional fee of 2% of the gross proceeds. Should NAI present an offer to purchase (in a form reasonably acceptable to the Debtors) after May 13, 2003, but on or before July 12, 2003, NAI shall receive an additional fee of 1% of the gross proceeds. Payment of these fees shall be made at the time of closing and from the proceeds at closing without further need to make application for these fees. Finally, for property identified as Raw Land on Schedule A, NAI will receive an additional fee as follows: 1% of gross proceeds for a sale of property at less than 60% of Target Price; 1.5% of gross proceeds for a sale of property at greater than or equal to 60% but less than 90% of the Target Price; and 2% of gross proceeds for a sale of property at greater than 90% of the Target Price.

13. The Debtors propose to pay NAI its fees and reimburse NAI for its actual and necessary expenses on a monthly basis without the need or expense of NAI filing interim fee

applications. The Debtors believe that paying NAI these amounts without NAI filing interim fee applications is appropriate and in the best interests of the Debtors' estates and creditors given that (i) the fees are small in light of the size of these cases and will be subject to review in the final fee application; and (ii) the fee for each property will be a non-recurring fee and will also be subject to final review in the final fee application. All fees paid to NAI will remain subject to disgorgement prior to approval of its final fee application to this Court.

14. For their pre-approved expenses and preparation for and testimony in Court, NAI intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and any applicable Local Rules and orders of this Court.

15. As described above and notwithstanding anything to the contrary in the Engagement Letter, NAI will submit a final fee application to the Court for allowance of its compensation and reimbursement of its expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of this Court. Accordingly, all of NAI's fees and expenses will be subject to review and approval of this Court. Nonetheless, in light of the fact that the vast majority of NAI's compensation is contingent upon successful sales of the Properties that will generate value for the Debtors' estates and creditors, the Debtors request a waiver of certain information requirements under Local Rule 2016-2. In particular, the Debtors request a waiver of the requirement that NAI (a) maintain a record of its time in increments of one-tenth of an hour; (b) divide activity descriptions of its work into general project categories; and (c) assign a separate description and time allotment to each activity description. NAI will nevertheless use its reasonable best efforts to maintain detailed, contemporaneous time records in an organized fashion and records of any actual and necessary expenses incurred in connection with the rendering of its services.

16. NAI also charges its clients for expenses advanced in connection with the client's case. Such expenses include, among other things, actual telephone toll charges, photocopying charges, travel and transportation expenses, postal fees, special or hand delivery charges, expenses for working meals, computerized research, transcription costs and other out-of-pocket expenses. However, in these cases, NAI will only bill the Debtors for reasonable and necessary travel expenses related to the Debtors' requiring NAI to meet with the Debtors, their other professionals, the United States Trustee or with the Court.

17. NAI has been paid a retainer in the amount of \$0 for their representation of the Debtors during the course of these Chapter 11 cases. The Debtors have agreed to pay NAI's fees and expenses as allowed by the Court.

18. To the best of the Debtors' knowledge, NAI is not a prepetition creditor of the Debtors. To the best of the Debtors' knowledge, NAI has not received any payment within the year preceding the Petition Date. Accordingly, it is the Debtors' belief that NAI holds no interest materially adverse to the interest of the Debtors' estates or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, or connection with, or interest in, the Debtors, or their investment bankers, or for any other reason.

19. To the best of the Debtors' knowledge, NAI, its partners, shareholders, associates and/or employees, as applicable do not have any connection with the Debtors, its estates, creditors, or their respective attorneys *except* as set forth in the Perkins Declaration.

NOTICE

20. Notice of this motion has been given to the Office of the United States Trustee, counsel to the Debtors' principal prepetition and postpetition lenders, counsel to the Official Committee of Unsecured Creditors and those parties that have appeared in these cases and requested

notice and service of papers. Because of the nature of the relief requested in this motion, the Debtors submit that no other notice need be given.

NO PRIOR REQUEST

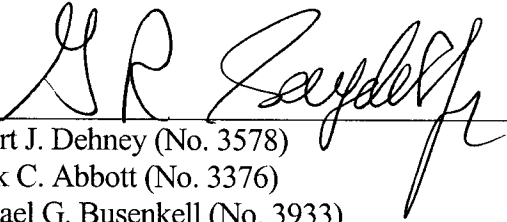
21. No previous request for the relief sought in this Motion has been made to this Court or any other court.

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WHEREAS, the Debtors respectfully request that the Court enter an order, attached hereto as Exhibit C (i) authorizing the Debtors to retain and employ NAI as real estate consultants in connection with the Debtors' Chapter 11 cases on the terms and conditions set forth herein, nunc pro tunc to January 2, 2003, and (ii) granting the Debtor such other and further relief as this Court may deem just and proper.

Dated: Wilmington, Delaware
January 29, 2003

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