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

In re	**CHAPTER 11**
Conseco Finance Corp , et al ,	**(Jointly Administered)** **Case No 02-49675**
Debtors	**Honorable Carol A Doyle**

REQUEST OF ZURICH AMERICAN INSURANCE COMPANY AND FIDELITY AND DEPOSIT COMPANY OF MARYLAND TO SET AMOUNT OF PREVIOUSLY ALLOWED ADMINISTRATIVE EXPENSE CLAIM AND PAYMENT OR RESERVATION OF AMOUNTS DUE THEREUNDER

Zurich American Insurance Company ("Zurich") and Fidelity and Deposit Company of Maryland ("Fidelity" and together with Zurich, the "Sureties"), by and through undersigned counsel, brings the above-captioned request to set the amount of the previously allowed administrative claim and for payment the claim or in the alternative for a reservation of amounts due thereunder (if any)(the "Request") and in support thereof avers the following

I JURISDICTION AND VENUE

1 The Court has jurisdiction over the subject matter of this Motion pursuant to 28 U S C § 1334 This matter is a core proceeding pursuant to 28 U S C § 157(b)(2)(A), (B), (G) and (O)

2 Venue in this Court is proper pursuant to 28 U S C §§ 1408 and 1409

II FACTUAL AND PROCEDURAL BACKGROUND

3 On December 17, 2002 (the "Petition Date"), Conseco Finance Corp et al ("Conseco" and/or the "Debtors") filed their respective petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code")

FILED
NOV 1 0 2003
BMC
Conseco Finance Corp Claim
49675004011

4 Prior to the Petition Date, several actions were brought against Conseco (f/k/a Green Tree Financial Corporation) in South Carolina state court alleging violations of the South Carolina Consumer Protection Code (the "Bazzle/Lackey Cases") The Bazzle/Lackey Plaintiffs obtained an arbitration award in the collective amount of what the Bazzle/Lackey Plaintiffs now assert to be worth approximately $35,000,000 Subsequently, this award was confirmed in the relevant counties' Courts of Common Pleas (the "Common Pleas Orders")

5 Conseco subsequently appealed the Common Pleas Orders to the South Carolina Court of Appeals To obtain a stay pending appeal, Conseco and Fidelity filed a bond for $16,870,000 with the Dorchester County Clerk Similarly, Conseco and Zurich filed a bond with the Barnwell County Clerk in the amount of $14,600,000 The bonds were approved as supersedeas bonds on January 8, 2001 and June 29, 2001 respectively (the "Supersedeas Bonds") To obtain and secure the bonds from Zurich and Fidelity Conseco deposited collateral of $20 million with Fidelity and Zurich (the "Collateral") [1]

6 To cover additional accruing interest while the appeals remained pending, Fidelity increased the amount of its bond by an additional $2,444,280 00 As a result, in total the Sureties have provided bonds in excess of $33,914,280 00

7 The South Carolina Supreme Court, taking jurisdiction over the appeal, affirmed the Common Pleas Orders Subsequent thereto in October 2002, Conseco filed a Petition for Certiorari in the United States Supreme which was granted

[1] Although Zurich continues to hold the collateral in money market accounts, as provided in the Collateral Agreement, dated March 21, 2001, paragraph 6 specifically provides that any interest that accrues on the Collateral is Zurich's property for which Zurich shall have no obligation to pay to Conseco Therefore, the Collateral remains at $20 million

8 Since the Petition Date intervened while the appeal remained pending in the Supreme Court, on January 21, 2003, the Debtors were granted relief from the automatic stay for the limited purpose of continuing pursuit of the appeal in the Supreme Court

9 Subsequent to the Petition Date, on February 19, 2003, this Court entered a stipulated order in which it granted the Sureties an administrative claim priority for any indemnification obligation claims arising from the Supersedeas Bonds (see Docket Number 1413), a copy of which is attached hereto as Exhibit A (the "Administrative Claim")

10 On June 23, 2003, the Supreme Court issued an opinion in which it vacated the judgment entered in the South Carolina State Court and remanded the case back to the South Carolina Supreme Court for further findings

11 On August 13, 2003, the Debtors filed a complaint in the above-captioned adversary proceeding in which they sought a declaratory judgment from this Court that the Supersedeas Bonds were discharged by virtue of the Supreme Court's decision (the "Debtors Declaratory Action") [2] At the October 14, 2003 hearing on the Bazzle/Lackey's Motion to Dismiss, the Court again reiterated despite Bazzle/Lackey's Assertion to the contrary, that the Sureties held an allowed administrative claim See Transcript of October 14, 2003 Hearing, pages 5 and 9 A true and correct copy of the October 14, 2003 transcript is attached hereto as Exhibit B At the October 14,2003 hearing the Court declined to take jurisdiction over the issue concerning the fate of the Supersedeas Bonds and that issue now remains pending in South Carolina

12 The Administrative Claim, after deducting the $20 million in Collateral leaves the current outstanding obligation of $14,080,694 17 This amount is calculated by

adding to the face amount of the bonds not covered by the Collateral, $13,914,280, those expenses that are outlined in the bond agreements For example, the terms of the Supersedeas Bonds also require Conseco to repay, *inter alia*, the Sureties' counsel fees for its defense of the bonds, which as of October 31, 2003 are $96,425 97 Furthermore, the charges for the renewal of the bonds through 2004 are for the Fidelity Bond $29,214 00 (premium) and $8,794 20 (commission paid), and for the Zurich Bond $24,600 (premium) and $7,380 (commission paid) A true and correct copy of the bond renewal notices are attached hereto as Exhibit C Therefore, the Administrative Claim, at present, is $14,080,694 17

13 On September 9, 2003 the Court confirmed the Debtors Sixth Amended Joint Liquidating Plan Pursuant thereto, the Court set November 10, 2003 as the administrative claim bar date in the Debtors' cases (the "Bar Date")

III RELIEF REQUESTED

14 As set forth herein, the Sureties have previously been granted an Administrative Claim in this case This Request, largely being brought out of an abundance of caution due to the November 10, 2003 Bar Date, seeks to set the allowed Administrative Claim amount and payment thereof In the alternative, the Request also seeks the Court to enter an order directing the Debtors to set aside a reserve for the Zurich Administrative Claim if, when, and to the extent that the bonds are deemed to have matured and payment therefrom is due

A SET ADMINISTRATIVE CLAIM AMOUNT

15 Section 503(b)(1)(A) of the Bankruptcy Code provides for the allowance of administrative expenses, including in particular, the actual, necessary costs and expenses of preserving the bankruptcy estate

---

[2] As this Court is well aware, both the Bazzle/Lackey Plaintiffs and, to a lessor extent, the Debtors, have brought a myriad of requests for relief from this Court For brevity's sake, Zurich will not include a recitation of this portion

16 Since the Court has already entered the Stipulated Order granting the Administrative Claim priority pursuant to Section 503(b), the only remaining issue is the amount in which the Administrative Claim should be allowed

17 As set forth above, the current net obligation to the Sureties under the bonds is $14,080,694 17, which have been deemed to be an allowed administrative claim if and to the extent that the bonds are deemed matured and valid Therefore, the Sureties seek the entry of an Order setting $14,080,694 17 as an allowed administrative claim, subject to other increasing costs such as, *inter alia*, the Sureties' counsel fees

B Payment of the Administrative Claim

18 The Sureties also respectfully request the immediate payment of its Administrative Claim

19 Considering that the post-confirmation Debtors are commencing their claims and distribution processes, the Sureties would be prejudiced were they required to wait and see whether the Debtors will have enough funds available to pay the Administrative Claim if and when it becomes fully matured

20 Furthermore, under the doctrine of *quia timet*, immediate payment is appropriate in these circumstances The doctrine of *quia timet* provides that a surety may demand that a principal place the surety "in funds" where there are reasonable grounds to believe that surety will suffer a loss in the future See In re Farmland Industries, Inc , 296 B R 793, 797 (8th Cir BAP 2003)

21 In this case, there is a significant question as to what effect the Supreme Court's vacatur of the South Carolina judgment has on the supersedeas bonds, and, therefore, what type and amount of claims Bazzle/Lackey may have against the Debtors In turn, such a

---

of the case's background

determination of the underlying issue would resolve the question of the necessity for and amount of the Administrative Claim

22 Considering the Bazzle/Lackey Plaintiffs' relentless attempts to breathe life into and recover from the Supersedeas Bonds, there is a possibility that some court, somewhere, will finally rule in their favor, which would likely result in a loss to the Sureties

23 Albeit a precautionary measure only made immediately relevant by the setting of the Bar Date, applying a *quia timet* remedy would ensure that until such determinations are made regarding the Supersedeas Bonds, the Sureties would be placed "in funds" Thus, although the Sureties (and the Debtors) believe they will ultimately prevail on the Supersedeas Bond issues, *quia timet* prevents any prejudice that the Sureties may face if, after the claims and distributions process, there are not sufficient funds to cover the Administrative Claims if the Debtors and Sureties are eventually unsuccessful As a result, immediate payment of the Administrative Claim is appropriate

C Set Reserve for the Sureties' Administrative Claim

24 In the alternative, the Sureties requests that this Court require the Debtors to set aside and reserve the full amount of the Administrative Claim (plus additional amounts to cover continuing costs under the Supersedeas Bonds)

25 By reserving the full amount, the Sureties will avoid the circumstance where funds are no longer available to pay the Sureties' Administrative Claim, if, and to the extent that the Supersedeas Bonds are ever deemed matured and valid As a result, the funds with which the Debtors would use to pay the Sureties' Administrative Claim would be set aside, safe from any dissipation or reduction of available funds that may occur through Debtors' distribution under their plan

26 Such relief is often applied, especially where such a large but unmatured administrative claim threatens to substantially affect the Debtors' administration of its post-confirmation estate

27 Therefore, at the very least, the Debtors should be required to escrow the full amount of the Administrative Claim as well as additional funds to cover ongoing costs accruing under the Supersedeas Bonds

WHEREFORE, pursuant to 11 U S C § 503, the Sureties respectfully request that this Court set the allowed Administrative Claim of the Sureties in the amount of $14,080,694 17 subject to further costs, and direct immediate payment thereof In the alternative, Zurich respectfully requests that this Court require the Debtors to set aside $14,200,000 00 on behalf of the Sureties' Administrative Claim to be paid if and when such obligation becomes due

Respectfully submitted,

Karen Lee Turner, Esquire
ECKERT SEAMANS CHERIN & MELLOTT, LLC
1515 Market Street, 9th Floor
Philadelphia, PA 19102

And

Barry D Bayer
P O Box 2577
2842 Walnut Road
Homewood, IL 60430

Counsel for Zurich American Insurance Company and Fidelity and Deposit Company of Maryland

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the request of Zurich American Insurance Company and Fidelity and Deposit Company of Maryland to set the amount of the previously allowed administrative claim and for payment the claim or in the alternative for a reservation of amounts due thereunder was served upon the parties on the following party by First Class, United States Mail, postage prepaid, on November 7, 2003

Roger Higgins
Kirkland & Ellis
200 East Randolph Drive
Chicago, IL 60601

Ronald S Gellert, Esquire

EOD FEB 19 2003

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

In re.	)	Chapter 11
	)	
Conseco, Inc , et al ,[1]	)	
	)	Case No 02 B49672
Debtors	)	Honorable Carol A Doyle
	)	(Jointly Administered)
	)	

ORDER APPROVING DEBTORS' MOTION FOR AUTHORITY TO ENTER INTO A SETTLEMENT WITH FIDELITY AND DEPOSIT COMPANY OF MARYLAND/ZURICH AMERICAN INSURANCE COMPANY PURSUANT TO SECTIONS 363 AND 503 OF THE BANKRUPTCY CODE

Upon the motion (the "Motion")[2] of the CFC Debtors in the above-captioned chapter 11 cases seeking entry of an order pursuant to sections 363 and 503 of title 11 of the United States Code (the "Bankruptcy Code") authorizing, but not requiring, the Debtors to enter into a settlement with Fidelity and Deposit Company of Maryland/Zurich American Insurance Company (variously "Fidelity" or the "Surety Agent"), and after due deliberation and cause appearing therefor, it is hereby

ORDERED that the Motion is granted, and it is further

---

1 The Debtors are the following entities (i) Conseco, Inc , CIHC, Incorporated, CIHC, Inc , Partners Health Group Inc , Conseco Finance Corp and Conseco Finance Servicing Corp (collectively, the "Initial Debtors) and (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 (collectively the "CFC Subsidiary Debtors)

2 Capitalized terms not defined herein are as defined in the Motion

ORDERED that the Debtors are authorized, but not required, to enter into a settlement with Fidelity whereby

(a) Fidelity agrees not to cancel any Business Surety Bonds or Supersedeas Bonds for any reason until

(i) in the case of the Supersedeas Bonds

(A) the Surety obtains a release from the Dorchester County Circuit Court, State of South Carolina and Barnwell County Circuit Court, State of South Carolina (the "South Carolina Courts"),

(B) either of the South Carolina Courts directs the Surety to honor the Supersedeas Bonds and the Supersedeas Bonds have been so honored or

(C) the Surety is otherwise released as provided under applicable non-bankruptcy law, (the 'Supersedeas Bond Period")

(ii) and, in the case of the Business Surety Bonds, the earlier of the sale of substantially all of CFC's assets or the consummation of these Chapter 11 Cases, (the "Business Surety Bond Period," together with the Supersedeas Bond Period, the "Surety Bond Periods'),

(b) The Debtors agree to assume the Indemnification Obligations for the Business Surety Bonds and Supersedeas Bonds with respect to any indemnity claims arising from claims made against either Supersedeas Bonds or the Business Surety Bonds, as the case may be, during the respective Surety Bond Periods (if any, the "Indemnification Obligation Claims"),

(c) Any Indemnification Obligation Claims would be treated as administrative expenses pursuant to section 503(b) of the Bankruptcy Code, and

it is further

ORDERED that this Court shall retain jurisdiction over all matters arising out of the Motion

Chicago, Illinois

Dated February 19, 2003

Carol A Doyle
United States Bankruptcy Judge

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

CONSECO, INC., et al.	)	
	)	
	)	No. 02 B 49672
	)	
Debtors.	)	October 14, 2003
	)	11:45 A.M.
	)	Chicago, Illinois

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE CAROL A. DOYLE

APPEARANCES:

For the Debtors:	Mr. Tim Elliott; Mr. Roger Higgins;
For the Bazzle Lackey Plaintiffs:	Mr. Bruce Lithgow; Ms. Mary Arnold;
For Zurich American and Fidelity Deposit:	Ms. Karen Lee Turner;

Court Reporter: Amy B Doolin, CSR, RPR
U.S. Courthouse
219 South Dearborn
Chicago, Illinois 60604

THE CLERK: Conseco and related cases.

MR. ELLIOTT: Good morning, Your Honor Tim Elliott and Roger Higgins on behalf of the debtors.

THE COURT: Good morning.

MR. LITHGOW: Good morning, Your Honor. Bruce Lithgow and Mary Arnold on behalf of the Bazzle Lackey plaintiffs.

MS. TURNER: Your Honor, my name is Karen Lee Turner. I'm here with Barry Behr and Ron Gellert on behalf of Fidelity Deposit and Zurich American.

THE COURT: Good morning. All right. I'm sorry to keep everyone waiting. I was trying to revise an oral decision because I told the parties I was going to rule on this today come whatever, whatever. But I might add, however, that the parties seem to have unilaterally decided to grant themselves various extensions without asking the court.

Therefore, I didn't get the last brief until Thursday. So I apologize to everyone else in the room who was waiting for 10 or 15 minutes for me to come out. But I would really appreciate it if the parties wouldn't do that without asking me, especially when we are on a pretty tight deadline for

dealing with this issue.

Nonetheless, I have read all the briefs and I am prepared to rule. I do have a little bit too quickly written, in my view, oral opinion to put on the record. So pardon me that the pros are not going to be very polished, but my ruling is I am going to abstain and in fact I'm going to abstain and dismiss the adversary case. And let me just put my ruling on the record briefly.

This adversary is before the court on the motion of the Bazzle Lackey parties to abstain from hearing this action or in the alternative to dismiss Conseco's amended adversary complaint for declaratory relief. For the reasons I shall state, the court will abstain and dismiss this adversary proceeding. The court will also dissolve the temporary injunction it previously imposed regarding the Bazzle Lackey parties against the sureties.

First, core versus related jurisdiction. In determining the test to apply regarding abstention, the court must first decide whether it has core jurisdiction or related jurisdiction over the adversary proceeding. The court has concluded that the adversary is not within its core jurisdiction but instead is within the related

jurisdiction of this court.

The court previously considered whether the issues relating to the bond would determine whether the Bazzle Lackey parties had secured claims in this case or not. As the Bazzle Lackey parties point out, they do not assert that their claims are secured by the bonds, but rather by rights of setoff. The bonds themselves are not property of the estate, and the reversionary interest in all the collateral that the debtors have pledged to the bonding companies has been transferred to the purchaser of CFC's assets. So that collateral is no longer property of the estate either.

To the extent the bonds provide security for the Bazzle Lackey party claims, the existence of those bonds or their rights in those bonds do not make the Bazzle Lackey parties secured creditors in this case. So whether the bonds are released by the U.S. Supreme Court in the underlying Bazzle Lackey class action in South Carolina will not determine whether the Bazzle Lackey parties are secured claimants in the CFC bankruptcy case, and therefore, the adversary proceeding is not within the core jurisdiction of this court.

The decisions relating to bonds may have

an impact on the estate in this case because the debtor and the bonding companies have agreed that the bonding companies will have an administrative claim against the CFC bankruptcy estate in the amount of $12 million if the Bazzle Lackey parties collect on the bonds. However, the potential impact on the estate is not sufficient to confer core jurisdiction. See, for example in re United States Brass, 110 F.3d 1261 1268, Seventh Circuit, 1997.

Instead this adversary would fall within the related jurisdiction of this court. Therefore, in determining whether to abstain, the court should consider whether mandatory abstention is appropriate under 28 USC Section 1334(c)(2) or whether permissive abstention is appropriate under 28 USC Section 1334(c)(1).

First, with respect to mandatory abstention, under 28 USC Section 1334(c)(2), the court must abstain if a timely motion is brought based upon a state law claim or state law cause of action related to a case under Title 11, but not arising under or in a case under Title 11 with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section if an action has been

commenced and can be timely adjudicated in a state forum of appropriate jurisdiction. That's a paragraph of 1334(c)(2).

In this case there are two issues raised under this test for mandatory abstention. First, is there an independent grounds for federal jurisdiction, and second, is there a state court proceeding pending. The Bazzle Lackey parties filed a declaratory action in state court against the bonding companies that did not include the debtor as a defendant because of concerns about the automatic stay.

The sureties then removed that case to federal court in South Carolina where it is now pending. This court recalls that counsel for the sureties stated in open court several months ago that the case was removed to federal court in South Carolina for the purpose of having it transferred to this court. However, the sureties' counsel also asserts, as does the debtor, that there is diversity of citizenship to support federal jurisdiction in addition to jurisdiction under 28 USC Section 1334.

The parties have briefed before the U.S. District Court in South Carolina a motion to remand that declaratory judgment to the South Carolina state

court, but that has not yet been ruled on. This court enjoined the parties from proceeding beyond the briefing of that issue pending this court's consideration of the abstention issue and whether or not it should resolve the bond issue

Thus, at present the declaratory judgment action against the sureties filed by the Bazzle parties is not currently pending in state court, and it is uncertain whether there is diversity of citizenship -- diversity jurisdiction over that case (sic). So the bond issue could also be resolved in the underlying state court action which is still pending in state court.

However, the confirmation order in the CFC case enjoins parties from proceeding on this action. The court rejects the Bazzle parties' contention that the injunction in paragraph 59 of the confirmation order for the CFC case does not apply to it based on paragraph 65 of the confirmation order. Paragraph 65 of the confirmation order essentially provides that neither the confirmation order nor the plan shall have any preclusive effect on any issue regarding the bonds. It, thus, preserves all substantive rights of the Bazzle parties regarding the bonds. It does not in any way conflict with or

supersede the injunction provision of 59 which currently enjoins actions relating to any claim treated by the plan, which includes Bazzle Lackey.

Thus, the Bazzle Lackey plaintiffs may not continue their underlying class action against the debtor unless this court specifically orders that they do so. This court could so order, so in theory there is at least a pending action in state court to which this court could abstain for purposes of 1334 (c)(2), mandatory abstention.

However, neither party has asked this court to modify the injunction in paragraph 59 for the bond issue to proceed directly as part of that underlying class action. Thus, there are some thorny issues to be addressed regarding that mandatory abstention issue. However, the court need not fully resolve them because it finds that in any event abstention is appropriate in this case under permissive abstention.

Under 28 USC Section 1334(c)(1), the court may abstain if appropriate after considering a number of factors that have been enunciated by enumerable courts; for example, in re Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 6 F 3d 1184 at page 1198, a Seventh Circuit decision. The court

finds that there is a compelling case here for permissive abstention.

First, this is purely an issue of state law.

Second, the court has only related to jurisdiction so it may not enter a final judgment in any event.

Third, although there will be an impact on the estate if the bonds are released, the bankruptcy issue regarding that impact has already been resolved by the agreed order allowing the administrative claim to the sureties. Resolution of the bond issue will have no real impact on the administration of the bankruptcy itself. It simply decreases the amount of distribution to other creditors by $12 million.

Fourth, there are already pending related proceedings in South Carolina that present the logical forum for resolution of these state court bond issues.

Fifth, there is an element of forum shopping involved in the filing of the adversary proceeding in this court when the South Carolina courts are to me the obvious place that an issue regarding the disposition of the bond on appeal should be addressed.

In this court's view, the South Carolina courts are clearly the more appropriate forum for resolution of this bond issue. This court will, therefore, abstain from deciding the issue presented in the adversary and will dismiss the proceeding. The district court in South Carolina obviously is free to decide whether it has jurisdiction over the case and whether remand is appropriate. If the district court decides to keep that case, the debtors may choose to intervene in that, or if it goes back to state court, they are free to intervene there as well.

So that is my ruling. I am going to dismiss the adversary and let either the U.S. District Court in South Carolina or the state court in South Carolina resolve this issue.

All right. I think that's the only thing we are here for, correct?

MR. ELLIOTT: Yes. That's right.

THE COURT: All right. Again, my apologies for being late.

(Which were all the proceedings had in the above-entitled cause.)

I, AMY B. DOOLIN, do hereby certify that the foregoing is a true and accurate transcript of the proceedings had in the above-entitled cause.

THE FIDELITY AND DEPOSIT COMPANIES

RENEWAL NOTICE

THIS BOND ISSUED BY FIDELITY AND DEPOSIT COMPANY OF MARYLAND
BRANCH OFFICE INDIANAPOLIS

AGENT 044-2467 HYLANT GROUP

HYLANT GROUP
501 CONGRESSIONAL BLVD STE 300
PO BOX 1910
CARMEL IN 46082

BOND NUMBER. CGB 8103078 03

EFFECTIVE 10/18/2003 EXPIRATION 10/18/2004

BOND PENALTY $19 314,280

PRINCIPAL
CONSECO FINANCE, INC.
501 CONGRESSIONAL BLVD
SUITE 150
CARMEL , IN 46082

OBLIGEE
VS LYNN W BAZZLE, ETAL
ADDRESS UNKNOWN
DORCHESTER, SC 99999

TYPE OF BOND APPEAL

FORM OF RENEWAL: CONTINUOUS

DESCRIPTION OF JOB/RISK/COMMENTS
APPEAL BOND

COMMISSIONED PREMIUMS

PREMIUM	COMMISSION	COMMISSION AMOUNT
$29,314 00	30 00%	$8 794 20

TOTAL COMMISSION $8 794 20

TOTAL PREMIUM FOR THIS RENEWAL IS $29,314 00

PROCESSED ON 10/23/2003 AND EFFECTIVE ON 10/18/2003

RF1

OCT 24 2003 8 45AM ZURICH NA SURETY NO 8830 F 2

THE FIDELITY AND DEPOSIT COMPANIES

BILL FOR PREMIUM

THIS BOND ISSUED BY FIDELITY AND DEPOSIT COMPANY OF MARYLAND
BRANCH OFFICE INDIANAPOLIS

AGENT 044-2467 HYLANT GROUP

HYLANT GROUP
501 CONGRESSIONAL BLVD STE 300
PO BOX 1910
CARMEL IN 46082

BOND NUMBER CGB 4124552 02 EFFECTIVE 03/21/2003 04 EXPIRATION 03/21/2004 05

BOND PENALTY $14,600,000

PRINCIPAL
CONSECO FINANCE
CSE DEFAULT

OBLIGEE
DANIEL B LACKEY

CSE DEFAULT, SC 99999 99999

TYPE OF BOND SUPERSEDEAS FORM OF RENEWAL CONTINUOUS
DESCRIPTION OF JOB/RISK/COMMENTS-
257 03

COMMISSIONED PREMIUMS

PREMIUM	COMMISSION	COMMISSION AMOUNT
$24,600 00	30.00%	$7,380 00

TOTAL COMMISSION: $7,380 00

TOTAL PREMIUM FOR THIS RENEWAL IS $24,600 00

PROCESSED ON 10/23/2003 AND EFFECTIVE ON 03/21/2003

LC7

OCT 24 2003 8 46AM ZURICH NA SURETY NO 8830 P 3

BOND # 8103078

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA, COUNTY OF DORCHESTER

CIVIL ACTION NO 97-CP-18-258

LYNN W BAZZLE and BURT A BAZZLE, in a representative capacity on behalf of a class and for all others similarly

Plaintiffs,

v

GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVICES CORPORATION n/k/a CONSECO FINANCE, INC ,

Defendants

WRIT OF SUPERSEDEAS BOND

KNOW ALL MEN BY THESE PRESENTS, that we, **GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVICES CORPORATION n/k/a CONSECO FINANCE, INC** , as Principal and **FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, as Surety are held and bound unto the Clerk of Court for the Court of Common Pleas, County of Dorchester, State of South Carolina and its successors in office in the aggregate sum of **Sixteen Million Eight Hundred Seventy Thousand and 00/100 Dollars ($16,870,000.00)**, lawful money of the United States of America, for which payment well and truly be made to the said Clerk or his successors, we bind ourselves, each of our heirs, executors, administrators firmly by these presents

WHEREAS, the said Principal, **GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVICIES CORPORATION n/k/a CONSECO FINANCE, INC.**, have appealed the judgment entered on July 24, 2000 and desire to suspend execution of the judgment pending and seeks immediate stay of all proceedings in furtherance of execution pending the resolution of this matter upon approval

NOW THEREFORE, the condition of this obligation is that if the appellant (defendant) shall satisfy the above identified Judgment if it is affirmed, or if for any reason the appeal is dismissed, or shall satisfy and modification of the Judgment, and in either case shall pay all cost, interest and any damages for delay that may be awarded, this obligation is void, otherwise to remain infull force and effect

Signed this 18th day of October, 2000

GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVIES CORPORATION n/k/a CONSECO, INC

David K. Hogg
Principal

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Timothy J. Turner
Timothy J. Turner, Attorney-in-fact

BOND # 04124552

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL

CIVIL ACTION NO 96-CP-06-073

DANIEL B LACKEY, GEORGE BUGGS, and FLORINE BUGGS, in a representative capacity on behalf of a class of all others similarly situated,

Plaintiffs,

v

GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVICES CORPORATION n/k/a CONSECO FINANCE, INC.,

Defendants

WRIT OF SUPERSEDEAS BOND

KNOW ALL MEN BY THESE PRESENTS, that we, GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVICES CORPORATION n/k/a CONSECO FINANCE, INC , as Principal and ZURICH AMERICAN INSURANCE COMPANY, as Surety are held and bound unto the Clerk of Court for the Court of Common Pleas, County of Dorchester, State of South Carolina and its successors in office in the aggregate sum of FOURTEEN MILLION SIX HUNDRED THOUSOUND and 00/100 Dollars ($14,600,000.00), lawful money of the United States of America, for which payment well and truly be made to the said Clerk or his successors, we bind ourselves, each of our heirs, executors, administrators firmly by these presents

WHEREAS, the said Principal, GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVICIES CORPORATION n/k/a CONSECO FINANCE, INC., have appealed the judgment entered on July 24, 2000 and desire to suspend execution of the judgment pending and seeks immediate stay of all proceedings in furtherance of execution pending the resolution of this matter upon approval

NOW THEREFORE, the condition of this obligation is that if the appellant (defendant) shall satisfy the above identified Judgment if it is affirmed, or if for any reason the appeal is dismissed, or shall satisfy and modification of the Judgment, and in either case shall pay all cost, interest and any damages for delay that may be awarded, this obligation is void, otherwise to remain infull force and effect.

Signed this 21st day of March, 2001

GREEN TREE FINANCIAL CORPORATION a/k/a GREEN TREE ACCEPTANCE CORPORATION a/k/a GREEN TREE FINANCIAL SERVIES CORPORATION n/k/a CONSECO, INC.

Karl W Kindig
Principal Assistant Secretary

ZURICH AMERICAN INSURANCE COMPANY

L Jo Hollingsworth, Attorney-in-fact

ECKERT SEAMANS CHERIN & MELLOTT, LLC

1515 Market Street
Ninth Floor
Philadelphia PA 19102
Telephone 215 851 8400
Facsimile 215 851 8383
www escm com

Boston
Haddonfield NJ
Harrisburg
Morgantown WV
Philadelphia
Pittsburgh
Washington D C

November 7, 2003

VIA FEDERAL EXPRESS

Bankruptcy Management Corporation
Attn Conseco, Inc Claims Agent
1330 East Franklin Avenue
El Segundo, CA 90245

Re In re Conseco Finance Corp , et al
Case Number 02-49675

Dear Sir/Madam

Enclosed please find a Request of Zurich American Insurance Company and Fidelity and Deposit Company of Maryland to Set Amount of Previously Allowed Administrative Expense Claim and Payment or Reservation of Amounts Due Thereunder filed in the above-captioned proceeding and two additional copies Please file the Request and return the time-stamped copies to the undersigned in the enclosed self-addressed, stamped envelope

Thank you

Yours sincerely,

Ronald S Gellert

RSG/lpf
Enclosures

Ronald S Gellert
302-425-0430
ronald gellert@escm com
M0429511