UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS

PROOF OF CLAIM

Name of Debtor Against Which You Assert Your Claim Conseco Finance Servicing Corp.

YOU MUST SELECT A DEBTOR AGAINST WHOM YOU ASSERT YOUR CLAIM YOU SELECT A DEBTOR BY CHECKING ONE BOX ON THE OTHER SIDE OF THIS NOTICE NOTE Check one box only A separate completed and executed proof of claim form against each of the Debtors against which the creditor wishes to assert a claim Creditors holding claims against more than one Debtor must file a separate claim in the case of each Debtor against whom the creditor asserts a claim A creditor will be bound by the Debtor named in its proof of claim

YOUR CLAIM IS SCHEDULED AS

$9,000,000.00

The amounts reflected above constitute your claim as scheduled by the Debtor If you agree with the amounts set forth herein, and have no other claim against the Debtor you do not need to file this proof of claim EXCEPT as stated below

If the amounts shown above are listed as Contingent, Unliquidated or Disputed, a proof of claim must be filed

If you have already filed a proof of claim with the Bankruptcy Court or BMC you do not need to file again.

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A "request" for payment of an administrative expense may be filed pursuant to 11 U S C § 503

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☒ **Check box if you have never received any notices from the bankruptcy court in this case**

☐ Check box if this address differs from the address on the envelope sent to you by the court.

Name of Creditor and Address

Home City, Ltd.
c/o Everett, Gaskins, Hancock & Stevens
P O. Box 911
Raleigh, North Carolina 27602

Creditor Telephone Number ( ) 919-755-0025

CREDITOR TAX I D # 56-1925475

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR

Check here if this claim ☐ replaces or ☐ amends a previously filed claim dated _____

1 BASIS FOR CLAIM

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Bondholder
☐ Personal injury/wrongful death
☐ Taxes
☒ Other (describe briefly) SEE ATTACHED
☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages, salaries and compensation (Fill out below)

Your social security number _____

Unpaid compensation for services performed from _____ (date) to _____ (date)

2 DATE DEBT WAS INCURRED 5/6/02

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM $ 9,000,000.00 (unsecured) $ _____ (secured) $ _____ (unsecured priority) $ _____ (total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

☒ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

5 SECURED CLAIM

☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

☐ Real Estate
☐ Motor Vehicle
☐ Other _____

Value of collateral $ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any $ _____

6 UNSECURED PRIORITY CLAIM

☐ Check this box if you have an unsecured priority claim

Specify the priority of the claim

☐ Wages salaries or commissions (up to $4 650*) earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business whichever is earlier - 11 U.S C § 507(a)(3)
☐ Contributions to an employee benefit plan - 11 U S C § 507(a)(4)
☐ Up to $2,100* of deposits toward purchase lease or rental of property or services for personal family or household use - 11 U S C § 507(a)(6)
☐ Alimony maintenance or support owed to a spouse former spouse or child 11 U S C § 507(a)(7)
☐ Taxes or penalties owed to governmental units 11 U.S C § 507(a)(8)
☐ Other - Specify applicable paragraph of 11 U S C § 507(a) _____

Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment

7 CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

8 SUPPORTING DOCUMENTS *Attach copies of supporting documents,* such as promissory notes, purchase orders invoices, itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous, attach a summary

9 DATE-STAMPED COPY To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of your claim

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before X 00 am/pm, Pacific Time on Month dd, yyyy

BY MAIL TO
Bankruptcy Management Corporation
P O BOX XXX
El Segundo CA 90245-0XXX

BY HAND OR OVERNIGHT DELIVERY TO
Bankruptcy Management Corporation
1330 East Franklin Avenue
El Segundo, CA 90245

THIS SPACE FOR COURT USE ONLY

FILED
JUL 09 2003
BMC

DATE SIGNED 7/8/03

SIGN and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)

E D Gaskins Jr, Attorney

Penalty for presenting fraudulent claim is a fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C §§ 152 AND 3571

Conseco Finance Servicing Claim
49676002150

Name of Debtor Against Which You Assert Your Claim

- [ ] Conseco Finance Corp (02-49675 CAD)
- [x] Conseco Finance Servicing Corp (02-49676-CAD)
- [ ] Conseco Agency of Alabama Inc (03-04692-CAD)
- [ ] Conseco Agency Inc (03-04693 CAD)
- [ ] Conseco Agency of Kentucky Inc (03-04694-CAD)
- [ ] Conseco Agency of Nevada Inc (03 04695 CAD)
- [ ] Conseco Agency of New York, Inc (03-04696 CAD)
- [ ] Crum-Reed General Agency Inc (03-04697 CAD)
- [ ] Conseco Finance Canada Company (03-04698-CAD)
- [ ] Conseco Finance Canada Holding Company (03-04699-CAD)
- [ ] Conseco Finance Corp - Alabama (03-04700-CAD)
- [ ] Conseco Finance Credit Corp (03-04701-CAD)
- [ ] Conseco Finance Consumer Discount Company (03-04702-CAD)
- [ ] Conseco Finance Loan Company (03-04703-CAD)
- [ ] Conseco Finance Net Interest Margin Finance Corp I (03-04704-CAD)
- [ ] Conseco Finance Net Interest Margin Finance Corp II (03-04705 CAD)
- [ ] Green Tree Floorplan Funding Corp (03 04706-CAD)
- [ ] Green Tree Finance Corp - Two (03-04707-CAD)
- [ ] Landmark Manufactured Housing Inc (03-04708-CAD)
- [ ] Rice Park Properties Corporation (03-04709-CAD)

INSTRUCTIONS FOR FILING PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law In particular types of cases or circumstances such as bankruptcy cases that are not filed voluntarily by a debtor there may be exceptions to the general rules

--- DEFINITIONS ---

Debtor

The person corporation or other entity that has filed a bankruptcy case is called the debtor

Creditor

A creditor is any person corporation or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim) This form must be filed with the court appointed Claims Agent, Bankruptcy management Corporation at the address listed on the reverse side of this page

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property

Examples of liens are a mortgage on real estate and a security interest in a car truck, boat, television set, or other item of property A lien may have been obtained through a court proceeding before a bankruptcy case began in some states a court judgment is a lien In addition, to the extent a creditor also owes money to the debtor (has a right of setoff) the creditor's claim may be a secured claim (See also Unsecured Claim)

Unsecured Claim

If a claim is not secured claim it is an unsecured claim A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full

Unsecured Priority Claim

Certain types of unsecured claims are given priority so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims) The most common types of priority claims are listed on the proof of claim form Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as Unsecured Nonpriority Claims

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example District of Delaware) the name of the debtor in the bankruptcy case and the bankruptcy case number If you received a notice of the case from the Claims Agent Bankruptcy Management Corporation all of this information is near the top of the notice

Information about Creditor

If not already accurately pre-printed complete the section giving the name address and telephone number of the creditor to whom the debtor owes money or property and the debtor's account number if any If (a) anyone else has already filed a proof of claim relating to this debt (b) if you never received notices from the bankruptcy court about this case (c) if your address differs from that to which the Claims Agent sent this notice or (d) if this proof of claim replaces or amends a proof of claim that was already filed check the appropriate boxes on the form.

1 Basis for Claim

Check the type of debt for which the proof of claim is being filed If the type of debt is not listed check Other" and briefly describe the type of debt. If you were an employee of the debtor fill in your social security number and the dates of work for which you were not paid

2 Date Debt Incurred

Fill in the date when the debt was first owed by the debtor

3 Court Judgments

If you have a court judgment for this debt, state the date the court entered the judgment.

4 Total Amount of Claim at Time Case Filed

Fill in the total amount of the entire claim If interest or other charges in addition to the principal amount of the claim are included check the appropriate place on the form and attach an itemization of the interest and charges

5 Secured Claim

If your claim is a secured claim, check the appropriate boxes in this section You must state the type and value of property that is collateral for the claim attach copies of the documentation of your lien and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured (See DEFINITIONS above)

6 Unsecured Priority Claim

If your claim is an unsecured priority claim (See DEFINITIONS above) check the appropriate boxes in this section and state the amount entitled to priority A claim may be partly priority and partly nonpriority if for example, the claim is more than the amount given priority by the law Check the appropriate place to specify the type of priority claim

7 Credits

By signing this proof of claim you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor

8 Supporting Documents

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or if the documents are too lengthy a summary of those documents. If documents are not available you must attach an explanation of why they are not available

Please read – Important information upon completion of this claim form you are certifying that the statements herein are true

Be sure to date the claim and place original signature of claimant or person making the claim for creditor where indicated at the bottom of the claim form Please type or print name of individual under the signature Be sure all items are answered on the claim form If not applicable insert Not Applicable

Return claim form and attachments If any and a second copy with any attachments to the Claims Agent, Bankruptcy Management Corporation at the address on the front of this form.

NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY

2002 [illegible] 15

02 CvS 005931

CONSECO FINANCE SERVICING CORPORATION,	)	
Plaintiff,	)	
v	)	**AMENDMENT TO COUNTERCLAIM** **AMND**
HOME CITY, LTD VON ALLEN, MICHAEL L ALLEN, and MARVA ALLEN	)	
Defendants	)	

NOW COMES the Defendant Home City, Ltd , ("Home City"), and as a matter of right pursuant to N C R C P Rule 15(a), amends its counterclaims by alleging as follows

THIRD COUNTERCLAIM BREACH OF CONTRACT/ACCOUNTING

22 Defendant Home City repeats and realleges the allegations contained in paragraphs 1 through 21 of its Counterclaims

23 On or about May 6, 2002, Home City received four letters attached hereto as Exhibits 4, 5, 6 and 7

24 On or about May 30, 2002, Home City received the letter attached hereto as Exhibit 8

25 In addition to the payment in full described in paragraph 9 of Plaintiff's counterclaims, these exhibits reflect

- as of May 1, 2002, a credit due by Conseco to Home City in the amount of $9,687 87
- as of May 1, 2002, a credit due by Conseco to Home City in the amount of $129 96
- as of May 27, 2002, the receipt by and wrongful withholding by Conseco of $13,777 00 due to Home City

26 Home City is informed and believes that Conseco owes to Home City a credit balance in an amount which Home City cannot determine because of Conseco's failure to disclose to Home City amounts it claims to be due and how it has determined those amounts, has failed to reflect payments made by Home City to Conseco, has never made an appropriate demand on Home City for amounts due, and has otherwise failed to comply with contractual and legal requirements necessary to accelerate any debt allegedly owed by Home City to Conseco (the existence of which debt is denied by Home City)

Additional Prayer for Relief

Therefore, in addition to the relief previously prayed for, Home City respectfully prays the Court for an accounting, for the recovery of whatever amounts a proper accounting reflects is owed by Conseco to Home City, and for that amount to be trebled, pursuant to North Carolina's Unfair Trade Practice Statute

Respectfully submitted, this the 11th day of June, 2002

EVERETT, GASKINS, HANCOCK & STEVENS LLP

E D Gaskins, Jr
State Bar No 1606
Michael J Tadych
State Bar No 24556
127 W Hargett Street, Suite 600
P O Box 911
Raleigh, NC 27602
Telephone (919) 755-0025
Facsimile (919) 755-0009

THE LAW FIRM OF HUTCHENS AND SENTER

Lonnie M Player, Jr
State Bar No
P O Box 2505
Fayetteville, North Carolina 28302
Telephone (910) 864-6888
Facsimile (910) 864-6848

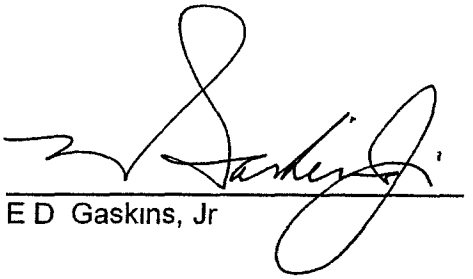
ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned counsel certifies that the foregoing **Amendment to Counterclaim** was served upon counsel of record by facsimile and by U S mail, addressed as follows

Byron L Saintsing, Esq (fax - 919/250-2100)
Connie E Carrigan, Esq
Smith, Debnam, Narron, Wyche, Story & Myers, L L P
4700 New Bern Avenue
Raleigh, North Carolina 27611

This the 11th day of June, 2002



E D Gaskins, Jr

J \Home City Ltd\pleadings\amend_cc_061102 wpd

CONSECO

CONSECO FINANCE SERVICING CORP
Commercial Lending Division
7711 Bonhomme, Suite 600
St Louis, MO 63105 1908
314-727-0208, 800-668-2645

RECEIVED
MAY - 6 2002

May 1, 2002

Home City, Ltd
PO Box 459
2086 Hwy 24/27 West
Biscoe, NC 27209

Dear Dealer/Customer

Conseco Finance Servicing Corp. (Conseco) instituted an audit of the floorplan receivable and documentation on your account. This audit was completed as part of our restructuring process, which Conseco announced to you on February 28, 2002 The reconciliation is now completed and the necessary changes have been made to your account effective with our billing dated April 1, 2002 (your current statement). Your account is due a credit of $9,687 87 as a result of this audit.

This credit is the result of our billing your account on the basis that it was subject only to the terms of the Inventory Finance and Security Agreement, when in fact it was also subject to the terms of two addenda to the agreement, the Pre-Sold Addendum and the Stock Addendum Accordingly, your account had been billed at a daily Prime Rate effective April 1, 2000 and with a minimum Prime effective October 1, 2002 Fortunately, our audit uncovered these addenda and your account has now been reconciled to comply with the terms of the Pre-Sold Addendum and Stock Addendum Now your account has been properly billed at the Prime Rate as published in the Wall Street Journal in effect on the last business day of each calendar month for the next succeeding month

The changes and corrections to your account have been made and are now reflected on your April, 2002 billing The credit reflects the interest adjustments for the period April 1, 2000 through March 31, 2002

We apologize for this oversight and appreciate your continued support of Conseco during our restructuring period Please call your Area Manager at 800-668-2645 or 800-459-9696 if you wish to review your credit and the application to your account Thank you

Sincerely,

John F Durnien
President
Commercial Lending Division

JFD/lf

EXHIBIT 4

CONSECO.

CONSECO FINANCE SERVICING CORP
Commercial Lending Division
7711 Bonhomme, Suite 600
St. Louis, MO 63105-1908
314-727-0208, 800-668-2645

RECEIVED
MAY - 6 2002

May 1, 2002

Home City, Ltd.
PO Box 459
2086 Hwy 24/27 West
Biscoe, NC 27209

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We apologize for this oversight and appreciate your continued
restructuring period. Ple
to review your credit and

Your credit has been applied to the out of trust balance

Sincerely,

John F Durnien
President
Commercial Lending Divi

JFD/lf

EXHIBIT 5

CONSECO.

CONSECO FINANCE SERVICING CORP
Commercial Lending Division
7711 Bonhomme, Suite 600
St. Louis, MO 63105-1908
314-727-0208, 800-668-2645

May 1, 2002

Home City, Ltd
PO Box 459
2086 Hwy 24/27 West
Biscoe, NC 27209

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We apologize for this oversight and appreciate your continued support of Conseco during our restructuring period Please call your Area Manager at 800-668-2645 or 800-459-9696 if you wish to review your credit and the application to your account Thank you

Sincerely,

John F Durnen
President
Commercial Lending Division

JFD/lf

EXHIBIT 6

CONSECO.

CONSECO FINANCE SERVICING CORP
Commercial Lending Division
7711 Bonhomme, Suite 600
St. Louis, MO 63105-1908
314-727-0208, 800-668-2645

May 1, 2002

Home City, Ltd
PO Box 459
2086 Hwy 24/27 West
Biscoe, NC 27209

Dear Dealer/Customer

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The changes and corrections to your account have been made and are now reflected on your April, 2002 billing The credit reflects the interest adjustments for the period April 1, 2000 through March 31, 2002

We apologize for this oversight and appreciate your continued support of Conseco during our restructuring period. Please [illegible] 800-450-0606 [illegible]
to review your credit and the

Sincerely,

John F Durnien
President
Commercial Lending Divisi

Your credit has been applied to the out of trust balance

JFD/lf

EXHIBIT 7

CONSEC

CONSECO FINANCE SERVICING CORP
Manufactured Housing Division
1400 Westgate Center Drive, Suite 101
PO Box 24967
Winston Salem, North Carolina 27114-4967
336-760-1551 fax 336-760-3641

DELIVERED VIA AIRBORNE# 2948888541

May 27th, 2002

Mr Von L Allen
Mr Michael Allen
Home City, Ltd
PO Box 459
Biscoe, North Carolina 27029

Re Elizabeth Marshall Lewis- Conseco Account Number 96342121

Dear Mr Allen

This letter is to advise you that the above mentioned account has been repossessed Conseco Finance Servicing Corp has made a formal demand to you for the repurchase of this contract under the terms of the Conseco Finance Manufactured Home Agreement This demand was delivered to you via AIRBORNE EXPRESS #2948850343 on February 22nd 2002

At this time, we are in the "repair and refurb" phase of the repossession process We will attempt to sell the unit in a manner to achieve the highest recovery amount possible You will be requested to pay any deficiency balance that may remain after the sale If you wish to participate in the sale of this unit in an effort to reduce any deficiency, please contact our Inventory Control Department and speak with Tommy Motley

In addition, we are in possession of check #96183034 in the amount of $13 777 00 If there is a deficiency balance after the sale of the above, we may, according to paragraph 9 **Sale of Contracts; Setoff,** apply those funds to clear any deficiency balance

If you have any questions, you may reach me at 800 331 1838 ext 337

Sincerely,

Cam McMullan

Cam McMullan
Regional Manager

Cc Barry Lawson, Senior Vice President

EXHIBIT 8

NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
02 CvS 005931

CONSECO FINANCE SERVICING, CORPORATION,

Plaintiff,

v

HOME CITY, LTD VON ALLEN, MICHAEL L ALLEN, and MARVA ALLEN

Defendants

MOTION TO COMPEL ARBITRATION, MOTION TO DISMISS CLAIM AND DELIVERY AND ANSWER AND COUNTERCLAIMS OF HOME CITY, LIMITED

FIRST DEFENSE MOTION TO STAY AND COMPEL ARBITRATION

NOW COME Defendants Home City, Limited (Home City"), Von Allen, Michael L Allen, and Marva Allen, by and through the undersigned, and respectfully move the Court to compel Plaintiff to arbitrate and to stay this action pending the outcome of arbitration In support of their motion, Defendants respectfully show the Court as follows

1 All of the Plaintiff's claims against Home City arise out of or relate to that certain Inventory Financing and Security Agreement dated January 20, 1999, between Plaintiff f/k/a Green Tree Financial Corporation and Home City ("Agreement") attached to the Complaint as Exhibit D

2 The Agreement contains an arbitration clause

3 Any alleged obligation or liability of Defendants Michael L Allen, Von Allen and Marva H Allen to the Plaintiff under those certain Guaranty Agreements as alleged by Plaintiff is governed by the alleged liability of Defendant Home City to Plaintiff under the terms of the Agreement Each of the Guaranty Agreements contains an arbitration clause

Defendants respectfully move this Court pursuant to the Federal Arbitration Act ("FAA"), 9 U S C § 1-16, North Carolina General Statute § 1-567 3 to stay the proceedings in this action and compel arbitration of the parties' claims and disputes

SECOND DEFENSE AS TO CLAIM AND DELIVERY

Home City moves to dismiss the ancillary claim and delivery proceeding now pending because

1 The action to recover possession of the personal property must be stayed pursuant to the invocation of the arbitration clauses Thus, there is no longer an action pending to recover personal property, as required by N C G S §1-472 to maintain an action for Claim and Delivery

2 There is no showing that the property which is the subject of the claim and delivery proceeding is located in Wake County, as required by N C G S 1-474(a)

3 The Claim and Delivery affidavit shows that 23 of the units claimed are not in the possession of Home City, as required by N C G S §1-473(2) Rather, those units are in the possession of others who are not parties to this action

4 N C G S Article 36, §1-472 et seq does not comply with the requirements of Art I, §19 of the North Carolina Constitution (the "law of the land" clause), nor with the Fifth Amendment to the United States Constitution (the "due process of law" clause)

Therefore Home City requests that Notice of Hearing in Claim and Delivery be rescinded and the claim and delivery proceeding be dismissed

THIRD DEFENSE ANSWER

In response to the allegations of Plaintiff's Complaint, Defendant Home City, Limited answers, affirmatively defends and counterclaims as follows

1 Defendant Home City admits the allegations contained in the first and second sentences of this paragraph upon information and belief Defendant Home City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of this paragraph, and they are, therefore, denied

2 Admitted

3 Admitted

4 Admitted

5 Admitted

6 The allegations contained in this paragraph are admitted as they are admitted above and are denied as they are denied above

7 The allegations contained in the first sentence of this paragraph are admitted It is also admitted that the Agreement of July 3, 1995, was superceded by the Agreement of January 20, 1999, and the amendments thereto As to the allegations contained in the second sentence of this paragraph, it is admitted that a copy of an agreement dated July 3, 1995, is attached to Plaintiff's Complaint and marked Exhibit "A " All other allegations contained in the second sentence of this paragraph are denied All other allegations contained in this paragraph are denied

8 Defendant Home City is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and they are, therefore, denied

9 It is denied that Defendant Home City entered into a Floor Plan Financing and Security Agreement with Plaintiff on or about July 3, 1995, which has been superceded by the Agreement and Amendments thereto Defendant Home City affirmatively alleges that it entered into a Floor Plan Financing and Security Agreement with Green Tree Financial Corporation on or about July 3, 1995 The remaining allegations contained in this paragraph are denied

10 It is denied that Defendant Home City entered into a Floor Plan Financing and Security Agreement with Plaintiff on or about July 3, 1995 Defendant Home City affirmatively alleges that it entered into a Floor Plan Financing and Security Agreement with Green Tree Financial Corporation or about July 3, 1995, which has been superceded by the Agreement and Amendments thereto The remaining allegations contained in this paragraph are denied

11 As to the allegations contained in the first sentence of this paragraph, it is denied that Defendant Home City entered into a Floor Plan Financing and Security Agreement with

Plaintiff Defendant Home City affirmatively alleges that it entered into a Floor Plan Financing and Security agreement on or about July 3, 1995 with Green Tree Financial Corporation which has been superceded by the Agreement and Amendments thereto It is admitted that Home City and Green Tree Financial Corporation modified their Floor Plan Financing and Security Agreement on or about July 3, 1995 All other allegations contained in the first sentence of this paragraph are denied As to the allegations contained in the second sentence of this paragraph, it is admitted that one page of a document entitled Addendum of Floor Plan Financing and Security Agreement is attached to Plaintiff's Complaint and marked as Exhibit "B " All other allegations contained in the second sentence of this paragraph are denied All other allegations contained in this paragraph are denied

12 The allegations contained in the first sentence of this paragraph are denied As to the allegations contained in the second sentence of this paragraph, it is admitted that a copy of a document entitled Second Addendum to Floor Plan Financing and Security Agreement is attached to Plaintiff's Complaint and marked Exhibit "C " All other allegations contained in the second sentence of this paragraph are denied All other allegations contained in this paragraph are denied

13 The allegations contained in the first sentence of this paragraph are admitted only to the extent that Home City entered into an Inventory Financing and Security Agreement with Green Tree Financial Corporation on or about January 20, 1999, (the Agreement) which superceded the earlier financing agreements All other allegations contained in the first sentence of this paragraph are denied As to the allegations contained in the second sentence of this paragraph, it is admitted that a copy of a document entitled Inventory Financing and Security agreement is attached to Plaintiff's Complaint and marked as Exhibit "D " All other allegations contained in the second sentence of this paragraph are denied All other allegations contained in this paragraph are denied

14 The allegations contained in the first sentence of this paragraph are admitted to the extent that defendant Home City entered into a Stock Addendum to its Inventory Financing and Security agreement with Green Tree Financial Corporation or about February 11, 1999 The remaining allegations contained in the first sentence of this paragraph are denied As to the allegations contained in the second sentence of this sentence, it is admitted that a copy of a document entitled Stock Addendum to Inventory Financing and Security Agreement is attached to Plaintiff's complaint and marked as Exhibit "E " All other allegations contained in the second sentence of this paragraph are denied All other allegations contained in this paragraph are denied

15 The allegations contained in the first sentence of this paragraph are admitted to the extent that Defendant Home City entered into a Pre-Sold Addendum to the Inventory Financing and Security agreement it had with Green Tree Financial Corporation on or about February 11, 1999 The remaining allegations contained in the first sentence of this paragraph are denied As to the allegations contained in the second sentence of this paragraph, it is admitted that a copy of a document entitled Pre-Sold Addendum to Inventory financing and Security Agreement is attached to plaintiff's Complaint and marked as Exhibit "F " All other allegations contained in the second sentence of this paragraph are denied All other allegations contained in this paragraph are denied

16 The allegations contained in the first sentence of this paragraph are admitted to the extent that Defendant Home City entered into Third Addendum to its Inventory Financing and Security agreement with Green Tree Financial Corporation on or about March 24, 1999, The remaining allegations contained in the first sentence of this paragraph are denied As to the allegations contained in the second sentence of this paragraph, it is admitted that a copy of a document entitled Third Addendum to Inventory Financing and Security Agreement is attached to Plaintiff's Complaint and marked as Exhibit "G " All other allegations contained in the second

sentence of this paragraph are denied All other allegations contained in this paragraph are denied

17 The allegations of Paragraph 17 constitute a legal conclusion to which no response is required To the extent a response is required, Defendant Home City is without knowledge and information as to the factual basis for the conclusions sufficient to form a belief as to the legal conclusion contained in this paragraph, and it is, therefore, denied

18 The allegations contained in the first sentence of this paragraph are denied With regard to the allegations contained in the second sentence of this paragraph, it is admitted that the Agreement provides for acceleration of outstanding payments due and payable upon default It is expressly denied that Home City is in default of the Agreement The remaining allegations contained in the second sentence of this paragraph are denied The allegations contained in the third sentence of this paragraph are denied All other allegations contained in this paragraph are denied

19 It is admitted that Plaintiff has demanded payment of all amounts due and owning from the Home City A copy of the demand letter dated May 1, 202 is attached hereto as Defendant's Exhibit 1 It is denied that Home City has not paid as demanded A copy of the check evidencing payment is attached hereto as Defendant's Exhibit 2 The remaining allegations contained in the first sentence of this paragraph are denied The allegations contained in the second sentence of this paragraph are denied, as of the filing of the Complaint The allegations contained in the second sentence of this paragraph are admitted as to the time period after the Complaint was filed

20 The first sentence of this paragraph is denied The second sentence is admitted The Defendant Corporation does not have sufficient information to form a belief about the third sentence All other allegations are denied

21 The allegations contained in this paragraph purport to state legal conclusions, and,

therefore, need not be answered by Defendant Home City However, to the extent that they need be answered, they are denied

22 The allegations contained in this paragraph are admitted as they are admitted above and denied as they are denied above

23 Home City is informed and believes that the allegations contained in this paragraph are true

24 This paragraph contains legal conclusions to which no answer is required To the extent an answer is required, Home City does not have sufficient information concerning the underlying facts to respond, and therefore denies the allegation

25 It is admitted that Plaintiff has made demand upon Defendant Home City for certain payments, as shown in Exhibit 1 attached hereto It is expressly denied by Defendant Home city that it failed to pay as demanded, as shown in Exhibit 2 attached hereto The remaining allegations contained in this paragraph are denied

26 Home City is informed and believes that a demand has been made as alleged It is further alleged that payment has been made pursuant to the demand as reflected in Exhibits 1 and 2 attached hereto

27 Denied

28 Denied

29 Home City denies the allegations contained in the first sentence of this paragraph The remaining allegations do not allege facts to which a response is required, but purport to be legal conclusions concerning notice However, to the extent they need be answered, they are denied All other allegations contained in this paragraph are denied

30 The allegations contained in this paragraph are admitted as they are admitted above and denied as they are denied above

31 Denied

32 The allegations of paragraph 32 were not true prior to the filing of the Complaint, but are true at this time

33 Admitted

34 The allegations contained in this paragraph are admitted as they are admitted above and denied as they are denied above

35 Denied

36 Denied

37 The allegations contained in this paragraph purport to state legal conclusions and, therefore, need not be answered by Defendant Home City However, to the extent that they need be answered, they are denied

38 The allegations contained in this paragraph are admitted as they are admitted above and denied as they are denied above

39 The allegations contained in this paragraph purport to state legal conclusions and, therefore, need not be answered by Defendant Home City However, to the extent that they need be answered, they are denied

FIRST AFFIRMATIVE DEFENSE ACCORD AND SATISFACTION, PAYMENT

Defendant Home City hereby raises the affirmative defenses of accord and satisfaction and payment in defense of Plaintiff's claims In support of said affirmative defenses, Defendant Home City respectfully shows the Court that

1 On or about May 1, 2002, Defendant Home City received a demand letter from Plaintiff entitled "Notice of Default and Acceleration of Debt Demand " A copy of said demand letter is attached hereto as Exhibit "1 "

2 By its terms, Plaintiff referred to "that certain Floor Plan Financing and Security Agreement by Home City dated as of January 20, 1999 "

3 Further, Plaintiff demanded of Defendant Home City "immediate payment of all obligations and amounts due totaling $30, 309 21 "

4 On or about May 2, 2002, Defendant Home City issued check number 21035, drawn on the corporate account of Home City payable to Conseco Finance Copies of the front and back of said check are attached hereto as Exhibits "2" and "3 "

5 In the memo portion of said check, Defendant Home City included language placing Plaintiff on notice that said check was tendered in payment "of all obligations and accounts due as per 5/1/02 letter " Defendant Home City sent check number 21035 and a copy of Plaintiff's May 1, 2002 demand to Plaintiff

6 Plaintiff negotiated said check on or about May 6, 2002

7 At all times relevant hereto, the amount of any debt allegedly owned to Plaintiff by Defendant Home city was in dispute

8 Plaintiff has not returned the payment or any portion thereof

9 Plaintiff's May 1, 2002 letter contained a demand for "immediate payment of all obligations and amounts due totaling $30,309 21" Home City tendered payment to plaintiff in that amount Plaintiff's acceptance of Home City's tender constitutes an accord and satisfaction of any and all debs due and owing to Plaintiff under the terms of the Agreement as a matter of law

SECOND AFFIRMATIVE DEFENSE WAIVER, ESTOPPEL, LACHES AND RATIFICATON

Defendant Home City hereby raises the affirmative defenses of waiver, estoppel and laches in defense of the allegations contained in Plaintiff's Complaint In support of said affirmative defenses, Defendant Home City shows the Court that

9 On or about January 20, 1999, Plaintiff f/k/a Green Tree Financial Servicing Corporation and Defendant Home City entered into an Inventory Financing and Security Agreement ("the Agreement") A copy of the Agreement is attached to the Complaint as Exhibit "D "

10 Section 4(B) of the Inventory Financing and Security Agreement between the parties allows Plaintiff f/k/a Green Tree "to inspect the collateral at reasonable times "

11 Pursuant to the terms of this Agreement, and pursuant to the ordinary course of dealing between the parties at all times relevant hereto, the Plaintiff f/k/a Green Tree conducted regularly scheduled inspections of their collateral, more commonly referred to as "floorplan checks," on a monthly basis

12 On or about November 6, 2000, Defendant Home City entered into a Dealer Agreement with North Star Homes of Sanford, Incorporated, a North Carolina corporation having its principal place of business in Lee County, North Carolina,and engaged in the business of selling manufactured housing

13 By its terms of its Dealer Agreement, Defendant Home City agreed to consign certain manufactured housing to North Star Homes of Sanford, Incorporated for sale to customers

14 Defendant Home City and North Star Homes of Sanford, Incorporated conducted business under the terms of said Agreement until March, 2002

15 From November 6, 2000 to March, 2002, Plaintiff, by and through the conduct of its monthly floorplan checks, knew and acquiesced in the activities of Defendant Home City in the consignment of inventory to North Star Homes of Sanford, Incorporated

16 As Plaintiff has pled the activities described above as an event of default of their January 20, 1999, Floorplan Financing and Security Agreement with Defendant Home City, Plaintiff's knowledge of and acquiescence in the conduct of Defendant Home City constitutes a waiver of Plaintiff's legal right to construe the conduct of Defendant Home City, as a default of their Agreement and, as such, Plaintiff is estopped from the bringing of such allegations

FIRST COUNTERCLAIM BREACH OF CONTRACT

NOW COMES Defendant Home City, by and through the undersigned, and, complaining

of Plaintiff, alleges and says as follows

1 Upon information and belief, Plaintiff is a Delaware corporation with an office and its principal place of business in St Louis, Missouri Upon information and belief, Plaintiff maintains an office and place of business in Wake County, North Carolina and conducts business in Wake County, North Carolina

2 Defendant Home City is a North Carolina corporation having its principal place of business in Montgomery County, North Carolina

3 On or about January 20, 1999, Plaintiff f/k/a Green Tree Financial Corporation ("Green Tree") entered into an Inventory Financing and Security Agreement with defendant Home City, a copy of which is attached to the Complaint as Exhibit "D "

4 By the terms of the Inventory Financing and Security Agreement between the parties, Plaintiff f/k/a Green Tree agreed to make certain advances to Defendant Home City for the purpose of purchasing manufactured housing units for sale on Defendant Home City sales center lots

5 Under section 2(A) of the Inventory Financing and Security Agreement between the parties, Defendant Home City agreed to pay Plaintiff f/k/a Green Tree "the total amount due on unsold inventory within the period established from time to time by Green Tree or upon demand by Green Tree whichever first occurs "

6 On or about May 1, 2002, Plaintiff sent a demand letter to Home City entitled "Notice of Default and Acceleration of Debt Demand " A copy of this letter has been attached and incorporated herein by reference as Exhibit "1 "

7 Plaintiff's May 1, 2002, letter made reference to "that certain Floorplan Financing and Security Agreement by Home City, and Conseco Finance Servicing Corporation dated as of January 20, 1999

8 By the terms of its May 1, 2002 letter, Plaintiff demanded "immediate payment of

all obligations and amounts due" under its Floorplan Financing and Security Agreement with defendant Home City and demanded a total amount of $30,309 21

9 On or about May 2, 2002, Home City issued check number 21035 out of its corporate bank account to Plaintiff in the amount of $30,309 21 Copies of the front and back of said check have been attached and incorporated by reference herein as Exhibits "2" and "3 "

10 Defendant Home City noted in the memo portion of check number 21035 that said check was being issued by Defendant Home City in payment "of all obligations and amounts due as per 5/1/02 letter " Defendant Home City sent check 21035 and a copy of Plaintiff's May 1, 2002 demand to Plaintiff

11 Conseco negotiated said check on May 6, 2002 thereby satisfying the debt of Defendant Home City to Plaintiff

12 Despite the accord and satisfaction reached between the parties, Plaintiff filed an action against Defendant Home City and its purported guarantors, seeking an amount in excess of Three Million and 00/100 Dollars ($3,000,000 00) under the terms of the Floor Plan Financing and Security Agreement of January 20, 1999

13 Defendant Home City has by letter dated May 17, 2002 made formal demand of Plaintiff for all manufactured certificates of origin which Conseco continues to hold in derogation of the terms of the now satisfied January 20, 1999 Inventory Financing and Security Agreement

14 Upon information and belief, Plaintiff has rejected the rightful demand of Defendant Home City for possession of said manufactured certificates of origin

15 Implied in the January 20, 1999 Inventory Financing and Security Agreement is a duty of good faith and fair dealing on the parties Plaintiff, through its conduct, has breached its duty of good faith and fair dealing

16 The acts and omissions of Plaintiff as described herein constitute a breach of the January 20, 1999 Inventory Financing and Security Agreement between the parties by reason of

which Defendant Home City has suffered severe economic damages in an amount in excess of Three Million and 00/100 Dollars ($3,000,000 00)

SECOND COUNTERCLAIM UNFAIR AND DECEPTIVE TRADE PRACTICES

17 Defendant Home City repeats and realleges the allegations contained in paragraphs 1-16 of the Counterclaim

18 At all times relevant hereto, Plaintiff was engaged in commerce in the State of North Carolina

19 The acts and omissions of Plaintiff as set forth above constitute unfair and deceptive practices within the meaning of North Carolina General Statute §75-1 1 by reason of which Defendant Home City has suffered severe economic damages in an amount in excess of Three Million and 00/100 Dollars ($3,000,000 00)

20 Plaintiff's activities in acceptance of the tender of Defendant Home City in accord and satisfaction followed by the filing of the instant action constitute an unreasonable refusal to settle the above claims in good faith by reason of which Defendant Home City is entitled to collection of all costs associated with this action, including, but not limited to, reasonable attorneys' fees, pursuant to North Carolina General Statute §75-16

21 The acts and omissions of Plaintiff as set forth herein were both wilful and wanton and conducted with malicious intent within the meaning of North Carolina General Statute §1D-15 by reason of which Defendants are entitled to punitive damages as against Plaintiff in an amount in excess of Ten Thousand and 00/100 Dollars ($10,000 00)

WHEREFORE, Defendant Home City respectfully prays the Court as follows

1 That Plaintiff have and recover nothing of Defendants

2 That Plaintiff's action be dismissed with prejudice,

3 In the alternative, that the Court stay all proceedings hereunder pursuant to the

Federal Arbitration Act 9 U S C § 1-16 and/or North Carolina General Statute §1-567 3 and compel the arbitration of this matter,

4 That Home City have and recover of Plaintiff actual and compensatory damages in excess of Three Million and 00/100 Dollars ($3,000,000 00),

5 That Defendant Home City have and recover of Plaintiff punitive damages, pursuant to North Carolina General Statute §1D-15, in an amount in excess of Ten Thousand and 00/100 Dollars ($10,000 00),

6 In the alternative, that Home City have its damages in this matter trebled, pursuant to North Carolina General Statute §75-16,

7 That Defendants recover its reasonable attorneys' fees in this matter pursuant to North Carolina General Statute §75-16,

8 That the costs of this action be taxed against the Plaintiff,

9 That a trial by jury be had on all triable issues, and

10 That Defendant Home City have whatever such other and further relief as the Court may deem appropriate

Respectfully submitted this the 17th day of May, 2002

THE LAW FIRM OF HUTCHENS & SENTER

Lonnie M. Player, Jr. By MJT

Lonnie M Player, Jr
State Bar No 25462
P O Box 2505
Fayetteville, NC 28302
Telephone (910) 864-6888
Facsimile (910) 864-6848

EVERETT, GASKINS, HANCOCK & STEVENS, LLP

Ed Gaskins, Jr
State Bar No 1606
Michael J Tadych
N C State Bar No 24556
P O Box 911
Raleigh, NC 27602-0911
Telephone (919) 755-0025
Facsimile (919) 755-0009

CONSEC(

CONSECO FINANCE SERVICING CORP
Commercial Lending Division
St Louis Business Center
7711 Bonhomme, Suite 600
St Louis, Missouri 63105-1908
314-727 0208, 800 668 2645
fax 314 727 0488, 314 727 8971

Airborne # 5223C[illegible]

May 1, 2002

Home City, LTD
Michael L Allen, President
2086 Hwy 24-27 West
Biscoe, NC 27209

RE NOTICE OF DEFAULT AND ACCELERATION OF DEBT DEMAND

Home City, LTD

Reference is made to that certain Floorplan Financing & Security Agreement by Home City, LTD , Michael L Allen, President, (Debtor") and Conseco Finance Servicing Corp ("Conseco") dated as of January 20, 1999 and all amendments, agreements and other documents executed in connection therewith (collectively, the "Agreement") Any guarantor of Debtor's obligations under the Agreement is hereby notified of the matters contained herein and any demand made upon Debtor hereunder is likewise made upon any such guarantor

Please be advised that Home City, LTD , Michael L Allen, President has breached the terms of the above referenced Agreement. You are currently delinquent in payment of outstanding obligations under your floorplan line with Conseco Specifically, the delinquency is the result of non-payment, in full, of past due of charges

Pursuant to section (5) of the Agreement, Conseco hereby demands immediate payment of all obligations and amounts due totaling $30,309 21 Conseco's actual attorney's fees, legal expenses and any repossession costs, may further increase this amount

Please be advised that if Conseco at its option chooses not to exercise all it's rights and remedies available to it under the Agreement and applicable law, this does not constitute a waiver of said rights

We look forward to your prompt payment

Sincerely,
Conseco Finance Servicing Corp

Ben S Harper
Area Manager

Cc	Von Allen	(Guarantor)	Certified Mail # 70001607001335067323
	Michael L Allen	(Guarantor)	Certified Mail # 70001607001335067347
	Marva H Allen	(Guarantor)	Certified Mail # 70001670001335067354

File

EXHIBIT 1

HOME CITY, LTD.

BOARDWALK AT WEST END
BOX 15
BISCOE, NC 27209

RBS BANK
BISCOE, NORTH CAROLINA 27209

24036

5-4-2002

PAY TO THE ORDER OF Conseco Finance

$ **40,309.21

Forty Thousand, Three Hundred Nine and 21/100********** DOLLARS

Conseco Finance
P.O. Box 930957
St. Louis, MO 63195

MEMO Payments of all obligations and amounts due as per 5/1/02 letter

⑈002403⑈ ⑆081101568⑆ 0310177172⑈

EXHIBIT 2

IVALTE 11 version 4 0 1 B

Front

Sequence 0002176470 Date 05-06-2002

CREDIT TO THE ACCOUNT OF THE
WITH NAMED PAYEE
PAYMENT ACCEPTED W/O PREJUDICE
LACK OF ENDORSEMENT GUARANTEE
U S BANK N A
ST LOUIS MO 63101
800-523-0456
081000210

06010000 0530-0020-6
070028494 0530-0020-6
070028494 05-06-02

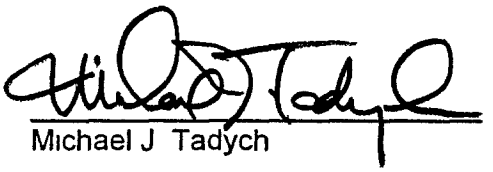
EXHIBIT 3

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served by hand the foregoing upon the following party as follows

Byron L Saintsing, Esq
7005 Saddle Springs Court
Raleigh, NC 27615

This the 17th day of May, 2002



Michael J Tadych

J \Home City Ltd\pleadings\Home City wpd

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)
	)	

STIPULATION AND ORDER
(I) RESOLVING HOME CITY'S MOTION
FOR RELIEF FROM THE AUTOMATIC STAY AND
(II) DEEMING HOME CITY'S PROOF OF CLAIM TIMELY FILED

Upon consideration of Home City LTD's ("Home City") *Motion for Relief from the Automatic Stay to Allow State Court Litigation and American Arbitration Association Arbitration to Proceed* (the "Lift Stay Motion") pursuant to Fed. R. Bankr. P. 4001 and section 362(d)(1) of title 11 of the United States Code (the "Bankruptcy Code") in connection with certain litigation pending in Wake County, North Carolina Superior Court, captioned as *Conseco Finance Servicing Corporation v. Home City LTD., et al.*, Case No. 02-CV-005931 (the "Action") and certain arbitration proceedings filed by Conseco Finance Servicing Corporation ("CFSC") against Home City (the "Arbitration"); and the *Motion of Home City for Entry of an Order Deeming Proof of Claim of Home City, LTD. As Timely Filed* (the "Late Filed Claim Motion," together with the Lift Stay Motion, the "Motions") this Court having considered the

[1] The Finance Company Debtors comprise the following entities: (i) Conseco Finance Corp. and Conseco Finance Servicing Corp. (collectively, the "Initial Finance Company Debtors"), (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"), (iii) Green Tree Finance Corp. - Five and Green Tree Residual Finance Corp. I (collectively, the "New Debtors") and (iv) Conseco Finance Credit Card Funding Corp. ("CFCCFC," together with the Initial Finance Company Debtors, the CFC Subsidiary Debtors, and the New Debtors, the "Finance Company Debtors").

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Motions; the undersigned parties agreeing to and this Court finding that due and proper notice of the Motions and opportunity to object having been given; the undersigned parties agreeing to and this Court finding that due and proper opportunity for a hearing on the Motions having been appropriate in the particular circumstances; it appearing that sufficient cause exists for granting the requested relief as set forth herein; and that the relief requested in the Motions is in the best interests of all parties; and the parties having reached an amicable resolution as memorialized herein;

THE PARTIES STIPULATE AS FOLLOWS:

A. On December 17, 2002 (the "Initial Petition Date"), the Initial Finance Company Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Subsequently, on February 3, 2003 (The "CFC Subsidiary Petition Date"), the CFC Subsidiary Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On June 2, 2003, the New Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code, and on June 24, 2003, CFCCFC filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases").

B. On or about July 22, 2003, Home City filed its Lift Stay Motion seeking relief from automatic stay pursuant to section 362(d) of the Bankruptcy Code to proceed with the Action and the Arbitration.

C. On or about August 6, 2003, Home City filed its Late Filed Claim Motion alleging that Home City did not received notice of the Court's *Order (A) Establishing Bar Dates for Filing Proofs of Claim for all Prepetition Creditors of CFC Debtors, and (B) Approving the Form and Manner of Notice of the CFC Bar Dates*, entered on April 14, 2003 (the "Bar Date Order").

D. The parties wish to resolve their differences with respect to the Motions without further legal proceedings or expense in order to save court time, docket space and service costs for all parties.

E. To the extent the automatic stay applies, the Finance Company Debtors hereby agree to a limited modification of the automatic stay pursuant to section 362(d) of the Bankruptcy Code to enable Home City to proceed with its defenses and/or counterclaims in the Action and the Arbitration or in any other action or proceeding in relation thereto.

F. It is hereby further stipulated that the Finance Company Debtors do not hereby waive, relinquish or surrender any other claims, rights or defenses they have or may have as against Home City in the Action, the Arbitration or in any other action or proceeding in relation thereto.

G. The parties also agree that Home City's proof of claim designated on the claims register as Claim No. 49676-002150 (the "Claim") shall be deemed timely filed and the Finance Company Debtors reserve their right to object to the Claim at any time and on any grounds other than timeliness.

H. This Stipulation constitutes the entire agreement between the parties with respect to the subject matter hereof. No prior or contemporaneous agreement may be used to alter the terms of the Stipulation.

I. This Stipulation may be modified only in writing and such modification must be signed by authorized representatives of both Home City and the Finance Company Debtors.

J. The signatories to this Stipulation represent and warrant that they have been duly authorized to execute this Stipulation.

K. This Stipulation shall inure to the benefit and be binding upon Home City, their counsel, as well as the Finance Company Debtors and any Chapter 11 or Chapter 7 Trustee appointed herein.

L. This Stipulation is subject to the approval of the Bankruptcy Court. The parties agree to use reasonable efforts to obtain the approval of the Bankruptcy Court as quickly as possible.

M. In the event the Bankruptcy Court declines to approve this Stipulation, neither this Stipulation nor any part thereof may be used by any party for any purpose, except to enforce this provision.

N. This Stipulation may be executed in counterparts and by facsimile and all such counterparts shall constitute one Stipulation.

WHEREFORE, GOOD CAUSE HAVING BEEN DULY SHOWN AND FOUND, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. Effective upon the date of entry of this Order, the automatic stay is modified only in accordance with the terms set forth herein, to permit the Action and Arbitration to proceed as set forth herein.

3. The Finance Company Debtors retain and do not waive any and all of their claims, rights, defenses and objections they have or may have in the Action, the Arbitration or to the Claim or in any other action or proceeding in relation thereto.

4. Home City's proof of claim designated on the claims register as Claim No. 49676-002150 shall be deemed timely filed and the Finance Company Debtors may object to the Claim at any time and on any grounds other than timeliness.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

6. The Terms and Conditions of this Order shall be immediately be effective and enforceable upon its Entry.

7. This Order is a complete and final resolution of the Motions.

Dated: Chicago, Illinois
August 20, 2003

Carol A. Doyle

The Honorable Carol A. Doyle
United States Bankruptcy Judge

APPROVED AS TO FORM AND CONTENT:

KIRKLAND & ELLIS

Roger Higgins

James H.M. Sprayregen, P.C. (ARDC. No. 6190206)
Anup Sathy (ARDC No. 6230191)
Roger Higgins (ARDC No. 6257915)
Dryden J. Liddle (admitted pro hac vice)
Kirkland & Ellis
200 East Randolph Drive
Chicago, IL 60601-6636
(312) 861-2000 (telephone)
(312) 861-2200 (facsimile)

Counsel for the Debtors and Debtors-In-Possession

APPROVED AS TO FORM AND CONTENT:

Mindy Cohn

~~Sheldon L. Solow~~ Mindy D. Cohn
Kaye Scholer LLC
Three First National Plaza
Suite 4100
Chicago, Illinois 60602
Telephone: (312) 583-2300
Facsimile: (312) 583-2360

-and-