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

In re:	)	**Chapter 11**
	)	
Conseco Finance Corp., et al.,[1]	)	
	)	**Case No. 02 B49675**
Debtors.	)	**Honorable Carol A. Doyle**
	)	**(Jointly Administered)**
	)	

STIPULATION AND AGREED ORDER BETWEEN THE FINANCE COMPANY DEBTORS AND JULIO AND CINDA DE LA CRUZ WITHDRAWING PROOF OF CLAIM OF JULIO AND CINDA DE LA CRUZ

The Finance Company Debtors and Julio and Cinda de la Cruz ("de la Cruz") hereby stipulate and agree as follows:

RECITALS

WHEREAS, on July 5, 2000, Conseco Finance Servicing Corp. ("CFSC") commenced a foreclosure action against de la Cruz by advertisement (the "Foreclosure").

WHEREAS, on or about September 28, 2000, de la Cruz filed a *Second Amended Complaint* contesting the Foreclosure in the Lapeer County Circuit Court, State of Michigan, in the matter of *Julio and Cinda de la Cruz v. CFSC et al.*, Case No. 00-028443-CH(H) (the "State Court Action"). The State Court Action was subsequently referred to arbitration for resolution.

WHEREAS, on December 17, 2002 (the "Initial Petition Date"), CFSC and certain of its affiliates filed voluntary petitions for relief under chapter 11 of the United States

---

[1] The Finance Company Debtors comprise the following entities: (i) Conseco Finance Corp. and Conseco Finance Servicing Corp. (collectively, the "CFC Debtors"), (ii) Conseco Finance Corp. - Alabama, Conseco Finance Credit Corp., Conseco Finance Consumer Discount Company, Conseco Finance Ontario Holding Company, Conseco Finance Canada Company, Conseco Finance Loan Company, Blue 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 Florida 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 Conseco Finance Credit Card Funding Corp.

Bankruptcy Code (the "Bankruptcy Code"), thereby staying the State Court Action pursuant to section 362(a) of the Bankruptcy Code.

WHEREAS, on May 20, 2003, de la Cruz filed a nonpriority unsecured proof of claim against CFSC in the amount of $8,087.79, which claim is designated on the claims register as Claim No. 49676-001380 (the "Claim").

WHEREAS, on June 13, 2003, the Finance Company Debtors filed the *Finance Company Debtors' Fifth Omnibus Objection to Claims Asserted Against the Finance Company Debtors* (the "Objection"), objecting to Claim No. 49676-001380 and seeking disallowance of the Claim on the basis that the Finance Company Debtors have no liability for the Claim;

WHEREAS, on June 25, 2003, de la Cruz filed a *Response to Objection* (the "Response") opposing the relief sought by the Finance Company Debtors in the Objection;

WHEREAS, on or about October 6, 2003, de la Cruz filed their *Motion for Direction* (the "Motion"), requesting that the Court determine what procedures, if any, can be pursued by de la Cruz.

WHEREAS, the parties wish to resolve their differences with respect to the State Court Action, the Claim, the Objection, the Response, and all related pleadings without further legal proceedings or expense.

WHEREAS, the parties having reached an amicable resolution memorialized herein; and it appearing that due and sufficient notice having been given; and after due deliberation and good cause appearing for the entry of this Stipulation; and based upon the foregoing recitals and in consideration of the mutual covenants set forth below the parties agree as follows:

IT IS HEREBY STIPULATED AND AGREED, BY AND BETWEEN THE UNDERSIGNED PARTIES, AS FOLLOWS:

A. De la Cruz hereby withdraws the Claim against CFSC with prejudice.

B. The Finance Company Debtors hereby stipulate that they will not proceed with the Action.

C. This Stipulation resolves the Claim, the Objection, the Response and any and all other claims (including, as defined in Section 101(5) of the Bankruptcy Code) and causes of action asserted by de la Cruz against the Finance Company Debtors or the Finance Company Post-Consummation Estate (the "CFC Estates").[2]

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

E. This Stipulation is without prejudice to any defenses de la Cruz may raise against a third party or any claims that a third party may assert against de la Cruz.

F. This Stipulation shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns.

G. 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.

H. This Stipulation may be modified only in a writing signed by the party to be charged with such modification.

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

---

[2] All terms not defined herein shall have the meaning ascribed to them in the *Finance Company Debtors' Sixth Amended Joint Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code* (the "Plan") and the *First Amended Post-Consummation Estate Agreement* (the "PCE Agreement").

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

K. 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.

WHEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED THAT:

1. The Stipulation is approved in full and final resolution of the Action, the Claim, the Objection to the Claim, the Response thereto and all other claims (as defined herein) and causes of action between the Finance Company Debtors, the CFC Estates and de la Cruz.

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

SO ORDERED:

Carol A. Doyle
United States Bankruptcy Judge

Chicago, Illinois
Dated: Oct. 27 2003

Chicago, Illinois

Dated: October 27, 2003

KIRKLAND & ELLIS LLP

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

Counsel for the Finance Company Debtors

Lapeer, Michigan

Dated: October 27, 2003

NOWAK, PONIATOWSKI & MORGAN, P.C.

L. John Nowak
Nowa, Poniatowski & Morgan, P.C.
385 W. Nepessing Street
Lapeer, Michigan 48446
(810) 664-9908 (telephone)
(810) 664-1415