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

In re:	)	**Chapter 11**
	)	
Conseco Finance Corp.,	)	**Case No. 02-49675**
	)	
Debtor.	)	**Honorable Carol A. Doyle**
	)	
	)	**Hearing: April 29, 2010 @ 10 a.m. (CT)**
	)	
In re:	)	**Chapter 11**
	)	
Green Tree Residual Finance Corp. I,	)	**Case No. 03-23655**
	)	
Debtor.	)	**Honorable Carol A. Doyle**
	)	
	)	**Hearing: April 29, 2010 @ 10 a.m. (CT)**

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **Thursday, April 29, 2010 at 10:00 a.m. (CT),** or as soon thereafter as counsel may be heard, the undersigned shall appear before the Honorable Carol A. Doyle, Courtroom 742, at the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, and present the **MOTION OF THE POST-CONSUMMATION ESTATE OF THE FINANCE COMPANY DEBTORS FOR ENTRY OF A FINAL DECREE AND ORDER (A) CLOSING THE CONSECO FINANCE CORP. AND GREEN TREE RESIDUAL FINANCE CORP I CHAPTER 11 CASES; (B) AUTHORIZING THE PLAN ADMINISTRATOR TO TAKE ALL NECESSARY ACTIONS TO CLOSE AND TERMINATE THE CFC POST-CONSUMMATION ESTATE, INCLUDING (I) ENTERING INTO A CERTAIN PURCHASE AGREEMENT WITH OAK POINT PARTNERS, INC. FOR THE SALE OF REMNANT ASSETS, (II) AUTHORIZING THE FILING OF FINAL TAX RETURNS, PAYMENT OF ADMINISTRATIVE COSTS AND**

DESTRUCTION OF RECORDS AND (III) AUTHORIZING THE DISTRIBUTION OF ANY REMAINING FUNDS, AFTER PAYMENT OF ADMINISTRATIVE COSTS, TO CERTAIN CHARITABLE ORGANIZATIONS; (C) APPROVING RELEASE AND EXCULPATION IN FAVOR OF THE PLAN ADMINISTRATOR, ADVISORY BOARD AND THEIR RESPECTIVE REPRESENTATIVES; AND (D) APPROVING SHORTENED AND LIMITED NOTICE OF THE MOTION (the "Motion"), a copy of which is attached hereto and hereby served upon you.

PLEASE TAKE FURTHER NOTICE that, in accordance with Rule 3022-1 of the Local Rules for the Bankruptcy Court for the Northern District of Illinois, the Motion provides that the following distributions have been made by the Plan Administrator pursuant to the Sixth Amended Joint Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code dated September 9, 2003 (the "**Plan**"):

Claim Type	Payment Status
DIP Facility Claims	Paid in full
Administrative Claims	Paid in full
Priority Tax Claims	Paid in full
Class 1 (Other Priority Claims)	Paid in full
Class 2 (Other Secured Claims)	Paid in full
Class 3 (Lehman Final Secured Claim)	Paid in full
Class 4 (93/94 Note Claims)	Paid in full
Class 5 (General Unsecured Claims)	Pro rata 40.625% distribution

PLEASE TAKE FURTHER NOTICE that the Motion requests that the Court authorize the Plan Administrator to take any and all actions necessary to close and terminate the CFC Post-Consummation Estate, including filing final tax returns, paying any remaining administrative costs, including, without limitation, any fees due and owing to the Office of the United States Trustee, and the other matters set forth herein and in the Motion.

PLEASE TAKE FURTHER NOTICE that the Motion requests that the Court authorize the Plan Administrator to enter into a certain purchase agreement with Oak Point Partners, Inc. pursuant to which Oak Point Partners, Inc. will purchase the Remnant Assets (as such term is defined in the Motion), a copy of which is attached as Exhibit B to the Motion.

PLEASE TAKE FURTHER NOTICE that the Motion requests Court approval for the Plan Administrator to distribute approximately $300,000 to $400,000 in remaining funds to the charitable organizations set forth on Exhibit A to the Motion. The allowed unsecured claims in this case total approximately $698,000,000. As such, the Plan Administrator estimates that, after paying all associated costs and expenses, any additional distribution in this case would *de minimus* and cost prohibitive.

PLEASE TAKE FURTHER NOTICE that the Motion requests that the Exculpation ((as defined in the Motion) contained in the First Amended Post-Consummation Estate Agreement dated September 15, 2003 be continued in effect notwithstanding the closing of the Chapter 11 cases of Conseco Finance Corp. and Green Tree Residual Finance Corp I or the entry of the final decree.

PLEASE TAKE FURTHER NOTICE that the Plan Administrator intends to store the books and records of the CFC Post-Consummation Estate to and including December 31, 2010, following which such books and records will be destroyed. The costs of such storage and destruction will be paid in advance by the CFC Post-Consummation Estate.

PLEASE TAKE FURTHER NOTICE that this Notice is only intended to highlight certain provisions of the Motion. You are encouraged to read the Motion in its entirely.

Dated: April 9, 2010

THE CFC POST-CONSUMMATION ESTATE

By: /s/ *Nancy A. Peterman*
One of Its Attorneys

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

In re:	)	**Chapter 11**
Conseco Finance Corp.,	)	**Case No. 02-49675**
Debtor.	)	**Honorable Carol A. Doyle**
	)	**Hearing: April 29, 2010 @ 10 a.m. (CT)**
In re:	)	**Chapter 11**
Green Tree Residual Finance Corp. I,	)	**Case No. 03-23655**
Debtor.	)	**Honorable Carol A. Doyle**
	)	**Hearing: April 29, 2010 @ 10 a.m. (CT)**

MOTION OF THE POST-CONSUMMATION ESTATE OF THE FINANCE COMPANY DEBTORS FOR ENTRY OF A FINAL DECREE AND ORDER (A) CLOSING THE CONSECO FINANCE CORP. AND GREEN TREE RESIDUAL FINANCE CORP I CHAPTER 11 CASES; (B) AUTHORIZING THE PLAN ADMINISTRATOR TO TAKE ALL NECESSARY ACTIONS TO CLOSE AND TERMINATE THE CFC POST-CONSUMMATION ESTATE, INCLUDING (I) ENTERING INTO A CERTAIN PURCHASE AGREEMENT WITH OAK POINT PARTNERS, INC. FOR THE SALE OF REMNANT ASSETS, (II) AUTHORIZING THE FILING OF FINAL TAX RETURNS, PAYMENT OF ADMINISTRATIVE COSTS AND DESTRUCTION OF RECORDS AND (III) AUTHORIZING THE DISTRIBUTION OF ANY REMAINING FUNDS, AFTER PAYMENT OF ADMINISTRATIVE COSTS, TO CERTAIN CHARITABLE ORGANIZATIONS; (C) APPROVING RELEASE AND EXCULPATION IN FAVOR OF THE PLAN ADMINISTRATOR, ADVISORY BOARD AND THEIR RESPECTIVE REPRESENTATIVES; AND (D) APPROVING SHORTENED AND LIMITED NOTICE OF THE MOTION

Bridge Associates, LLC ("**Bridge**"), as plan administrator (the "**Plan Administrator**") of the Post-Consummation Estate for the Finance Company Debtors (the **"CFC Post-Consummation Estate**"), by and through its attorneys, presents this motion (the "**Motion**"), pursuant to Sections 105(a) and 350(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et*

seq. (the "**Bankruptcy Code**"), and Rule 3022 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for entry of a final decree and order (a) closing the Conseco Finance Corp. and Green Tree Residual Finance Corp I Chapter 11 cases;[1] (b) authorizing the Plan Administrator to take all necessary actions to close and terminate the CFC Post-Consummation Estate, including (i) entering into a certain purchase agreement with Oak Point Partners, Inc. for the sale of Remnant Assets (as defined herein), (ii) authorizing the filing of final tax returns, payment of administrative costs (including, without limitation, any fees due and owing to the Office of the United States Trustee) and destruction of records and (iii) authorizing the distribution of any remaining funds, after payment of administrative costs, to certain charitable organizations; (c) approving Exculpation (as defined herein) in favor of the Plan Administrator, Advisory Board and their respective representatives; and (d) approving shortened and limited notice of the Motion. In support of this Motion, the Plan Administrator respectfully states as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Court has retained jurisdiction to enter an order and final decree in these Chapter 11 cases pursuant to Article XIII(13) of the Plan (as defined below) and Paragraph 64(xiii) of the Confirmation Order (as defined below).

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The statutory predicates for the relief sought by this Motion are Sections 105(a) and 350(a) of the Bankruptcy Code. This Motion is

[1] The only Chapter 11 cases that remain open with respect to Conseco Finance Corp. and its affiliates are as follows: (i) Conseco Finance Corp. (Case No. 02-49675) and (ii) Green Tree Residual Finance Corp. I (Case No. 03-23655).

also brought pursuant to Bankruptcy Rule 3022 and Local Rule 3022-1 of the Local Rules for the United States Bankruptcy Court for the Northern District of Illinois.

II. SUMMARY

3. Over the past several years, the Plan Administrator has administered the assets of the CFC Post-Consummation Estate, liquidated the CFC Post-Consummation Estate's claims and causes of action, significantly reduced the claims against the CFC Post-Consummation Estate, made substantial distributions to the CFC Post-Consummation Estate's creditors and otherwise performed the duties required under the Plan (as defined herein) and the CFC Post-Consummation Estate Agreement (as defined herein). As a result of these efforts, all secured, administrative and priority creditors have been paid in full. Moreover, the Plan Administrator has made four distributions to general unsecured creditors totaling 40.625% of the allowed amount of their claims. As discussed more specifically below, the Plan Administrator believes that it has fully administered the CFC Post-Consummation Estate. As such, the Plan Administrator seeks entry of an order closing the Conseco Finance Corp. and Green Tree Residual Finance Corp I Chapter 11 cases and entry of a final decree.

4. Currently, there are no significant assets to be administered, and the Plan Administrator is holding approximately $300,000 to $400,000 in cash. The Plan Administrator believes that these remaining funds would only provide a *de minimis* distribution to unsecured creditors given that the aggregate amount of unsecured claims is approximately $698,000,000. Therefore, as part of this Motion, the Plan Administrator seeks authorization to donate any remaining net funds (less any expenses of the CFC Post-Consummation Estate) to the charitable organizations listed and described on the Exhibit A. This Exhibit also sets forth any known connections between the Plan Administrator, Advisory Board members and Greenberg Traurig, LLP with respect to those charities set forth on Exhibit A.

5. As part of this Motion, the Plan Administrator also seeks authorization to take any and all necessary sets to dispose of any remaining assets and to close and terminate the CFC Post-Consummation Estate, including, entering into an agreement with Oak Point pursuant to which any remaining assets are sold to Oak Point, filing final tax returns, paying any administrative costs (including, without limitation, any fees due and owing to the Office of the United States Trustee) and destroying records.

6. Finally, the Motion seeks approval of the Exculpation in favor of the Plan Administrator, the Advisory Board and their respective representatives with respect to the administration of the CFC Post-Consummation Estate, substantially in the form approved as part of the confirmation of the Plan (as defined below).

III. PROCEDURAL BACKGROUND

A. The Chapter 11 Cases

7. On December 17, 2002, Conseco Finance Corp. and Conseco Finance Servicing Corp. (collectively, the "**CFC Initial Debtors**") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

8. On February 3, 2003, 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") each filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

9. On June 2, 2003, Green Tree Residual Finance Corp. I and Green Tree Finance Corp. - Five (together, the "**New Debtors**") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

10. On June 24, 2003, Conseco Finance Credit Card Funding Corp. ("**CFCCFC,**" together with the CFC Initial Debtors, CFC Subsidiary Debtors and the New Debtors, the "**Finance Company Debtors**") filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

B. Confirmation of the Plan

11. On September 9, 2003, the Finance Company Debtors filed their *Sixth Amended Joint Liquidating Plan of Reorganization* Pursuant *to Chapter 11 of the United States Bankruptcy Code* (the "**Plan**"). Also on September 9, 2003, this Court confirmed the Plan through entry of an *Order Confirming Finance Company Debtors' Sixth Amended Joint Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code* dated September 9, 2003 (the "**Confirmation Order**"). The Plan became effective on September 15, 2003 (the "**Effective Date**").

12. The Plan provided for the establishment of the CFC Post-Consummation Estate and for the transfer of claims against, and assets of, the Finance Company Debtors to the CFC Post-Consummation Estate on the Effective Date. (See Art. VI(C), Plan). The assets transferred to the CFC Post-Consummation Estate included all of the assets of the Finance Company Debtors and their subsidiaries, other than the Divested Assets,[2] including, without limitation, certain sale

[2] The term "Divested Assets" is defined in the Plan to consist of those assets that are "Purchased Assets" under either (i) the Amended and Restated Asset Purchase Agreement dated March 14, 2003 between

proceeds, causes of action and bankruptcy avoidance actions held by the Finance Company Debtors' estates (collectively, the "**CFC Post-Consummation Estate Assets**").

13. The CFC Post-Consummation Estate is a liquidating trust that was created on behalf of, and for the sole benefit of, the holders of allowed general unsecured claims entitled to distributions under the Plan (the "**Beneficiaries**"). The holders of allowed: (i) DIP Facility Claims,[3] (ii) Administrative Claims, (iii) Priority Tax Claims, (iv) Other Priority Claims, (v) Other Secured Claims, (vi) Lehman Final Secured Claims, and (vii) 93/94 Note Claims, were paid in full in accordance with the Plan. Equity Interests in the Finance Company Debtors were cancelled under the Plan, and no payment or other distribution is required to be made on account of those Equity Interests.

14. The Confirmation Order provides for the CFC Post-Consummation Estate Assets to be administered as a single estate. Specifically, the Confirmation Order provides that, on the Effective Date, all claims against the Finance Company Debtors are transferred to Conseco Finance Corp. and all of the CFC Post-Consummation Estate Assets are to be administered as part of that estate. (See ¶52, Confirmation Order). The Confirmation Order also directs the Plan Administrator to close the Chapter 11 cases of the Finance Company Debtors (other than Conseco Finance Corp. and Green Tree Residual Finance Corp I), following which the CFC Post-Consummation Estate would be administered as a single debtor entity under the above-captioned case of *In re Conseco Finance Corp*.

15. To that end, on February 4, 2004, the CFC Post-Consummation Estate filed a motion for entry of a final decree in the Chapter 11 cases of the Finance Company Debtors (other

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Conseco Finance Corp., certain of its subsidiaries and CFN Investment Holdings LLC, or (ii) the Asset Purchase Agreement dated March 14, 2003 between Conseco Finance Corp., certain of its subsidiaries and General Electric Capital Corporation.

[3] Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Plan.

than Conseco Finance Corp. and Green Tree Residual Finance Corp I). On February 18, 2004, the Court granted the motion, closing the Chapter 11 cases of the Finance Company Debtors (other than Conseco Finance Corp. and Green Tree Residual Finance Corp I), effective as of the date of the Order.

C. The Rights and Duties of the Plan Administrator and the Advisory Board

16. The Plan named Bridge as the Plan Administrator of the CFC Post-Consummation Estate. On September 15, 2003, the Finance Company Debtors and the Plan Administrator executed a First Amended Post-Consummation Estate Agreement (the "**CFC Post-Consummation Estate Agreement**") regarding the administration of the CFC Post-Consummation Estate.

17. Under the CFC Post-Consummation Estate Agreement, the Plan Administrator is responsible for administering the CFC Post-Consummation Estate on behalf of the Beneficiaries. (See §2.1, CFC Post-Consummation Estate Agreement). The Plan Administrator's responsibilities include: (a) liquidating (or abandoning where appropriate) the CFC Post-Consummation Estate Assets and providing for the distribution of the net proceeds thereof in accordance with the Plan, (b) facilitating the prosecution or settlement of objections to claims asserted against the CFC Post-Consummation Estate, (c) calculating and implementing distributions to the Beneficiaries in accordance with the Plan, (d) filing all required tax returns and paying taxes and other obligations on behalf of the CFC Post-Consummation Estate, and (e) providing periodic reports to the Bankruptcy Court, the Advisory Board and other parties-in-interest on the financial status of the CFC Post-Consummation Estate. (See §2.2, CFC Post-Consummation Estate Agreement).

18. The Advisory Board is responsible for overseeing the Plan Administrator's administration of the CFC Post-Consummation Estate Assets in compliance with the Plan and the CFC Post-Consummation Estate Agreement. (See §8.1(a), CFC Post-Consummation Estate Agreement). The Advisory Board was originally comprised of three members, two of whom were designed by the Official Committee of Unsecured Creditors on the Effective Date, and the other of whom was designated by the Finance Company Debtors. (See §8.2, CFC Post-Consummation Estate Agreement). During the course of administration of the CFC Post-Consummation Estate, the Debtor's representative resigned and more recently one of the Committee's representatives resigned. Therefore, as of the date of this Motion, there is one remaining Advisory Board member.[4] Under the circumstances, given that this Motion and the relief requested herein represent the final action to be taken by the Plan Administrator and the Advisory Board on behalf of the CFC Post-Consummation Estate, the Plan Administrator and the remaining Advisory Board member did not commence a search for a replacement member and would request this Court's waiver of the need to do so under the circumstances.

19. The Plan and CFC Post-Consummation Estate Agreement contain certain exculpation protections in favor of the Plan Administrator, Advisory Board and other related parties. The Plan provides:

> The Plan Administrator, the [CFC Post-Consummation Estate], the Advisory Board, the Non-Professionals, the Professionals or their representatives shall be exculpated . . . pursuant to the terms of the [CFC Post-Consummation Estate Agreement].

[4] Under Section 8.1 of the CFC Post-Consummation Estate Agreement, the Advisory Board was to be comprised of three members. Under Section 8.5(a) of the Post-Consummation Estate Agreement, if a member of the Advisory Board appointed by the Committee resigns, the other Committee member designee may appoint a replacement or may petition the Bankruptcy Court to fill such vacancy. Pursuant to Section 8.6 of the Post-Consummation Estate Agreement, the Advisory Board may take any action authorized by the Plan or The Post-Consummation Estate Agreement upon the affirmative vote of any two Advisory Board members.

(See Art. XII(J), Plan) (bold and italicized font omitted). The CFC Post-Consummation Estate Agreement contains the following exculpation (the **"Exculpation"**):

> Exculpation. From and after the Effective Date, the Plan Administrator, the Advisory Board and their respective Professionals, Non-Professionals and representatives shall be and are hereby exculpated by all Persons and Entities, including, without limitation, Holders of Claims and other parties in interest, from any and all claims, causes of action and other assertions of liability arising out of the discharge of the powers and duties conferred upon said parties pursuant to and in furtherance of this [CFC Post-Consummation Estate Agreement], the Plan or any order of the Bankruptcy Court or applicable law or otherwise, except only for actions taken or not taken, from and after the Effective Date only to the extent determined by a Final Order to be solely due to their own respective gross negligence, willful misconduct, fraud, or, solely in the case of the Plan Administrator, breach of fiduciary duty other than negligence.
>
> No Holder of a Claim or other party-in-interest will have or be permitted to pursue any claim or cause of action against the Plan Administrator, the Advisory Board or their respective Professionals, Non-Professionals or representatives for making payments in accordance with the Plan or for implementing the provisions of the Plan. Any act taken or not taken, in the case of the Advisory Board, with the approval of the Bankruptcy Court or, in the case of the Plan Administrator, with the approval of the Advisory Board, will be conclusively deemed not to constitute gross negligence, willful misconduct, or, solely in the case of the Plan Administrator, a breach of fiduciary duty other than negligence.

(See §6.4, CFC Post-Consummation Estate Agreement).

20. On March 18, 2008, the Court entered an Order extending the term of the CFC Post-Consummation Estate from September 15, 2008, the original termination date under the Plan, until June 18, 2009. [Docket No. 3473] On June 16, 2009, the Court entered an Order further extending the term of the CFC Post-Consummation Estate until March 31, 2010. [Docket No. 3503] The Court again extended the term of the CFC Post-Consummation Estate on March 25, 2010 until the earlier of (a) the date on which all actions to complete the administration of the CFC Post-Consummation Estate are complete and (b) June 30, 2010. [Docket No. 3584]

21. The CFC Post-Consummation Estate Agreement requires the Plan Administrator to "endeavor to terminate the [CFC Post-Consummation Estate] as soon as practicable" and to "not unduly prolong the duration of the [CFC Post-Consummation Estate]." (See §16.2, CFC Post-Consummation Estate Agreement). Upon the full administration of the CFC Post-Consummation Estate, the Plan Administrator is to promptly seek approval from the Court to close the Chapter 11 cases. (See Art. XIV(S), Plan).

IV. RELIEF REQUESTED

22. As discussed further below, the Plan Administrator has liquidated the CFC Post-Consummation Estate Assets, prosecuted all appropriate objections to claims and has otherwise, fully administered the CFC Post-Consummation Estate. Accordingly, the Plan Administrator, on behalf of the CFC Post-Consummation Estate, respectfully requests entry of a final decree and order (a) closing the Conseco Finance Corp. and Green Tree Residual Finance Corp I Chapter 11 cases; (b) authorizing the Plan Administrator to take all necessary actions to close and terminate the CFC Post-Consummation Estate, including (i) entering into a certain purchase agreement with Oak Point Partners, Inc. (**"Oak Point"**) for the sale of Remnant Assets, (ii) authorizing the filing of final tax returns, payment of administrative costs (including, without limitation, payment of any fees due and owing to the Office of the United States Trustee) and destruction of records and (iii) authorizing the distribution of any remaining funds, after payment of administrative costs, to those charitable organizations set forth on Exhibit A; (c) approving Exculpation in favor of the Plan Administrator, Advisory Board and their respective representatives; and (d) approving shortened and limited notice of the Motion.

V. DISCUSSION

A. Legal Authority

23. Section 350(a) of the Bankruptcy Code provides that "[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case." 11 U.S.C. § 350(a). Bankruptcy Rule 3022 further provides that "[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case." Fed. R. Bankr. P. 3022.

24. An estate is "fully administered" under these provisions when the estate reaches the point of "substantial consummation," as that term is defined in Section 1101(2) of the Bankruptcy Code. See In re Xpedior Inc., 354 B.R. 210, 219 (Bankr. N.D. Ill. 2006). Substantial consummation is defined as (i) the transfer of all or substantially all of the property proposed by the plan to be transferred, (ii) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan, and (iii) commencement of distributions under the plan. See 11 U.S.C. §1101(2). Therefore, courts generally find that an estate has been fully administered when (a) the order confirming the plan has become final, (b) deposits have been distributed, (c) payments under the plan have been commenced, and (d) all motions, contested matters and adversary proceedings have been resolved. See Xpedior, 354 B.R. at 219 (citing In re Wade, 991 F.2d 402, 407 (7th Cir. 1992)).

B. The CFC Post-Consummation Estate Has Been Fully Administered.

25. The Plan Administrator has fully administered the CFC Post-Consummation Estate in accordance with the Plan and the CFC Post-Consummation Estate Agreement. In particular, the Plan Administrator has (i) liquidated (or abandoned where appropriate) all of the CFC Post-Consummation Estate Assets, (ii) prosecuted and/or settled all objections to claims

asserted against the CFC Post-Consummation Estate, (iii) distributed the proceeds of the CFC Post-Consummation Estate Assets to the Beneficiaries as required by the Plan, and (iv) filed all required tax returns to date and paid all taxes and other obligations on behalf of the CFC Post-Consummation Estate to date.

(i) Liquidation of the CFC Post-Consummation Estate Assets And Authority to Sell Remnant Assets to Oak Point.

26. Under the Plan, cash proceeds payable to the Finance Company Debtors pursuant to the CFN Purchase Agreement (the "**CFN Sale**"), in the amount of approximately $173,707,521, and the GE Purchase Agreement (the "**GE Sale**"), in the amount of approximately $325,804,199, were used to fund various escrow accounts (*i.e.,* the Claim Settlement Escrow Account, the 93/94 Note Claim Escrow Account, the BED Escrow Account, the HE/HI/REC Reserve Account, and the Consent Agreement Reserve Account)[5] and to pay certain other claims under the Plan.

27. Certain affiliates of the Finance Company Debtors (the "**Holding Company Debtors**")[6] filed and confirmed a Chapter 11 plan of reorganization (the "**Holding Company Plan**"). The Finance Company Debtors were creditors of the Holding Company Debtors and received, under the Holding Company Plan, a distribution of $38 million (at plan value) in New CNC Common Stock (as defined therein). The Plan Administrator subsequently liquidated those shares of stock, on behalf of the CFC Post-Consummation Estate, for approximately $52,023,166 in net cash proceeds. These net cash proceeds were either used to pay costs incurred by the Post-Consummation Estate or distributed to the holders of allowed general unsecured claims against the Finance Company Debtors.

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[5] Only the Claim Settlement Escrow Account, the 93/94 Note Claim Escrow Account and the BED Escrow account were administered by the Plan Administrator.

[6] The Holding Company Debtors are Conseco, Inc., CIHC, Incorporated, CTIHC, Inc. and Partners Health Group, Inc.

28. The Plan also established a Shared Recovery Escrow Account on the Effective Date, which was maintained by the Plan Administrator. The Shared Recovery Escrow Account contained all other cash and assets of the Finance Company Debtors, excluding the New CNC Common Stock (discussed above), any of the proceeds from the CFN Sale or GE Sale, and amounts allocated to pay allowed Other Secured Claims under the Plan. The CFC Post-Consummation Estate was entitled to 70% of the funds in the Shared Recovery Escrow Account, and the Holding Company Debtors were entitled to 30% of those funds. In total, the CFC Post-Consummation Estate received approximately $50,930,055 in funds from the Shared Recovery Escrow Account, which amounts were used to pay costs incurred by the Post-Consummation and Estate or distributed to the holders of allowed general unsecured claims against the Finance Company Debtors.

29. Among the assets included in the Shared Recovery Escrow Account were bankruptcy avoidance actions. The Plan Administrator filed approximately 375 adversary proceedings asserting claims to avoid and recover preferential transfers under Sections 547 and 550 of the Bankruptcy Code (the "**Preference Actions**"). The Preference Actions sought to avoid and recover transfers totaling approximately $35,365,575 in the aggregate. The Plan Administrator resolved the Preference Actions by recovering cash payments totaling approximately $1,633,476 in the aggregate, and further, by reducing claims against the CFC Post-Consummation Estate by $11,340,205.71 (having a cash value of approximately $4,479,381), for a total recovery value of $6,112,857.

30. Finally, pursuant to an agreement (the "**Oak Point Agreement**"), a copy of which is attached hereto as Exhibit B, the CFC Post-Consummation Estate seeks court authority to sell certain potential tax refunds and other remaining assets (the "**Remnant Assets**") to Oak Point for

$25,000.[7] Under the terms of the Oak Point Agreement, 30% of any amounts recovered by Oak Point in respect of the Remnant Assets in excess of $100,000 shall be paid 15% to The Vision 21 Foundation and 15% to charities identified by Oak Point.

(ii) Claim Objections.

31. Together, there were fifty-two (52) omnibus objections to claims filed in the Chapter 11 cases of the Finance Company Debtors. The first fifteen (15) omnibus objections were filed by the Finance Company Debtors between March 12, 2003 and October 17, 2003. The Plan Administrator filed the remaining omnibus objections between December 16, 2003 and March 15, 2005.

32. Creditors filed unsecured claims against the Finance Company Debtors' estates totaling approximately $3.7 billion. As noted above, these claims were transferred to the CFC Post-Consummation Estate on the Effective Date. Following prosecution and settlement of the omnibus objections to claims, the total amount of General Unsecured Claims allowed against the CFC Post-Consummation Estate was reduced to approximately $698,000,000.

(iii) Distributions to Beneficiaries.

33. The Plan Administrator has made all of the distributions required under the Plan. First, as noted above, the Plan provides for the creation of a Claim Settlement Escrow Account, which was funded on the Effective Date with approximately $165 million from the proceeds of the CFN Sale and the GE Sale. Funds in the Claim Settlement Escrow Account were administered by the Plan Administrator and used to pay all allowed DIP Facility Claims, Administrative Claims, and Priority Tax Claims, each of which were unclassified claims, in

[7] These "other remaining assets" are defined to include known and unknown assets or claims which have not been previously sold, assigned, transferred, encumbered or resolved and to exclude (i) cash held at the time of the Oak Point Agreement by the Plan Administrator in bank accounts earmarked for distribution to creditors, payment of professional fees, distribution to charity and/or any other purpose; and (ii) the purchase price for the assets sold pursuant to the Oak Point Agreement.

accordance with the Plan. Funds in the Claim Settlement Escrow Account also were used to make distributions to the holders of allowed Class 1 Claims (Other Priority Claims) under the Plan. All of the unclassified claims and Class 1 Claims have been paid in full and are entitled to no further distributions under the Plan or the CFC Post-Consummation Estate Agreement.

34. Class 2 of the Plan is comprised of Other Secured Claims. The Plan provides that each holder of an allowed Other Secured Claim will receive either (i) payment in full in cash on the Effective Date, (ii) payment of the sale or disposition proceeds of the collateral securing such claim, or (iii) the surrender of the collateral securing such claim. The Plan Administrator has made distributions to the holders of Other Secured Claims in accordance with the Plan so as to render such claims unimpaired, and no further distributions are required to such holders under the Plan or the CFC Post-Consummation Estate Agreement.

35. Class 3 of the Plan is comprised of the Lehman Final Secured Claims. The Plan provides for the Lehman Final Secured Claims (less $13.5 million for the Lehman Subordinate Secured Claim) to be paid in full in cash on the closing of the CFN Sale. The Lehman Subordinate Secured Claim is not entitled to any distributions unless and until all allowed General Unsecured Claims (discussed below) are paid in full. The Plan Administrator has made the required cash distributions on account of the Lehman Final Secured Claims in accordance with the Plan, and no further distributions are required on account of such claims under the Plan or the CFC Post-Consummation Estate Agreement. Further, because General Unsecured Claims will not be paid in full, no distribution is required on account of the Lehman Subordinate Secured Claim.

36. Class 4 of the Plan is comprised of Allowed 93/94 Note Claims. As discussed above, the Plan provides for the creation of a 93/94 Note Claim Escrow Account on the Effective Date funded from the proceeds from the CFN Sale and GE Sale. The account is maintained by the

Plan Administrator solely for the purpose of paying the Allowed 93/94 Note Claims. In accordance with the Plan, the Plan Administrator paid the Allowed 93/94 Note Claims in cash in full from the funds in the 93/94 Note Claim Escrow Account on the Effective Date or as soon thereafter as was practicable. All allowed Class 4 Claims have been paid in full and are entitled to no further distributions under the Plan or the CFC Post-Consummation Estate Agreement.

37. Class 5 of the Plan is comprised of General Unsecured Claims. Holders of allowed Class 5 claims are entitled to a *pro rata* distribution of (i) the proceeds, if any, of the CFN Sale and GE Sale remaining after the funding of the various escrow accounts and payment of the Class 1, 2, 3 and 4 Claims, (ii) the CFC Post-Consummation Estate's portion of the Shared Recovery Escrow Account (discussed above), and (iii) the proceeds from the sale of the New CNC Common Stock (discussed above) ((i) through (iii), collectively, the "**Residual Balance**"). These distributions are subject to any fees, costs and expenses of the Plan Administrator and any other administrative and wind-down expenses of the CFC Post-Consummation Estate. (See §4.1(c), CFC Post-Consummation Estate Agreement).

38. The Plan Administrator has made four distributions to the holders of allowed General Unsecured Claims. First, on August 9, 2004, with the prior approval of the Advisory Board, the Plan Administrator made an interim distribution to the holders of allowed General Unsecured Claims equal to 28% of each allowed claim. Then, on October 3, 2005, with the prior approval of the Advisory Board, the Plan Administrator made a second interim distribution to the holders of allowed General Unsecured Claims equal to 7% of each allowed claim (for an aggregate distribution of 35%). On June 1, 2007, the Advisory Board approved a third distribution to holders of allowed General Unsecured Claims equal to 4.5% of each allowed claim (for an aggregate distribution of 39.5%). Finally, on June 25, 2009, the Advisory Board approved

a fourth distribution to holders of allowed General Unsecured Claims equal to 1.25% of each allowed claim (for an aggregate distribution of 40.625%). Together, in these four distributions the Plan Administrator distributed approximately $285.4 million in cash to the holders of allowed General Unsecured Claims.

(iv) Resolution of Bronson Appeal.

39. Martha Bronson (**"Bronson"**) filed two claims against the Finance Company Debtors, both of which were denied by the Court on January 15, 2004 (the **"Disallowance Order").** Over five years later, on June 12, 2009, the Appellant filed her *Motion For (1) Order Modifying the Plan and 9/09/03 Discharge/§105 Permanent Injunction; (2) an Order Setting Aside/Modifying January 14, 2004 Order Approving Objection to Movant's Two Claims; (3) Declaratory Relief; (4) Injunctive Relief Enjoining Foreclosure* (the "**Plan Modification Motion**"). The Plan Modification Motion was denied in part on July 23, 2009 and in part on August 25, 2009.

40. Bronson filed a Notice of Appeal on August 3, 2009 (the **"Appeal"**). Subsequently, the Plan Administrator and Bronson reached a settlement with respect to the Bronson claims.

41. On March 18, 2010, this Court entered an Order approving a settlement agreement by and among the CFC Post-Consummation Estate, Green Tree Servicing, LLC and Bronson. [Docket No. 3582]

42. Subsequent to the entry of the March 18, 2010 Order, Bronson brought to the undersigned counsel's attention that an old version of the settlement agreement was approved by the Order. Therefore, an order to correct the record was submitted to this Court for entry on April 7, 2010 (the **"Order Correcting the Record"**).

43. Based upon the terms of the settlement agreement with Bronson, once the appeal period runs on the Order Correcting the Record, the Appeal will be dismissed and the final matter in this case will be resolved.

C. The Plan Adminstrator Should Be Authorized to Take All Necessary Actions to Close and Terminate the CFC Post-Consummation Estate

44. In addition, the Plan Administrator seeks authority to take all necessary actions to close and terminate the CFC Post-Consummation Estate, including entering into the Oak Point Purchase Agreement, filing final tax returns and paying any administrative costs incurred by the CFC Post-Consummation Estate (including, without limitation, payment of any fees due and owing to the Office of the United States Trustee). The CFC Post-Consummation Estate Agreement generally grants the Plan Administrator authority to take such actions.

45. The CFC Post-Consummation Estate Agreement requires the Plan Administrator to store the books and records relating to the CFC Post-Consummation Estate for a limited time following the closing of the Chapter 11 cases. The CFC Post-Consummation Estate Agreement provides:

> The Plan Administrator shall maintain, with respect to the [CFC] Post-Consummation Estate and the Beneficiaries, books and records relating to the assets and income of the [CFC] Post-Consummation Estate and the payment of expenses of and liabilities of, claims against or assumed by, the [CFC] Post-Consummation Estate in such detail and for such period of time as the Plan Administrator determines, in his sole discretion, may be necessary to make full and proper accounting in respect thereof in accordance with Article VIII hereof and to comply with applicable provisions of law.

(See §10.2, CFC Post-Consummation Estate Agreement). In an exercise of its discretion, the Plan Administrator proposes to store the books and records of the CFC Post-Consummation Estate until December 31, 2010, following which time such books and records will be destroyed. The costs of such storage and destruction will be pre-paid by the CFC Post-Consummation Estate.

D. Authorization For The Plan Administrator To Distribute The Remaining Funds To The Charitable Organizations.

46. Currently, the Plan Administrator is holding approximately $300,000 to $400,000 in cash. The allowed unsecured claims in this case total approximately $698,000,000. As such, the Plan Administrator estimates that, after paying the remaining expenses of the CFC Post-Consummation Estate, it is not cost effective to make an additional distribution to creditors, which distribution would be a fraction of one percent. Under these circumstances, the Plan Administrator believes that any further distribution would be *de minimis* and cost prohibitive, and in lieu of such a distribution, the Court should authorize the Plan Administrator to donate any remaining funds (after payment of and reserves for all estate expenses) to the charitable organizations listed on the attached Exhibit A.

47. In circumstances where the original intent of a liquidating trust becomes impossible or has been satisfied, then under the *cy pres* doctrine, "the court will direct a management or disposition of trust assets that is legal and possible." In re Xpedior, 354 B.R. at 239. When the *cy pres* doctrine is applied in bankruptcy cases, the bankruptcy court should be involved in the distribution of the remaining funds because "[e]xercise of the *cy pres* doctrine is a judicial function which should not be delegated to individuals to make donations to objects of their personal interest without court guidance or standards." Id. To that end, when determining whether to approve a proposed charitable distribution, the Court should give weight to the recommendations of the trustee and its counsel, parties in need of help or services related to the bankruptcy system, and persons in need of services involved in other aspects of the justice system. Id. at 240.

48. Based on these considerations, the Plan Administrator proposes to distribute any remaining funds (after paying any remaining obligations of the estate) to the charitable organizations identified on the attached Exhibit A.

E. The Exculpation Should Be Continued.

49. The Exculpation in the CFC Post-Consummation Estate Agreement was approved as part of the plan confirmation process in order to provide necessary protections and privileges to the Plan Administrator, Advisory Board, and the other protected parties. The Plan Administrator requests that the Exculpation in the CFC Post-Consummation Estate Agreement be continued in effect, notwithstanding the closing of the Chapter 11 cases, entry of the final decree, or the termination of the CFC Post-Consummation Estate pursuant to Section 16.1 of the CFC Post-Consummation Estate Agreement.[8]

50. Moreover, as noted above, the Advisory Board consists of only one member. The Plan Administrator and Advisory Board respectfully requests this Court waive any requirement, if any, to appoint any additional Advisory Board member, based upon the circumstances, and find that the Advisory Board properly acted in authorizing the filing of this Motion and each and every request herein.

VI. NOTICE

51. Bankruptcy Rule 2002(a)(2) requires that at least twenty-one days notice of any sales outside the ordinary course of business be provided. As part of this Motion, the Plan Administrator is seeking court approval of the Oak Point Agreement pursuant to which the Remnant Assets are to be sold to Oak Point. Under the circumstances and given that the purchase

[8] Section 16.1 provides that the CFC Post-Consummation Estate will terminate no later than the fifth (5th) anniversary of the Effective Date (or September 15, 2008) unless extended by the Bankruptcy Court upon motion by a party in interest made in accordance with that section. The current termination date of the CFC Post-Consummation Estate is June 30, 2010.

price is $25,000, the Plan Administrator requests that this court approve shortened notice of the Motion. The Plan Administrator will be providing twenty days notice of the Motion.

52. Local Rule 3022-1 requires that the party moving to close a Chapter 11 case give notice to the creditors and the United States Trustee, and further, state the status of payments required under the confirmed plan. The rule provides:

> Unless the court orders otherwise, debtors or other parties in interest moving after chapter 11 plan confirmation either to close the case or enter a final decree shall (1) give such notice of such motion to the United States Trustee, any chapter 11 trustee, and all creditors, and (2) state within the notice or motion the actual status of payments due to each class under the confirmed plan.

Local Rule 3022-1. The Committee Note to Local Rule 3022-1 explains that the rule "establishes a uniform procedure" for closing chapter 11 cases and "informs creditors what payments the debtor contends have been made." Id.

53. The Plan Administrator requests a waiver of the notice requirements of Local Rule 3022-1. There are thousands of creditors in these Chapter 11 cases and providing mail service of this Motion to all creditors would be costly. Given the size of the creditor body and the amount of time that has passed since the Effective Date, the Plan Administrator does not believe service on the entire creditor body is necessary or appropriate. The Plan Administrator has served this Motion on parties in interest that receive notice via this Court's ECF system. In light of the nature of the relief requested, the Plan Administrator submits that such notice is sufficient and that no further notice is required.

WHEREFORE, the Plan Administrator, on behalf of the CFC Post-Consummation Estate, respectfully requests entry of a final decree and order (a) closing the Conseco Finance Corp. and Green Tree Residual Finance Corp I Chapter 11 cases; (b) authorizing the Plan Administrator to take all necessary actions to close and terminate the CFC

Post-Consummation Estate, including (i) entering into the Oak Point Agreement, (ii) authorizing the filing of final tax returns, payment of administrative costs (including, without limitation, payment of any fees due and owing to the Office of the United States Trustee) and destruction of records and (iii) authorizing the distribution of any remaining funds, after payment of administrative costs, to certain charitable organizations; (c) approving Exculpation in favor of the Plan Administrator, Advisory Board and their respective representatives; (d) waiving the requirement that an additional Advisory Board member be appointed based upon the circumstances and ratifying the actions of such one member Advisory Board in approving the filing of this Motion and requests set forth herein; (e) approving shortened and limited notice of the Motion; and (f) granting such other relief as the Court deems just and appropriate.

Dated: April 9, 2010

THE CFC POST-CONSUMMATION ESTATE

By: /s/ Nancy A. Peterman
One of Its Attorneys

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