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Chapter 11
Honorable Carol A. Doyle

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
APR 07 2004
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

ORIGINAL

In Re:	Chapter 11
Conseco Inc. et al.	Case No. 02-B49675
	Honorable Carol A. Doyle
Debtors.	(Jointly Administered)
	TWO TWENTY CORPORATE CENTER LLC'S OBJECTION TO CFC ESTATE'S TWENTY-FOURTH OMNIBUS OBJECTION TO CLAIMS
	Hearing Date: April 14, 2004 at 11:00am Obj. Deadline Date: April 7, 2004 at 4:00pm

1. Two Twenty Corporate Center, L.L.C. ("TTCC)", was Conseco Financing Service Corp.'s landlord for the premises located at 6100 219th St. S.W., Mountlake Terrace, State of Washington.

2. Scott Weaver and Matt Adamson of Jameson Babbitt Stites & Lombard, are attorneys representing TTCC, and may be contacted at 206-292-1994 and/or madamson@jbsl.com and sweaver@jbsl.com.

3. TTCC filed a proof of claim seeking recovery of amounts past due and owing under the lease (rent, CAM charges, etc.). In its proof of claim, TTCC also

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sought recovery of the statutory allowable portion of future rent under the unexpired lease.

4. TTCC initially filed Claim No. 49676-00393. On May 9, 2003, the Finance Company debtors filed their First Omnibus Objection whereby they objected to that claim based on the fact that there was no supporting documentation. On May 21, 2003, TTCC filed an amended proof of claim, Claim No. 49676-001499.

5. The Finance Company debtors then stipulated that Claim No. 49676-001499 would be allowed.

6. This response is directed to Claim No. 49676-001499 and Omnibus Objection No. 24. The stated reason for the proposed disallowance of the claim is "claimant is a recipient of a voidable transfer under section 547."

7. TTCC opposes this Twenty-Fourth Omnibus objection because TTCC was a landlord that was accepting rent in the ordinary course of business.

8. 11 U.S.C. § 547(b) provides that:

> A debtor is permitted to recover, with exceptions, transfers of property that (1) are made to or for the benefit of the creditor; (2) are made on account of an antecedent debt; (3) are made while the debtor was insolvent; (4) are made within 90 days of the filing; and (5) enable the creditor to receive a larger share of the estate than if the transfer had not been made.

9. "It is well settled that the obligation to pay rent is deemed to arise on the due dates provided in the lease and not when the lease is signed." In re Child's World, Inc., 173 B.R. 473, 476 (Bankr. S.D.N.Y. 1994). As such, monthly rent timely paid pursuant to a lease for a term of years is considered a contemporaneous exchange for new value under 547(c)(1) and/or is not a payment made on account of an antecedent debt and cannot be a preference. In re Child's World, Inc., 173 B.R. at 477.

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10. For the reasons discussed above, TTCC was not the recipient of an avoidable transfer under section 547. Furthermore, as pertains to TTCC, the 24th Omnibus Objection to the Claim should be denied.

11. This response/objection is supported by the Declaration of Shiow-Rong Hwang of TTCC.

DATED this 6th day of April, 2004.

JAMESON BABBITT STITES
& LOMBARD, P.L.L.C.

By: _____
Scott R. Weaver, WSBA #29321
Matt Adamson, WSBA #31731
Attorneys for Two Twenty Corporate Center LLC

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CERTIFICATE OF SERVICE

PATTY SCHULTZ hereby states and declares as follows:

I hereby certify that on the 6th day of April, 2004, a copy of the foregoing TWO TWENTY CORPORATE CENTER LLC'S OBJECTION TO CFC STATE'S TWENTY-FOURTH OMNIBUS OBJECTION TO CLAIMS and DECLARATION OF SHIOW-RONG HWANG were duly served via Federal Express Priority Overnight Mail upon the following:

Nancy A. Peterman
John T. Gregg
Greenberg Traurig, P.C.
77 West Wacker Drive, Suite 2500
Chicago, IL 60601

I hereby certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

DATED: April 6, 2004, at Seattle, Washington.

Patty Schultz
PATTY SCHULTZ

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