

1 SHELTON L. FREEMAN (AZ #009687)
2 **DECONCINI McDONALD YETWIN & LACY, P.C.**
3 6909 East Main Street
4 Scottsdale, Arizona 85251

4 Ph: (480) 398-3100
5 Fax: (480) 398-3101
6 E-mail: tfreeman@lawdmyl.com

6 Counsel to Radical Bunny, L.L.C. and
7 Special Counsel to G. Grant Lyon, Chapter 11
8 Trustee of Radical Bunny, L.L.C.

8 **IN THE UNITED STATES BANKRUPTCY COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 In re:
11 MORTGAGES LTD.,
12
13
14 Debtor.

Chapter 11
Case No. 2:08-bk-07465-RJH

**RADICAL BUNNY'S MEMORANDUM IN
SUPPORT OF APPLICATION PURSUANT
TO 11 U.S.C. § 503(b)(3)(D) AND (4) FOR
ALLOWANCE AND PAYMENT OF
ADMINISTRATIVE CLAIM OF CREDITOR
RADICAL BUNNY ON REMAND AFTER
APPEAL**

Hearing Date: December 6, 2010
Hearing Time: 10:00 a.m.
Location: 230 N. First Ave.,
6th Fl. Courtroom 603,
Phoenix, AZ

Related Docket Nos.: 1888, 2014, 2027,
2088, 2395, 2398 & 2407

23 Creditor RADICAL BUNNY, L.L.C. ("RBLLC"), by and through its duly authorized
24 attorneys, hereby submits its memorandum ("Memorandum") to address the factual and
25 legal support for this Court's prior approval of its "Application Pursuant To 11 U.S.C.
26 § 503(B)(3)(D) and (4) For Allowance And Payment Of Administrative Claim Of Creditor
27 Radical Bunny" ("Application"), DE 1888, as directed in the status conference held on
28 September 21, 2010. This Court already approved the Application on the basis of the

1 record and the joint stipulated facts submitted by RBLLC and the objector, Kevin T.
2 O'Holloran, Trustee of the Liquidating Trust of Mortgages, Ltd. ("Liquidating Trust") and
3 awarded RBLLC an administrative claim in the amount of \$595,798.25. ("Substantial
4 Contribution Claim"). DE 2418 & 2521. The Court approved the Substantial Contribution
5 Claim as an administrative expense, on the grounds that the amounts sought were actual,
6 necessary expenses incurred by RBLLC. The Substantial Contribution Claim was
7 calculated on the basis of portions of the fees and costs for professional services rendered
8 by DeConcini McDonald Yetwin & Lacy, P.C. ("DMYL") for professional services provided
9 by DMYL on behalf of RBLLC ("RBLLC/DMYL") in this case. RBLLC's request is based
10 upon the millions of dollars of direct financial benefits it provided to this Chapter 11 case,
11 which alone support the Substantial Contribution Claim under section 503(b)(3)(D); it is
12 also based on the additional benefits provided by RBLLC/DMYL through RBLLC/DMYL's
13 efforts that made a substantial contribution to this Chapter 11 bankruptcy case by guiding
14 the plan process, significant involvement in asset preservation and settlement issues,
15 which provided an independent and valuable benefit to this case and an independent
16 basis under section 503(D)(3) to approve the Substantial Contribution Claim; and
17 additionally, having demonstrated a clear substantial contribution, RBLLC is entitled to an
18 award of the, reasonable compensation for DMYL's services under section 503(b)(4).
19

20 The Liquidating Trust appealed and the Court ordered it to post the sum of
21 \$59,579.83 to cover the interest that would accrue on the Substantial Contribution Claim
22 pending the final outcome of the claim. DE 2595.

23 After oral argument on the appeal, The United States Bankruptcy Panel of the Ninth
24 Circuit issued a memorandum decision in BAP NO. AZ-09-1412-KiJuMk ("BAP Decision")
25 that remanded the matter back to the bankruptcy court to make detailed findings to
26 support its award of the Substantial Contribution Claim to RBLLC.

27 As demonstrated below, the record amply supports the award to RBLLC under both
28 11 U.S.C. § 503(b)(3)(D) and 11 U.S.C. § 503(b)(4).

1 This Memorandum addresses:

2 (1) the legal tests to be applied on remand based on the Memorandum decision
3 issued by the United States Bankruptcy Panel of the Ninth Circuit in BAP No. AZ-09-1412-
4 KiJuMk (“BAP Decision”) after the appeal by Kevin T. O’Halloran, Trustee of the
5 Liquidating Trust of Mortgages, Ltd. (“Liquidating Trust”);

6 (2) the evidence of the direct benefit provided by RBLLC to the bankruptcy
7 estate (“Estate”) in this case, in excess of the benefit to RBLLC, based on (1) RBLLC’s
8 expense in providing financial benefit to the estate; (2) additional benefit to the estate
9 based on three activities: preservation of Estate assets, formulation of a plan of
10 reorganization, and settlements with the Debtor’s borrowers; and (3) reasonable
11 compensation for professional services; and

12 (3) RBLLC’s requested findings of fact and conclusions of law in the form
13 attached as **Exhibit 1**.

14 This Memorandum is supported by:

15 (1) a “Joint Statement of Material Facts of Radical Bunny and Liquidating Trust for
16 Application Pursuant to 11 U.S.C. § 503(b)(3)(D) and (4) for Allowance and Payment of
17 Administrative Claim of Creditor Radical Bunny”, DE 2395 (“JTS, ¶ _”), and the evidence
18 referenced therein, including the evidence supporting the Application; capitalized terms
19 defined in the JTS are used herein;

20 (2) a “Supplement to Joint Statement of Material Facts of Radical Bunny and
21 Liquidating Trust for Application Pursuant to 11 U.S.C. § 503(b)(3)(D) and (4) for
22 Allowance and Payment of Administrative Claim of Creditor Radical Bunny”, DE 2407
23 (“SJTS, ¶ _”), and the evidence referenced therein; and

24 (3) the relevant evidence in the record of this Chapter 11 case, including the
25 docket entries cited in the JTS, SJTS and RBLLC’s filings in support of the Application.

26
27 **I. LEGAL STANDARDS APPLICABLE TO CLAIM**

28

1 Pursuant to Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC must satisfy two
2 tests to be entitled to allowance of an administrative claim. First, RBLLC must be a
3 creditor of the Debtor's Estate. It is undisputed that RBLLC is a creditor of the Debtor.
4 See JTS, ¶ 14. Second, RBLLC must have made a "substantial contribution" to the
5 bankruptcy case. See *Cellular 101, Inc. v. Channel Communications, Inc. (In re Cellular*
6 *101, Inc.)*, 377 F.3d 1092, 1096 (9th Cir. 2004) ("*In re Cellular 101, Inc.*").
7

8 The principal legal test set by the Ninth Circuit Court of Appeals for the measure of
9 "substantial contribution" is "the extent of benefit to the estate." *In re Cellular 101, Inc.*,
10 377 F.3d at 1096. In the Ninth Circuit, a claimant's self-interest does not restrict an award
11 of an administrative claim for substantial contribution. Instead, a substantial contribution
12 claim may be awarded for efforts that benefit the claimant as long as the benefit to the
13 claimant is "outweighed by the extent of the benefit those efforts conferred on the estate."
14 *In re Cellular 101, Inc.*, 377 F.3d at 1097-1098. The fact that the creditor may also have
15 benefitted from contributions to the estate does not preclude reimbursement so long as the
16 benefit to the estate is not incidental or minimal. See *In re Cellular 101, Inc.*, 377 F.3d at
17 1097-1098 ("Any concern we have about evidence that Channel and Price benefitted from
18 their own efforts is outweighed by the extent of the benefit those efforts conferred on the
19 estate.").

20 The BAP Decision determined that "the extent of benefit to the estate" test must be
21 determined "independently" for each of an administrative claimant's activities to "then
22 decide whether that activity benefitted the estate sufficiently to award the claimant
23 expenses incurred for that activity." BAP Decision, p. 19, lines 25-27; p. 20 line 1. The
24 BAP decision remanded this Court's grant of the requested relief in the Application for the
25 purpose of making detailed findings of fact to support the award of substantial contribution
26 for the activities for which an award was requested.

27 RBLLC's Substantial Contribution Claim is based on:
28

1 (1) the direct financial benefits contributed to the Estate by RBLLC addressed in
2 Section II below;

3 (2) additional benefit contributed to the Estate through RBLLC/DMYL's efforts
4 based on three separate activities: (1) preservation of Estate assets; (2) formulation of a
5 plan of reorganization; and (3) settlements with the Debtor's borrowers, as addressed in
6 Section III below; and

7 (3) reasonable compensation for professional services, as addressed in Section
8 IV below.

9
10 **II. Financial Substantial Contribution to the Estate By RBLLC**

11 Pursuant to Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC seeks payment
12 of a portion of "the actual, necessary expenses" that RBLLC incurred in "making a
13 substantial contribution" in this Chapter 11 case. RBLLC seeks an administrative claim for
14 4.005% of amounts RBLLC pledged, loaned or subordinated to, for the benefit of the
15 Estate. These financial benefits were provided at the expense of RBLLC, as described in
16 detail below.

17 The Substantial Contribution Claim is considered in light of the unique nature of this
18 case. "The determination of substantial contribution must be made on a case by case
19 basis." *In re Catalina Spa & R.V. Resort, Ltd.*, 97 B.R. 13, 18 (Bankr. S.D. Cal. 1989).

20 A. **The Unusual Nature of this Chapter 11 Bankruptcy Case**

21 This is a rare and unusual Chapter 11 bankruptcy case. First, the Debtor
22 Mortgages Ltd. is itself a mortgage lender. The total loans advanced by the Debtor ("ML
23 Loans") was initially estimated at \$970 Million, and later determined to be \$894 Million, as
24 of the Filing Date ("ML Loan Portfolio"). The most significant asset in the Estate was the
25 Debtor's retained interest in about \$162 Million of the ML Loans. The Debtor owned only a
26 fractional interest in the ML Loans, with more than 80% of the fractional interests in the ML
27 Loans actually being owned by investors. Despite owning only a fraction of the ML Loans,
28 Debtor and the Estate were responsible for managing the entire ML Loan Portfolio. See

1 JTS ¶¶ 1, 4- 5, 12 & 15-17; DE 20, ¶¶ 5 & 11; DE 315, ¶¶ 4-5 & 10; RBLLC POC No. 33;
2 DE 198, p. 4; DE 293-2, Ex. B; DE 1298, Ex. B.

3 This case was initially filed as an involuntary Chapter 7 bankruptcy in June, 2008. It
4 was prompted by the suicide of Scott M. Coles, the owner and long-time manager of
5 Mortgages Ltd., during the most severe real estate downturn ever experienced in Arizona.
6 The case was converted to a Chapter 11 by temporary replacement management and pre-
7 petition counsel for Mortgages Ltd., who were both replaced within a month due to
8 asserted mismanagement and conflicts of interest. There were ongoing issues about the
9 business judgment of the appointed replacement Chief Executive Officer, who also
10 resigned during the case. See JTS ¶¶ 2-3; DE 1; DE 20, ¶ 11; DE 36; DE 315, ¶ 10; DE
11 572; DE 1531.

12 Mr. Coles' suicide left a Debtor with continually changing post-petition management
13 with uncertain motivations. The replacement management had no economic stake in this
14 case, in contrast to the most significant parties in interest: (1) RBLLC, (2) the Investors,
15 and (3) the Debtor's borrowers.

16
17 B. Significant Parties in Interest in This Chapter 11 Case

18 RBLLC was the largest creditor and the only major secured creditor of Mortgages
19 Ltd. at the inception of this case and during the proceedings. The Debtor admitted that the
20 almost \$200 million in outstanding loans advanced by RBLLC, as of the Filing Date, were
21 liquidated and undisputed and were not contingent. Those loans were evidenced by 99
22 promissory notes and related loan and security documents, and secured by Mortgages
23 Ltd.'s assets. RBLLC filed a secured proof of claim in this case, with evidence of a
24 perfected security interest in the Debtor's assets, including the Debtor's retained interest in
25 about \$162 Million of the ML Loans, as reflected in UCC financing statements attached to
26 RBLLC's proof of claim. RBLLC had a substantial basis to claim its secured status. See
27 JTS ¶¶ 4-14; RBLLC POC No. 33; DE 198, pp. 4, 11; DE 293-2, Ex. B; DE 1298, Ex. B.

28

1 RBLLC was formed to make loans to Mortgages Ltd. using funds from various
2 individuals seeking a favorable rate of return. More than 900 loan participants provided
3 funds to RBLLC that were loaned to Mortgages Ltd. Mortgages Ltd. then used funds
4 advanced by RBLLC to make ML Loans. RBLLC's sole source of income was from loan
5 payments made by Mortgages Ltd. Prior to the death of Scott Coles, Mortgages Ltd. had
6 been paying RBLLC more than \$2 million dollars a month in non-default interest
7 payments. Mortgages Ltd. defaulted on its obligations to RBLLC shortly before the Filing
8 Date. See JTS ¶¶ 4-12; RBLLC POC No. 33

9
10 This case also involved the related interests of approximately 2,700 investors
11 ("Investors") in the ML Loans. Mortgages Ltd. also raised money from these Investors to
12 make ML Loans. Mortgages Ltd. transferred a fractional interest in the ML Loans to
13 Investors, either: (1) directly to Investors who held a direct fractional or participating
14 interest in the ML Loans ("Pass-Through Investors"); or (2) indirectly to Investors who
15 purchased and owned membership interests in limited liability companies ("MP Funds")
16 controlled by Mortgages Ltd., as Manager directly to individual Investors or to limited
17 liability companies owned by Investors and managed by Mortgages Ltd. under various
18 servicing and management agreements. Even though Debtor was responsible for
19 managing the ML Loan Portfolio, the Investors asserted that their loan interests were not
20 part of the Estate of the Debtor. Although the Investors were not direct creditors of
21 Mortgages Ltd. and sought to exclude their interests from the Estate, two committees were
22 appointed to represent the interests of the Investors in this case: (1) the Official
23 Committee of Investors ("OIC") and (2) the Committee of Investors in the Value-To-Loan
24 Opportunity Fund I L.L.C. ("VTLC"). See JTS ¶¶ 15-20, 27 & 62; DE 20, ¶¶ 6-9, DE 198,
25 p. 11; DE 258; DE 293-2, Ex. B; DE 310; DE 315; DE 352; DE 577; DE 1298, Ex. B; Plan.

26 As of the Filing Date, the Investors and MP Funds owned approximately \$732
27 million of the approximately \$894 million dollars of outstanding ML Loans. The Debtor
28 also held an interest in several MP Funds. In addition to RBLLC's loans to Mortgages Ltd.

1 evidenced by RBLLC POC No. 33, RBLLC was also a Pass-Through Investor holding
2 \$3,748,000 in direct pass-through investments in two loans made by Mortgages Ltd. See
3 JTS ¶¶ 17-18; DE 198, p. 4; DE 315, ¶¶ 5-6; DE 1298, Ex. B; RBLLC POC No. 1005. The
4 OIC acknowledged in joint pleadings filed with RBLLC that “RBLLC and/or the Investors
5 constitute the entire economic base for every loan of ML to a borrower and bear the risk of
6 adjustment to those loans.” DE 572, p. 4, Ins 17-19.

7
8 The other significant parties in interest were the Debtor’s borrowers. Several
9 borrowers filed the involuntary case because Mortgages Ltd. stopped advancing funds to
10 those borrowers. The value of the major asset of the Estate, the Debtor’s fractional
11 interest in the ML Loans, depended on management of the entire ML Loan Portfolio and
12 securing recovery from the Debtor’s borrowers and the related real property collateral
13 securing the ML Loans. A reasonable resolution of borrower claims was a key factor in
14 preserving both the value of the Estate and the entire ML Loan Portfolio. See JTS ¶ 3; DE
15 1; DE 2; DE 293-2, Ex. B; DE 1298, Ex. B. Had management of the ML Loan Portfolio
16 ceased, it would have caused significant harm to the Estate, as well as the Investors due
17 to the intertwined fractional interests in the ML Loans.

18 An Official Unsecured Creditors Committee (“OCC”) was appointed to represent
19 general unsecured creditors, who held about \$4 Million in unsecured debt, about 2% of
20 undisputed claims. See DE 129; DE 225; DE 1531, p. 19.

21 C. Benefits Provided To the Estate That Exceeded Benefit to RBLLC

22 Unlike any other party to this case, RBLLC/DMYL deferred its own interests for the
23 benefit of all creditors and the Estate, including to pay the administrative expenses of the
24 professionals for the Debtor, and all committees. Although RBLLC was by no means the
25 only creditor with a stake in the outcome of this case, RBLLC was the only creditor to step
26 up and act by subordinating its interests to:

1 (1) allow the Debtor to use more than \$3,000,000 of RBLLC's cash collateral to
2 fund operations¹, which directly benefitted the Estate;

3 (2) allow the Debtor to obtain \$5,000,000 in post-petition working capital, which
4 would not have been forthcoming but for the subordination of RBLLC's priority interest in
5 collateral; and

6 (3) allow the Debtor to obtain a \$2,800,000 interim loan for preservation of a
7 specific borrower project (the Centerpoint project).

8 See JTS ¶¶ 55-58, 67-72, 76-78; DE 53; DE 155; DE 165; DE 197; DE 203; DE 206, DE
9 262; DE 293-2, Ex. B; DE 310; DE 323; DE 376, Exhibits 1 and 2; DE 458; DE 459; DE
10 483; DE 868; DE 919; DE 933; DE 1075; DE 1229; DE 1296; DE 1375; DE 1500; DE
11 1595.

12 RBLLC was the only creditor to subordinate its own interests to allow the Debtor to
13 use more than \$3,000,000 of RBLLC's cash collateral to fund the Debtor's operations.
14 RBLLC benefited the Estate by no less than \$3,000,000 due to this funding, which
15 significantly preserved the value of all of the assets of the Estate and the Estate's interest
16 in the entire ML Loan Portfolio. If the Debtor had not continued to operate, the value of the
17 entire ML Loan Portfolio, would have substantially and rapidly declined in value. While
18 RBLLC's subordination helped preserve the Estate's interest in the ML Loan Portfolio
19 (including RBLLC's interest), RBLLC received no direct benefit from allowing use of cash
20 collateral because it received no payments from those funds. See JTS ¶¶ 55-60; DE 155;
21 DE 203; DE 310, DE 458; DE 868; DE 919; DE 933; DE 1075; DE 1229; DE 1296; DE
22 1375; DE 1500; DE 1595.

23 RBLLC was the only creditor to subordinate its collateral to allow the Debtor to
24 obtain \$5,000,000 in post-petition working capital to fund the Debtor's operations. This
25

26 ¹ Income is conservatively based on the Debtor's actual Servicing Income, Fee Income
27 and Interest Income as reported in the monthly operating reports filed for the months July
28 2008—March 2009, as \$3,073,990.60. No monthly operating reports were filed after
March 2009.

1 financing would not have been forthcoming but for the subordination of RBLLC's priority
2 interest in more than \$13 Million Dollars of RBLLC's collateral, which benefitted the Estate
3 and the Estate's interest in the ML Loan Portfolio. A large portion of the DIP financing was
4 paid to professionals of the Estate, as well as other lenders to Mortgages Ltd., but only
5 \$50,000.00 of the \$5,000,000.00 went to RBLLC. This was RBLLC's only payment from
6 the Debtor in this case from the Filing Date through the entry of the Confirmation Order.
7 RBLLC benefitted the Estate by no less than \$4,950,000 due to this funding, which
8 significantly preserved the value of all of the assets of the Estate and the entire ML Loan
9 Portfolio. See JTS ¶¶ 67-72; DE 53; DE 165; DE 197; DE 206, DE 262; DE 323; DE 459;
10 DE 868; DE 919; DE 933; DE 1075; DE 1229; DE 1296; DE 1375; DE 1500; DE 1595.

11 Every creditor and the Investors benefitted by RBLLC's funding of the Debtor's
12 post-petition operations. No other Estate creditor or Investor contributed any funds for the
13 operation of the Debtor during the pendency of this case. No other creditors' lien or
14 security interest was subordinated. The Investors' interests in the ML Loans were never
15 subordinated to operate the Debtor or preserve assets of the Estate, despite the fact that
16 80% of the loan portfolio managed by the Debtor was held by those Investor interests.
17 See JTS ¶¶ 56, 59-60, 68-72; DE 53; DE 155; DE 203; DE 262; DE 310; DE 323; DE 458;
18 DE 459; DE 868; DE 919; DE 933; DE 1075; DE 1229; DE 1296; DE 1375; DE 1500; DE
19 1595; RBLLC POC No. 33.

20 The Debtor did not pay RBLLC more than \$23 million dollars in non-default interest
21 payments due RBLLC from the Filing Date through entry of the Confirmation Order on May
22 20, 2009. In contrast, the Investors did not allow interest payments on their pass-through
23 investments to be used to fund operations of the Debtor. Instead the Investors demanded,
24 and were granted the right to receive interest from the ML Loans in which they held an
25 interest from the Filing Date. See JTS ¶¶ 6-7, 59; DE 310; DE 458; DE 1011; RBLLC
26 POC No. 33.
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1 Allowing RBLLC's cash collateral to be used so the Debtor could continue operating
2 benefited the Estate and the subordination of RBLLC's collateral interest for funding of
3 post-petition operations provided a direct, and not an incidental or minimal, benefit to the
4 Estate that outweighed the benefit that RBLLC received. That funding was essential to
5 allow Debtor's continued operation pending a reorganization, which substantially benefited
6 all the creditors of the Estate, not just RBLLC, because it preserved the value of the Estate
7 and the Estate's interest in the ML Loan Portfolio. Despite the fact that the Estate only
8 held a twenty (20%) percent stake in the ML Loans, RBLLC's collateral was burdened with
9 the entire cost of Debtors' operational expenses through use of cash collateral (\$3 million)
10 and subordination for working capital loans (\$5 million).

11 RBLLC was the only party to subordinate its first priority security interest in the
12 Debtor's interest in more than \$94 million in the Centerpoint ML Loans to provide collateral
13 for a \$2,800,000 emergency interim loan that the Debtor represented was essential for
14 preservation of the Centerpoint property. In contrast, the Investors in Centerpoint refused
15 to subordinate their interests. This benefitted the Estate by at least \$2,800,000, based on
16 the representations of the Debtor regarding the damage to the Centerpoint property if that
17 interim loan was not made. See JTS ¶¶ 76-78; DE 293-2, Ex. B; DE 376, Exs. A & B; DE
18 408; DE 1298, Ex. B.

19 RBLLC also pledged its interest in ML Loans, under the Plan, to secure \$20 Million
20 in exit financing ("Exit Financing") that is the source of payment of all post-confirmation
21 expenses, including final applications of administrative claimants, under the confirmed
22 Plan. Without the pledge of RBLLC's interests in the ML Loans, that Exit Financing would
23 not have been available without a ruling that RBLLC was unsecured. Based on its
24 proportionate share of the ML Loans, RBLLC provided at least \$4,000,000 in direct
25 benefit, in addition to other collateral under RBLLC's proof of claim which was released
26 under the terms of the Plan to fund the Liquidating Trust. See JTS ¶ 41; Plan; RBLLC
27 POC No. 33. RBLLC has received little benefit from its subordination to the Exit Financing
28

1 of \$20 million. About one-half of it was used to pay all of the other professionals in this
2 case. See Plan, §3.2; DE 2056; DE 2057; DE 2077; DE 2078; DE 2101; DE 2102; DE
3 2103; DE 2130; DE 2131; DE 2132; DE 2133; DE 2134; DE 2139; DE 2147; DE 2151; DE
4 2164; DE 2183; DE 2185; DE 2193; DE 2470; DE 2775; DE 2865. Another \$4.8 million
5 was used to pay off the DIP Loans. See DE 1531, p. 20; DE 1532, p. 20. Accordingly, at
6 least seventy-five (75%) percent (\$15 million) of the Exit Financing was used to pay other
7 professionals and DIP Loans. Another portion, albeit undisclosed, has been used to fund
8 the litigation efforts by the Liquidating Trust. That leaves a small percentage of funds that
9 have likely been used for management of the Loan LLC's formed under the Plan in which
10 RBLLC holds fractional interests.

11
12 Based on the record of this case, RBLLC's financial contributions to the Estate
13 conservatively provided no less than \$14,750,000 in direct benefit to the Estate and the
14 ML Loan Portfolio. RBLLC did not receive any preferred treatment under the Plan based
15 on RBLLC's existing rights prior to the Filing Date. RBLLC would have been entitled to the
16 same treatment under the Plan without providing \$14,750,000 in benefit to the Estate.
17 RBLLC did not receive any additional financial benefit under the Plan based on RBLLC's
18 funding of the entire reorganization of the Debtor. The benefit to the Estate from RBLLC's
19 contributing \$14,750,000 to the Estate substantially exceeded the benefit to RBLLC from
20 making those financial contributions. Additionally, RBLLC's contributions provided
21 substantial benefit to the Investors, who did not bear the ongoing costs of the
22 reorganization of the Debtor, but who benefitted significantly from RBLLC's contributions
23 and whose professionals were paid from the Estate.

24 The requested amount of the Substantial Contribution Claim (\$595,798.25) is just
25 four percent (4.0%) of the \$14,750,000 in benefit that RBLLC provided to the Estate. On
26 the foregoing facts alone, RBLLC has met its burden to establish its right to recover the
27 entire Substantial Contribution Claim. The Substantial Contribution Claim is reasonable
28 and is substantially less than the financial benefits provided by RBLLC to the Estate.

1 The Liquidating Trust has claimed that the Estate incurred costs due to legal
2 positions taken later in this case by the RBLLC Trustee. RBLLC provided evidence from
3 the applications for attorneys fees filed by the OIC and the Debtor that such cost was
4 approximately \$70,300. See DE 2088, pp. 7-9. Even if the \$14,750,000 in benefit is
5 reduced by \$70,300, RBLLC would still have provided \$14,679,700 in benefit. The
6 requested amount of the Substantial Contribution Claim (\$595,798.25) is still about four
7 percent (4.0%) of that \$14,679,700 amount. Based on the \$14,750,000 in costs imposed
8 on RBLLC for the benefit of the Estate, the minimal costs imposed on the Estate by the
9 RBLLC Trustee should not affect RBLLC's right to recover the entire Substantial
10 Contribution Claim.

11 The benefit to RBLLC from RBLLC's providing financial benefits to the Estate is
12 "outweighed by the extent of the benefit those efforts conferred on the estate." Pursuant to
13 Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC is entitled to an award for
14 "substantial contribution" to the Estate in the total requested amount of \$595,798.25 based
15 on this benefit.

16
17 **III. Substantial Contribution to the Estate Related to RBLLC/DMYL Efforts**

18 Pursuant to Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC also provided
19 "substantial benefit" to the Estate through RBLLC's efforts and DMYL's related legal
20 services in three activities: (1) preservation of estate assets; (2) formulation of plan of
21 reorganization; and (3) objecting to and reaching settlements with the Debtor's borrowers.
22 RBLLC/DMYL took positions that benefitted all creditors of the Estate. DMYL's services
23 include those provided to negotiate and document RBLLC's direct financial benefits to the
24 Estate described in Section II above, applicable to each of the three activities. Based
25 upon having provided a substantial contribution, RBLLC is also entitled to payment of
26 reasonable compensation for professional services rendered by DMYL under Section
27 503(b)(4) of the Bankruptcy Code.
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A. Benefit Provided Through Preservation of Estate Assets

In addition to RBLLC's significant direct financial benefits, RBLLC/DMYL provided substantial benefits to the Estate and the ML Loan Portfolio based upon services provided for the benefit of all creditors of the Estate and the Investors. RBLLC/DMYL took positions that benefitted all creditors in preserving assets of the Estate. RBLLC's collateral was the only asset available to sustain the Debtor since the Investors refused to encumber their interests. RBLLC was burdened with all of the Debtor's post-petition debt, including Estate and Investor professionals. Neither the Investors nor any other creditor were ever subjected to subordination or made a monetary contribution during this case. See JTS ¶¶ 52-57; 61-80; Application Exhibit B; Freeman Declaration, ¶ 11; DE 53; DE 75; DE 79; DE 155; DE 165; DE 197; DE 203; DE 206; DE 262; DE 293-2, Ex. B; DE 323; DE 376, Exhibits 1 and 2; DE 459; DE 483.

1. Benefit Provided by Use of RBLLC's Cash Collateral

Initially, the Debtor had no source of funds to continue operations, and perform the management of the ML Loan Portfolio. RBLLC agreed to allow the Debtor to use RBLLC's cash collateral with no adequate protection payments in an effort to preserve the operations. During this case, the Debtor used over \$3,000,000 of RBLLC's cash collateral to operate, supplemented by DIP financing. By structuring those operational funds, RBLLC/DMYL allowed this case to avoid collapse, keep the Debtor's employees paid and keep the Debtor and Estate's interest in the ML Loan Portfolio intact, all to RBLLC's (and its professionals) detriment. See JTS ¶¶ 55-56; DE 155; DE 203; DE 310; DE 868; DE 919; DE 933; DE 1075; DE 1229; DE 1296; DE 1375; DE 1500; DE 1595.

2. Benefits Provided in Connection With Post-Petition Financing

RBLLC/DMYL benefitted the Estate through objections to initial proposed noncompetitive financing that would have prevented a successful reorganization. In addition to opposing the burdensome financing proposed by the replacement Debtor

1 management and professionals, and ferreting out the conflicts that existed amongst those
2 parties, RBLLC/DMYL also played a vital role in the financing that was put in place.

3 During the gap period, the Debtor obtained a \$500,000 loan from Southwest Value
4 Partners Fund XIV, LP ("Gap Lender"), due and payable on July 23, 2008. (DE 165, ¶6).
5 Before any committees were appointed in this case, on June 27, 2008, Debtor's new
6 management sought to push through a \$5,000,000 working capital loan tied to an additional
7 \$120,000,000 construction loan from the Gap Lender. (DE 53). The Debtor sought
8 approval for this loan before it had even filed its Bankruptcy Schedules and Statement of
9 Affairs. By July 14, 2008, further disclosures revealed that the requested construction loan
10 had increased to \$124,100,000, and the scope of the required security for the loans had
11 expanded to all assets of the Debtor. (DE 165). The terms of the proposed loans were
12 unfavorable, with interest and points on the working capital loan at fifteen percent (15%).
13 The proposed working capital loan would mature on October 31, 2008, if the construction
14 loan was not timely approved by the bankruptcy court. Half of the proceeds from the working
15 capital loan would not be used for the operation of the Debtor, but would repay the GAP Loan
16 and another loan to the Debtor. These loans were to be secured by a super-priority lien on
17 all assets of Debtor, subject only to valid, perfected, enforceable and nonavoidable liens and
18 security interests existing as of the Filing Date. See JTS ¶ 61.

19 RBLLC/DMYL, along with other creditors and individual investors (including an
20 "unofficial" committee of investors), objected to the Debtor's attempt to encumber virtually
21 all assets of its Estate and raised objections on behalf of all the creditors of the Debtor's
22 Estate as to whether the proposed financing would benefit the Estate. RBLLC/DMYL
23 discovered that the Debtor's financial expert had denied access to the financial records of
24 the Debtor to any lender other than the proposed lender, virtually eliminating competitive
25 financing alternatives. See JTS ¶¶ 61-64; DE 53; DE 75; DE 79; DE 165; Freeman
26 Declaration, ¶ 11.
27
28

1 RBLLC/DMYL benefitted the Estate by locating alternative post-petition financing on
2 more favorable terms, and by urging the Debtor to consider other financing alternatives.
3 RBLLC/DMYL located a lender willing to provide funding without requiring a lien on all
4 assets of the Estate, and that lender appeared, with a check, at an early financing hearing.
5 See JTS ¶ 63; Freeman Declaration, ¶ 11. Arranging for alternative DIP financing,
6 whether or not it is used, provides actual benefit and a substantial contribution. See *In re*
7 *FF Holdings Corp.*, 343 B.R. 84, 85 & 87 (D. Del. 2006).

8
9 In this case, the availability of competitive financing actually ensured that the Debtor
10 abandoned the proposed financing and obtained more favorable DIP loan terms, even
11 though the Debtor elected not to use any lenders located by RBLLC/DMYL. By July 18,
12 2008, due in part to the strenuous objections of RBLLC, the Debtor withdrew the requested
13 Gap Lender DIP financing. By that time, the interest of other lenders in competing to provide
14 financing was evident, and all hearings on the requested financing were vacated on July 21,
15 2008 to allow the Debtor to consider financing alternatives. See JTS ¶¶ 63-67; DE 53; DE
16 165; DE 197; DE 206; DE 262; DE 459; Freeman Declaration, ¶ 11.

17 RBLLC/DMYL was involved in extensive negotiations with the prospective lenders
18 to structure a loan that provided the Debtor and Estate with much needed working capital
19 to keep the lights on and the employees paid current. RBLLC/DMYL's efforts provided
20 significant benefit, by ensuring that the interests of the Estate were protected from
21 financing that could have removed all value from the Estate while still allowing the Debtor
22 to continue operations to preserve the value of the Debtor's assets. RBLLC/DMYL's
23 continued objections and alternative financing efforts for DIP financing ultimately led to the
24 Debtor's obtaining more favorable DIP financing terms to the actual benefit of the Estate.
25 The Debtor withdrew its emergency financing attempts to consider competing financing
26 proposals.

27 The Debtor then sought approval for a \$5,000,000 initial DIP loan with more
28 favorable terms, and without a lien on all Estate assets. On August 1, 2008, the Debtor

1 again sought a hearing on emergency financing, but the proposed terms were limited to a
2 \$5,000,000 initial DIP loan, which no longer included a lien on all estate assets. The interest
3 rate (and points) for that loan were reduced to 13%, and the new loan terms were for a one
4 year maturity date that would not be accelerated if construction financing was not approved.
5 RBLLC's first priority security interest in \$13,072,830 of ML Loans was subordinated for
6 that \$5,000,000 working capital loan. See JTS ¶¶ 66-72; DE 53; DE 165; DE 197; DE
7 206; DE 262; DE 293-2, Ex. B; DE 323; DE 459; Freeman Declaration, ¶ 11.

8 All of RBLLC/DMYL's efforts in connection with DIP funding provided benefit to the
9 Estate. If the initial proposed financing had been approved, the Estate could have
10 incurred up to \$124,100,000 in debt that would have primed payment of all claims of the
11 Estate due to the preferred returns that would be paid to the Gap Lender. For the
12 construction loan, the Gap Lender would be guaranteed interest plus excessive preferred
13 returns; the Gap Lender would have been repaid before the Debtor's creditors received one
14 dime. Instead, the Debtor used RBLLC's cash collateral and incurred only \$5,000,000 in
15 working capital to fund the Debtor's operations, subordinating only RBLLC's collateral
16 interest. RBLLC's efforts provided as much as \$119,100,000 in benefit to the Estate. The
17 benefit to the Estate from RBLLC/DMYL's actions exceeded the benefit to RBLLC. See
18 JTS ¶¶ 74-75; DE 53; DE 75; DE 165; Plan.

19 This key benefit provided by RBLLC occurred prior to official committee appearances.
20 On August 5, 2008, counsel for the OIC filed a notice of appearance, DE 290. On August 6,
21 2008, counsel for the OCC filed a notice of appearance, DE 313. Thus, this benefit was not
22 duplicative with other Estate professionals.

23 After the appointment of the OIC and the OCC, RBLLC/DMYL continued to work
24 with those Committees to prevent the Debtor from entering into financing that was
25 unreasonably burdensome to RBLLC and the other creditors of the Debtor's Estate.
26 RBLLC objected on behalf of all creditors of the Estate and reduced the expenses of the
27 Estate by providing detailed objections. For example, RBLLC filed a 12 page objection to
28

1 unacceptable DIP financing terms in DE 376. The OCC filed a 2 page objection joining in
2 filed objections, DE 380.

3 DMYL's services were necessary for RBLLC to subordinate RBLLC's collateral
4 interest in certain ML Loans to provide the \$500,000 Interim Working Capital DIP Loan to
5 fund the Debtor's operations (subject to use of RBLLC's cash collateral, as available). No
6 other creditors' lien or security interest was subordinated for the Interim Working Capital
7 DIP Loan. See JTS ¶¶ 68-69; DE 323.

8 DMYL's services also were provided in connection with RBLLC's subordination of
9 RBLLC's collateral interest in \$13,072,830 of ML Loans for the \$5,000,000 Final Working
10 Capital DIP Loan to fund the Debtor's operations. No other creditors' lien or security
11 interest was subordinated for the Final Working Capital DIP Loan. See JTS ¶¶ 70-72; DE
12 459.

13 RBLLC/DMYL helped structure agreements on financing, cash collateral, and the
14 Plan that ensured the cash flow to allow the Debtor to continue operations. The
15 negotiation and documentation of these agreements played a vital role in this Chapter 11
16 case. RBLLC's primary attorney, Shelton L. Freeman, was routinely requested to
17 participate in meetings with the OIC, which sometimes requested that RBLLC lead the
18 charge on issues that would have adversely affected the Estate if the Debtor's acts went
19 unchallenged. DMYL and the counsel for the OIC divided work based upon strength and
20 resources in dealing with these financing issues. This division of labor was particularly
21 effective given the repeated "emergency" filings by the Debtor which required extensive
22 analysis and short deadlines for objections. See JTS ¶¶ 53-54.

23
24 3. Benefit to the Estate For Ongoing Administrative Expenses

25 RBLLC/DMYL's efforts did not just ensure operation of the Debtor, it also ensured
26 payment of professionals of the Estate. During this case interim payments of at least
27 \$1,350,000.00, including post-petition retainers, were made to Jennings, Strouss &
28 Salmon, Greenberg Traurig, Fennemore Craig, and Nussbaum & Gillis, from RBLLC's

1 cash collateral. See OIC's Approved Amended Disclosure Statement at DE 1531-12,
2 Exhibit F. These payments were made for the benefit of the Estate at the expense of
3 RBLLC/DMYL.

4 It is undisputed that RBLLC has no source of payment for DMYL's attorneys fees
5 since the Debtor made no interest payments to RBLLC. See JTS ¶ 6. Any recovery for
6 RBLLC under the confirmed Plan is subordinate to repayment of the Exit Financing. If
7 DMYL does not receive compensation from the Estate, the only source of payment will be
8 plan distributions to RBLLC, which will only occur after repayment of the Exit Financing.
9 See JTS ¶ 25. To date, no Plan distributions have been made to RBLLC. To deny the
10 Application would effectively subordinate RBLLC's 900 participants once again to the
11 interests of the other professionals and other parties receiving the benefit of the use of
12 their cash collateral.

13
14 4. Benefit Provided to Preserve Debtor's Collateral and Funds

15 The Centerpoint Loans are another clear example where RBLLC provided
16 significant benefit to others in this case at RBLLC's cost. RBLLC/DMYL objected to initial
17 proposals for post-petition financing related to the Tempe Land Company's Centerpoint
18 that would have been unreasonably burdensome to RBLLC and other creditors of the
19 Estate. Up to \$75,000,000 of the proposed construction loan from the Gap Lender was to be
20 used for Tempe Land Company's Centerpoint project. See JTS ¶¶ 74-75; DE 53; DE 75.

21 Then, the Tempe Land Company parties ("TLC Parties") convinced the Debtor that
22 they needed funds to protect their buildings. The Debtor filed emergency pleadings
23 seeking a \$2,800,000 interim loan for preservation of the Centerpoint project, and also
24 seeking to subordinate all the interests in the Centerpoint Loans to that new financing. On
25 shortened notice, objections were filed and the Debtor and TLC Parties pled its dire
26 position to the Court. Consistent with its prior objections, the OIC contended that the
27 Investors' interests could not be subordinated to a post-petition loan because they were
28 not part of the Mortgages Ltd. bankruptcy estate. The TLC Parties and the Debtor alleged

1 millions of dollars in damage were imminent if immediate steps were not taken to seal the
2 building from the monsoon storms and for air conditioning to prevent warping of the interior
3 finishes. In light of the dire circumstances presented, an agreement was eventually
4 structured where an approved budget for emergency items would be approved
5 subordinating only RBLLC's collateral, not the Investors' interest. The efforts involved to
6 structure that transaction took intense legal efforts and numerous negotiations with the
7 alternate lenders that were involved. See JTS ¶¶ 73-77; DE 53; DE 75; DE 165; DE 483.

8 RBLLC also objected on behalf of all creditors of the Estate and reduced the
9 expenses of the Estate by providing detailed objections to Centerpoint financing requests.
10 For example, RBLLC filed detailed objections to Centerpoint DIP financing, DE 435, 987
11 and 1008. The OCC filed a one page objection joining in RBLLC's objections, DE 975. In
12 contrast to RBLLC's efforts on behalf of the Estate, the OIC filed a detailed objection of
13 reasons that ML could not pledge or subordinate the Investors' interest in the Centerpoint
14 loans, DE 984. Debtor and its professionals proposed the Centerpoint financing and the
15 OIC's objection was limited to the pledging or subordination of the Investor interests;
16 RBLLC/DMYL was the only creditor seeking to protect the Estate's interest; there was no
17 duplication of effort in preserving the Estate's interest.

18 DMYL's services were necessary for RBLLC to subordinate RBLLC's first priority
19 security interest in the Centerpoint ML Loans as collateral for a \$2,800,000 interim loan for
20 preservation of Centerpoint. None of the Investors' interest in the Centerpoint Loans was
21 subordinated to the \$2,800,000 interim loan for preservation of Centerpoint. See JTS ¶¶
22 77-78; DE 483.

23 The Debtor then failed to properly advance or manage the emergency funds and
24 allowed the TLC Parties to squander the loan funds and divert a significant portion of
25 those funds from the Centerpoint project. DMYL's services also include those incurred in
26 the preservation of funds wrongfully disbursed to an affiliate of Tempe Land Company.
27 RBLLC was the first creditor to: (1) raise concerns about the Debtor's failure to properly
28

1 monitor advances of that initial \$2,800,000 interim loan; and (2) request replacement of
2 improperly used funds. Although the Debtor never recovered \$568,706 in funds wrongfully
3 disbursed to an affiliate of Tempe Land Company, RBLLC/DMYL's actions ensured that
4 the Debtor did not continue to advance funds to Tempe Land Company that were not used
5 to preserve the Debtor's collateral, again ensuring preservation of Estate assets and
6 providing tangible benefit to this Estate. Although the Debtor had sought a \$4,800,000
7 loan for Centerpoint, the Debtor never sought approval for the additional \$2,000,000 after
8 the improper use of proceeds was raised. The interim loan was paid off by the Exit
9 Financing under the Plan, which further subordinated the RBLLC interests to pay liens to
10 which RBLLC had already subordinated. See JTS ¶¶ 79-80; DE 468; DE 987; DE 1078;
11 Freeman Declaration, ¶ 11; Plan.

12
13 5. Summary of Benefits to Estate of Preservation of Assets

14 RBLLC/DMYL provided unique and tangible benefits to the Estate that were not
15 provided by any creditor, and that substantially exceeded any benefits to RBLLC. RBLLC
16 was burdened with all of the Debtor's post-petition debt, including payment of Estate and
17 Investor professionals. No other creditor ensured that funds were available for continued
18 operations while non-competitive financing was threatening the interests of all creditors of
19 the Estate. RBLLC's interests were sacrificed for the benefit of all the creditors of the
20 Estate and the Investors.

21 The benefit to the Estate from RBLLC/DMYL's efforts in preserving the assets of
22 the Estate substantially exceeded the benefit to RBLLC from those efforts. RBLLC/DMYL's
23 efforts were necessary to provide: (1) \$3,000,000 in cash collateral for the Debtor's
24 operations; (2) \$5,000,000 in working capital for the Debtor's operations at more favorable
25 rates; and (3) \$2,800,000 in financing to preserve the assets of Centerpoint. The
26 negotiation, documentation and financial benefits combined to provide a substantial
27 contribution to the Estate. RBLLC/DMYL's efforts also ensured: (1) that the Estate was
28 not subjected to more than \$100 million in debt that could have prevented any payment to

1 creditors of the Estate; and (2) that at least \$2,000,000 in debt was never incurred for
2 Centerpoint for improper purposes. RBLLC's contributions to the Estate for preserving
3 assets of the Estate provided millions of dollars in benefit to the Estate in excess of any
4 benefit provided to RBLLC.

5 For RBLLC/DMYL's services in preserving assets of the Estate, it is reasonable for
6 RBLLC to seek a claim for substantial contribution in an amount measured by the amount
7 of attorneys fees and costs that RBLLC incurred. RBLLC has met its burden to establish
8 its right to recover the requested amount calculated on services provided for preserving
9 the assets of the Estate of \$356,253. The claim amount requested is millions of dollars
10 less than the benefit to the Estate provided by RBLLC.

11 Any benefit that RBLLC received from its efforts in preserving the assets of the
12 Estate in this case is "outweighed by the extent of the benefit those efforts conferred on
13 the estate." Pursuant to Section 503(b)(3)(D), RBLLC is entitled to an award for
14 "substantial contribution" to the Estate of \$356,253 based on this benefit. Additionally,
15 pursuant to Section 503(b)(4) of the Bankruptcy Code, RBLLC is entitled to "payment of
16 reasonable compensation for professional services rendered" by DMYL.

17
18 B. Benefit Through DMYL Services For Plan of Reorganization

19 Services that substantially contribute to a case include formulating, negotiating and
20 drafting a plan of reorganization that is eventually confirmed. See, e.g., *In re Cellular 101,*
21 *Inc.*, 377 F.3d at 1097. RBLLC/DMYL contributed substantially to the reorganization
22 through its consideration of the needs of all creditors in formulating, negotiating and
23 drafting a plan of reorganization in cooperation with the OIC. RBLLC/DMYL did not
24 contribute "incidentally" or "minimally" but rather made a substantial contribution in
25 providing specified services that led to a confirmable plan in this case which are
26 reimbursable as an administrative expense in this case. See *In re Cellular 101, Inc.*, 377
27 F.3d at 1098.

1 From the beginning of this case, RBLLC/DMYL worked extensively with all the
2 interested parties toward the goal of a consensual, confirmable plan of reorganization.
3 RBLLC/DMYL raised plan issues early and consistently sought to bring the parties
4 together. Meanwhile, the OIC and other Investors repeatedly argued that their interests
5 were not part of the Mortgages Ltd. bankruptcy case and opposed every motion that
6 sought to impact their interest. Recognizing these challenges led RBLLC/DMYL to
7 develop a proposed plan structure that:

8 (1) tracked the real financial picture—RBLLC and the Investors had put up more
9 than \$900 million for the ML Loans to the Debtor's borrowers; and

10 (2) overcame the Investors' objections that their ownership interests were not part
11 of the Estate, and meshed their investments in the ML Loans with the RBLLC collateral for
12 the benefit of all of the people who had put money into Mortgages Ltd.

13 RBLLC/DMYL met with the OIC and discussed different aspects of a reorganization
14 plan. The meetings then expanded to include other parties, including the OCC. On
15 September 29, 2008, RBLLC/DMYL and the OIC filed a Joint Objection to Exclusivity and
16 Joint Cross Motion to Limit Exclusivity. DE 572. In that pleading, prepared on DMYL
17 pleading paper, RBLLC and the Investors state that:

- 18 1) RBLLC and the Investors hold all economic interests in all
19 borrower loans; p. 9
- 20 2) There was a need to provide a mechanism whereby the real
21 parties in interest in the loans can make business decisions
22 regarding their investments; p. 9 and
- 23 3) RBLLC and the Investors were prepared to file a plan by
24 November 1, 2008 (30 days later). p. 2.

25 About ten days later, on October 9, 2008, DMYL created the original outline for a plan
26 based on those meetings and e-mailed that outline to the counsel for the OIC. See SJTS,
27 ¶ 2, Ex. A; DE 2398, Ex. 1.
28

1 The major concepts in the Plan Outline are exactly the concepts contained in the
2 confirmed Plan of Reorganization:

- 3 • Form Loan LLCs
 - 4 ○ Exchange Investor Interests and RBLLC collateral interests for
 - 5 fractional membership in each loan LLC
 - 6 ○ Any shortfall in value treated as unsecured claim
 - 7
- 8 • Trust for Unsecured Claims
 - 9 ○ Pursuit of avoidance claims
 - 10 ○ Value in Debtor's real property
- 11 • Treatment for Value to Loan
- 12 • Payment of Administrative Claims
 - 13 ○ Debtor, all committees and RBLLC
- 14 • Treatment of RBLLC
 - 15 ○ Payment from identified real property
 - 16 ○ Exchange secured claims for loan LLC membership interests
 - 17 ○ Deemed secured
 - 18 ○ Administrative claim for fees
 - 19 ○ Avoidance actions against RBLLC settled
- 20 • Treatment of Investors
 - 21 ○ Exchange interests for loan LLC membership interests
 - 22 ○ Ownership in notes validated
 - 23 ○ Avoidance actions against Investors settled

24 The Plan Outline, like the confirmed Plan, was not solely for the benefit of RBLLC. It
25 provided a mechanism to consolidate the fractional interests in the ML Loans, resolved
26 thousands of potential avoidance claims, eliminated the concerns about the ability to
27 manage each loan and provided a mechanism for all creditors to share in the recoveries
28

1 by a Trust formed to collect assets and pursue third party claims. See SJTS, ¶ 2, Ex. A;
2 DE 2398, Ex. 1; Plan.

3 DMYL then refined the Plan Outline based on input from, and meetings with, the
4 OIC and other parties in interest, and developed acceptable plan terms from that revised
5 plan proposal. The interests of all the creditors of the Estate and the Investors in the ML
6 Loan Portfolio were considered in formulating that plan. The first draft of the Plan (“DMYL
7 Plan”) was sent by DMYL by e-mail on November 4, 2008, to counsel for the OIC. See
8 JTS, ¶ 34; SJTS, ¶ 3, Ex. B; DE 2398, Ex. 2; Freeman Declaration, ¶ 9.

9 A comparison of the initial draft of the DMYL Plan and the confirmed Plan shows
10 only minor adjustments. In light of the appointment of the RBLLC Trustee and the
11 subsequent withdrawal of support, the OIC removed RBLLC as a co-proponent of the Plan
12 and adjusted provisions, but the basic structure of Loan LLCs, resolving avoidance claims
13 and forming a Trust to pursue avoidance claims remained intact. The contribution by
14 RBLLC/DMYL is self-evident in the confirmed Plan—even after the RBLLC Trustee
15 withdrew its support, the OIC went forward with the substantially identical terms because
16 of the benefits provided to all parties by the DMYL Plan. Despite various objections at
17 confirmation, this same structure eventually received almost unanimous support of all
18 parties and was confirmed. See SJTS, ¶ 3, Ex. B; DE 2398, Ex. 2; Plan. Without the
19 efforts of RBLLC/DMYL in the Plan formulation process, confirmation of a plan would have
20 been unlikely and certainly would have required greater expense by other parties.

21 On December 23, 2008, the Debtor, RBLLC and the OIC stipulated to extend the
22 Debtor’s exclusivity to January 6, 2009. By December 23, 2008, many of the terms of the
23 plan of reorganization that RBLLC/DMYL and the OIC had negotiated with numerous other
24 constituencies for five months were finalized with two significant issues remaining: the
25 management of the reorganized debtor and the allocation of default fees. See JTS ¶ 39;
26 DE 1138.
27
28

1 RBLLC/DMYL's work toward a confirmable plan of reorganization was successful
2 because (1) RBLLC/DMYL provided the framework for the plan that was ultimately
3 confirmed in this case; and (2) RBLLC/DMYL's draft plan included significant portions of
4 the plan that was ultimately confirmed in this case. See JTS ¶¶ 34; SJTS ¶ 3 & Ex. B; DE
5 1888, Ex. F, ¶¶ 9-10; DE 1297; Plan; DE 2398, Ex. 2.

6 One significant reason that DMYL worked closely with the OIC to develop a
7 confirmable plan of reorganization was because the post-Coles management of the Debtor
8 ignored the interests of the creditors of this Estate. Despite a clear lack of equity, the
9 Debtor took an antagonistic approach to the real parties in interest in this case. DE 572.
10 Even the Liquidating Trust recognized the futility of the Debtor's efforts. In its objection to
11 the fees incurred by the Debtor's bankruptcy counsel, the Liquidating Trust recognized that
12 "no good faith effort was made to create a consensual plan with the Official Committee of
13 Investors." See DE 1937, p. 11, lines 24-25.

14 Without the contribution made by DMYL to the creation, negotiation and revision of
15 the plan, the OIC and other constituents would have had to perform additional work at the
16 expense of the Debtor's Estate. Additionally, RBLLC/DMYL's contributions toward a
17 feasible plan of reorganization could not be duplicated by the Debtor, the OIC and VTLC
18 because RBLLC was the only party with a significant economic stake aligned with the
19 interests of the Estate. See JTS ¶¶ 9, 17; SJTS ¶ 3, Ex. B; DE 310; DE 2398, Ex. 2; Plan.

20 The amounts requested include DMYL fees incurred in objecting to the Debtor's
21 requested extensions of exclusivity. RBLLC/DMYL worked with the OIC to file a joint
22 objection to extending that exclusivity because of the Debtor's continued failure to provide
23 a feasible plan of reorganization. That joint objection was also joined by the OCC. DMYL
24 worked tirelessly to meet with constituent parties, including the Debtor, the Committees
25 appointed in this case, investor groups, lenders and asset managers to develop
26 acceptable plan terms. RBLLC/DMYL was an integral part of the development of both the
27 structure and the substance of the plan that was eventually confirmed by the Court. See
28

1 JTS ¶¶ 33-35 & 40; SJTS ¶ 3 & Ex. B; DE 572; DE 688; DE 1297; DE 2398, Ex. 2
2 Freeman Declaration, ¶¶9-10; Plan.

3 The BAP Decision, p. 21, states that “we see nothing in the record” where RBLLC
4 explained how objecting to the Debtor’s requested extensions of exclusivity benefitted the
5 Estate and other creditors. The joint objection filed by RBLLC and the OIC on September
6 29, 2008 (DE 572 and cited in the JTS) answers that very question. That joint objection
7 recognized that the Debtor had already incurred almost \$1 million dollars in professional
8 fees through the end of August, 2008, and that the Debtor was going to exhaust its \$5
9 million dollar working capital line by December, 2008. “Extension of the exclusivity will
10 only increase the cost and delay of this case to the detriment of the unsecured creditors,
11 the Investors and Radical Bunny.” DE 572, p. 6. It also sought an end to the period of
12 exclusivity so that RBLLC and the Investors could file their own plan, and expedite a
13 resolution of the case. See DE 572, p. 2.

14 While RBLLC/DMYL was developing the DMYL Plan and working with the OIC for a
15 consensual plan for the benefit of all creditors, increasing administrative expenses were
16 incurred by the Debtor without regard to the burden on the Estate and without regard to
17 the creditor constituencies that held the economic stake in this case. Debtor’s
18 professionals sought payment of almost \$9 million in administrative expenses. EX. 4. If
19 RBLLC/DMYL had not worked to end the Debtor’s exclusivity, those administrative
20 expenses would have been even higher because the Debtor was unwilling or unable to
21 propose a feasible plan of reorganization. Although RBLLC was funding the Debtor’s
22 growing administrative expenses with RBLLC’s cash collateral (and the working capital
23 line obtained by subordinating RBLLC’s collateral interest), it was to the benefit of all
24 creditors of the Estate to: (1) limit the Debtor’s ongoing administrative expenses; and (2)
25 develop a feasible plan of reorganization that was confirmable with the support of the
26 creditor constituencies. Thus, the efforts of RBLLC/DMYL provided benefit to the Estate in
27
28

1 excess of the benefit provided to RBLLC and its 900 participants. See JTS ¶¶ 32-35; DE
2 572; DE 688; Freeman Declaration, ¶¶ 9-10.

3 DMYL services related to the proposed plan included (1) drafting a form operating
4 agreement necessary for the submission and ultimate implementation of the plan; and (2)
5 clarification of other asset management and financing documents essential to the
6 proposed plan. Although the OIC later proposed a revised plan and supporting documents
7 after DMYL no longer represented RBLLC in connection with the Debtors' reorganization,
8 DMYL's services still contributed to a successful reorganization in this case. Even the
9 professionals for the OIC initially made revisions to the DMYL documents as well as
10 preparing additional and alternative operating agreements to support the plan filed by the
11 OIC, as part of actual and necessary services provided by the OIC's professionals in this
12 case. See **Exhibit 2** hereto (pages from DE 1879, with emphasis added).

13
14 Since the Debtor stopped making interest payments to RBLLC and did not repay
15 matured loans, RBLLC had no source of income after June 2008. On October 8, 2008,
16 certain RBLLC loan participants filed an involuntary bankruptcy petition against RBLLC
17 under Chapter 7 of the Bankruptcy Code, Case No. 2-08-bk-13884-CGC ("RBLLC Case"),
18 which was converted to a Chapter 11. RBLLC was authorized to employ DMYL to serve
19 as special counsel to represent RBLLC on specific matters, including representation in this
20 case. Pursuant to a stipulation, at the end of December, 2008, G. Grant Lyon ("RBLLC
21 Trustee") was appointed as Chapter 11 Trustee in the RBLLC Case. As of that date,
22 RBLLC Trustee became the representative of RBLLC's bankruptcy estate under 11 U.S.C.
23 § 323(a), and RBLLC no longer had authority to act as debtor-in-possession of the estate.
24 RBLLC Trustee retained separate counsel to represent the RBLLC Trustee in this case.
25 See JTS ¶¶ 42-43.

26 The OIC filed the revised plan that the OIC and RBLLC/DMYL had worked on in
27 January, 2009, before the terms of financing of the plan had been finalized. On April 6,
28 2009, the OIC filed an amended plan that was confirmed and that amended plan included

1 the terms of the Exit Financing. Under the Plan RBLLC pledged its interest in ML Loans to
2 secure the \$20 Million in Exit Financing. Based on its proportionate share of the ML Loans,
3 this provided at least \$4,000,000 in benefit, in addition to other collateral under RBLLC's
4 proof of claim which is released under the terms of the Plan to fund the Liquidating Trust.
5 See JTS ¶ 46; DE 1297; Plan.

6 RBLLC/DMYL's efforts resulted in a plan that paid over \$9.5 million in
7 administrative claims in an otherwise administratively insolvent case, addressed almost a
8 billion dollars in interests in the ML Loan Portfolio, and provided a priority payout to
9 general unsecured creditors. The Plan could not have been confirmed but for the support
10 and efforts of RBLLC/DMYL. See Plan; DE 2056; DE 2057; DE 2077; DE 2078; DE 2101;
11 DE 2102; DE 2103; DE 2130; DE 2131; DE 2132; DE 2133; DE 2134; DE 2139; DE 2147;
12 DE 2151; DE 2164; DE 2183; DE 2185; DE 2193; DE 2470; DE 2656; DE 2775; DE 2865.

13 RBLLC's contributions to the Estate for formulating and working on a plan of
14 reorganization provided millions of dollars in benefit to the Estate in excess of any benefit
15 provided to RBLLC. For RBLLC/DMYL's efforts in formulating and working on a plan of
16 reorganization, it is reasonable for RBLLC to seek a claim for substantial contribution in an
17 amount measured by the amount of attorneys fees and costs that RBLLC incurred.
18 RBLLC has met its burden to establish its right to recover the requested amount calculated
19 on services provided in connection with the confirmed Plan of \$118,810. The claim
20 amount requested is millions of dollars less than the benefit to the Estate provided by
21 RBLLC.
22

23 After December 30, 2008, when the RBLLC Trustee was appointed, RBLLC/DMYL
24 took no further role in the plan process in this case. The Substantial Contribution Claim is
25 limited to services provided by DMYL to RBLLC prior to RBLLC's bankruptcy and services
26 provided while DMYL represented RBLLC as debtor and debtor in possession in RBLLC's
27 subsequent bankruptcy. No services provided to the RBLLC Trustee are included in the
28 Substantial Contribution Claim. After a trustee was appointed in the RBLLC Case, the

1 RBLLC Trustee objected to the OIC's initial and amended Plan. The Liquidating Trustee
2 claims that RBLLC/DMYL provided no net benefit to the Estate based on those objections.
3 RBLLC provided evidence from the applications for attorneys fees filed by the OIC and the
4 Debtor that such objections cost the Estate no more than \$70,300. See JTS ¶¶ 44-45 &
5 51; DE 2088, pp. 7-9.

6 If RBLLC/DMYL had not created the Plan Outline and the DMYL Plan, there would
7 have been higher administrative expenses of the OIC and the Estate regardless of
8 positions later taken by the RBLLC Trustee. It is undeniable that RBLLC/DMYL provided
9 services that, along with the services of others, eventually led to the confirmed Plan. The
10 RBLLC Trustee is not an agent of RBLLC but is the representative of the RBLLC estate
11 under 11 U.S.C. §323. Later actions taken by the RBLLC Trustee cannot offset the
12 substantial benefit to the Mortgages Ltd. Estate provided by RBLLC/DMYL.

13 In that same regard, the payment of the fees for the OIC and the VTL were directly
14 contrary to RBLLC's interest. These parties were not direct creditors of the Debtor and
15 refused to subordinate their interests in the Debtor's loans for the benefit of the bankruptcy
16 estate and the creditors. Instead, they placed that entire burden of financing the Estate on
17 RBLLC. Proposing the payment of these professionals in the Plan Outline and DMYL Plan
18 provides significant benefit to those respective parties. These benefits, along with the
19 benefit of funding the Plan through the Exit Financing, provided benefit to the Estate of
20 millions of dollars, which greatly exceeded administrative costs incurred based on the
21 actions of RBLLC Trustee.

22 Further, the Liquidating Trust would not exist today but for the terms of the DMYL
23 Plan. Its professionals would have no source of payment for their fees. Under the
24 Confirmed Plan, the Loan LLC's were pledged as collateral for the Exit Financing that
25 provided funding for the Liquidating Trust. RBLLC has again subordinated its secured
26 claims [now membership interests] for \$20,000,000.00 to pay professionals and operate
27 ML Manager and the Liquidating Trust. It is offensive to suggest that the 900 participants
28

1 of RBLLC should be further subordinated by denying its professionals compensation from
2 the very funds established to pay for all such claims, while the counsel for various Investor
3 Committees were paid from those same funds.

4 Even factoring in the objections by the RBLLC Trustee, DMYL/RBLLC's efforts in
5 formulating and working on a consensual plan, along with the benefit of funding the Plan
6 through the Exit Financing (as well as funding the operations of the Debtor) provided
7 benefit to the Estate of millions of dollars, which greatly exceeded the minimal
8 administrative costs incurred due to the actions of RBLLC Trustee and the entire
9 Substantial Contribution Claim.

10 The benefit to RBLLC from RBLLC's efforts toward the plan of reorganization
11 confirmed in this case is "outweighed by the extent of the benefit those efforts conferred
12 on the estate." Pursuant to Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC is
13 entitled to an award for "substantial contribution" to the Estate of \$118,810 based on this
14 benefit. Additionally, pursuant to Section 503(b)(4) of the Bankruptcy Code, RBLLC is
15 entitled to "payment of reasonable compensation for professional services rendered" by
16 DMYL.

17
18 C. Benefit Provided Through Settlement Objections and Negotiations

19 The final activity included in the Substantial Contribution Claim is for
20 RBLLC/DMYL's efforts in connection with negotiations and settlements with the Debtor's
21 borrowers. The services provided in connection with borrower settlements both assisted
22 with the reorganization process and preserved assets of the Estate for the benefit of all
23 creditors. See JTS ¶ 82; Freeman Declaration, ¶ 12.

24 Throughout the case, the Debtor's new management and counsel negotiated
25 numerous settlements with borrowers without any consultation of the real parties in
26 interest, RBLLC and the Investors. Many of the settlements would have significantly
27 impaired the value of the interest in the ML Loans. That resulted in numerous motions to
28 approve settlements that required objections and significant efforts to address the

1 respective issues of a given borrower, the collateral and impact of the proposed resolution.
2 The objections to the Debtor's proposed settlements had reached the point that extensive
3 discovery was scheduled (32 depositions and document production). See DE 558; DE
4 559; DE 560; DE 561; DE 565; DE 569; DE 570; DE 685.

5 In an effort to resolve these ongoing disputes and bring the real parties in interest
6 into the initial settlement discussions, just two days after filing the joint motion opposing an
7 extension of exclusivity on September 29, 2008, RBLLC/DMYL scheduled a meeting on
8 October 2, 2008 with the Debtor, its Board Members and the OIC to discuss a protocol for
9 decision-making. As a result of a lengthy meeting, a Letter Agreement was prepared by
10 DMYL whereby the Debtor, RBLLC and OIC agreed to coordinate all future settlements
11 and minimize the need for future objections to settlements by requiring that RBLLC and
12 the OIC had to approve any 9019 motions filed by the Debtor. See Letter Agreement
13 dated October 1, 2008 attached as **Exhibit 3**, and filed at DE 685-1.

14 As identified in **Exhibit 3**, the Letter Agreement addressed settlements on loans for
15 almost one-half of the entire ML Loan Portfolio. The Letter Agreement was intended to
16 reduce additional administrative expenses that would have been incurred by the Estate
17 and allow the parties to concentrate on a consensual plan of reorganization. See DE 685.
18 DMYL circulated the Plan Outline just one week later. See SJTS ¶ 2. It is plain from the
19 Letter Agreement that RBLLC/DMYL was significantly involved in the most important
20 settlements being proposed by the Debtor and was the only true creditor watching out for
21 the interests of the Estate in that process.

22 In some instances, modifications to proposed settlements were able to be
23 negotiated that lessened the impact of the Debtor's attempt to give away assets of the
24 Estate. One example of this was on the Rightpath loans. The settlement proposed by the
25 Debtor involved a significant modification of those loans to the detriment of the Estate.
26 Both RBLLC/DMYL and the OIC met with Rightpath and DMYL was an integral part of
27 achieving the eventual settlement that was approved, DE 912. Under the proposed
28

1 Settlement Agreement that Debtor had signed with the Rightpath parties (DE 560, Exhibit
2 A), the Debtor obligated the Estate to fund additional loans of \$14 million and \$10 million
3 respectively as well as subordinate the existing loans to other financing. As a result of
4 RBLLC/DMYL's efforts along with the OIC, the subordination obligation was limited and
5 Rightpath agreed that the Debtor's failure to fund future loans would not be an offset
6 against Rightpath's obligation to pay its current loans of \$108 million. The benefits
7 achieved by these efforts alone exceed the amount requested. See DE 560 and exhibits
8 thereto; DE 724; DE 912.

9
10 In other instances, the Debtor did not pursue final court approval for unfavorable
11 settlements due to RBLLC/DMYL's actions, in conjunction with the OIC and other estate
12 professionals. For example, after RBLLC/DMYL's objections, the Debtor abandoned its
13 efforts to get approval of an unfavorable settlement with Tempe Land Company that would
14 have given away assets of the Estate, including a proposed release of \$38,500,000 in
15 principal, a proposed 42 month extension of the maturity date with no payments and no
16 accrual of interest, a proposed release of a lien on 2.76 acres of excess land in downtown
17 Tempe valued at more than \$10 million dollars, and a subordination of the first lien on the
18 remainder of the property to a \$75,000,000 lien, as well as a release of all guarantors.
19 See JTS ¶ 85; DE 561.

20 RBLLC/DMYL substantially contributed to this process for the benefit of the Estate
21 and is entitled to compensation for its efforts. RBLLC's contributions to the Estate for
22 resolving claims of borrowers provided millions of dollars in benefit to the Estate in excess
23 of any benefit provided to RBLLC. For RBLLC/DMYL's efforts in resolving borrower
24 claims, it is reasonable for RBLLC to seek a claim for substantial contribution in an amount
25 measured by the amount of attorneys fees and costs that RBLLC incurred. RBLLC has
26 met its burden to establish its right to recover the requested amount calculated on services
27 provided in connection with borrower settlements of \$97,882.50. The claim amount
28 requested is millions of dollars less than the benefit to the Estate provided by RBLLC.

1 Although the Liquidating Trustee argues that such efforts were duplicative with
2 Estate professionals, RBLLC/DMYL focused on the loans with the most significant effect
3 on the Estate, and coordinated objections to unsatisfactory settlements with the OIC. As
4 stipulated, no fewer than eight professionals in the Debtor's bankruptcy also sought
5 compensation for their work negotiating with the Debtor's borrowers, but that included
6 approximately 50 different borrowers. See JTS ¶ 83. Further, the Debtor and its
7 professionals actually proposed the settlements that would significantly impair the ML
8 Loan Portfolio; accordingly their efforts were not duplicative of RBLLC/DMYL's work in
9 objecting to the significant impairment. The OIC objected to settlements on the basis that
10 the Investors interests were not property of the Estate- an entirely different basis from
11 RBLLC. No other creditor or its professionals took steps to protect assets of the Estate
12 that duplicated RBLLC/DMYL's efforts.

13
14 In contrast, as evidenced by the Letter Agreement, RBLLC/DMYL's efforts focused
15 on the largest ML Loans, with a total outstanding principal amount of almost \$443 million.
16 The services provided by DMYL in connection with settlements were also necessary to
17 move the reorganization process forward and to preserve assets of the Estate. These
18 services benefitted all creditors of the Estate, and also reduced unnecessary
19 administrative expenses. RBLLC/DMYL's contributions toward resolution of borrower
20 claims could not be duplicated by the Debtor, the OIC and VTLC because RBLLC was the
21 only party with a significant economic stake aligned with the interests of the Estate. See
22 JTS ¶¶ 9, 17; DE 685 & Ex. 3; Freeman Declaration, ¶ 12; Plan.

23 The benefit to RBLLC from RBLLC's efforts in achieving a reasonable resolution of
24 borrower claims in this case is "outweighed by the extent of the benefit those efforts
25 conferred on the estate." Pursuant to Section 503(b)(3)(D) of the Bankruptcy Code,
26 RBLLC is entitled to an award for "substantial contribution" to the Estate of \$97,882.50
27 based on this benefit. Additionally, pursuant to Section 503(b)(4) of the Bankruptcy Code,
28

1 RBLLC is entitled to “payment of reasonable compensation for professional services
2 rendered” by DMYL.

3 D. Equity Compels Payment of Substantial Contribution Claim

4 Unlike any other party to this case, RBLLC/DMYL deferred its own interests for the
5 benefit of all creditors, the Investors and the professionals for the Debtor and all
6 committees. No other party contributed any funds to the Debtor and the Investors
7 specifically objected to use of their funds and sought and obtained an order from this Court
8 that interest payments were to be turned over to Investors. The 900 participants in RBLLC
9 did not receive almost \$24 million in interest payments during this case. However,
10 RBLLC’s collateral was used to operate the Debtor during the entire post-petition period
11 and its interest in the Loan LLC’s have been pledged to pay all other professionals in this
12 case and finance post-confirmation expenses.

13 The only clear and direct benefit that RBLLC received during this case was a
14 \$50,000 adequate protection payment. Any other benefit it may have received was only
15 incidental and such benefit was received by all creditors in the Estate. The Liquidating
16 Trust is trying to prevent RBLLC from being paid from a loan secured by its own collateral
17 to recover a portion of its expenses. To now deny this Application would effectively
18 subordinate RBLLC/DMYL once again to the interests of the other professionals and other
19 parties receiving the benefit of the use of their cash collateral. See JTS ¶¶ 7 & 55-60.

20 It is undisputed that RBLLC has no other source of payment for DMYL’s attorneys
21 fees (JTS, ¶ 6). If DMYL does not receive compensation from the Mortgages Ltd. Estate,
22 the only source of payment will be plan distributions to RBLLC, which will only occur after
23 repayment of the Exit Financing. See JTS ¶¶ 25 & 56-57. In contrast, the Investors have
24 had \$2.2 million in their attorneys fees and expenses paid from the Estate to take positions
25 contrary to the interests of the Estate. The attorneys for the Liquidating Trust are being
26 compensated from the Exit Financing borrowed from RBLLC’s interest in the Loan LLC’s.
27 RBLLC/DMYL (and its 900 participants) should not be subordinated yet again by denying
28

1 payment of its professionals, particularly after it has funded millions of dollars for payment
2 of the other professionals in this case.

3 Based on the terms of the Plan that provides that the only source of payment will be
4 plan distributions which will only occur after repayment of the Exit Financing, RBLLC is
5 further entitled to its requested award for substantial contribution as a general matter of
6 equity so that RBLLC's 900 participants are not subordinated again for the benefit of the
7 Investors and other creditors of the Estate.

8 **IV. Reasonable Compensation is Sought for Benefits to the Estate**

9 **A. Compensation is Limited to Services Benefitting the Estate**

10 Pursuant to section 503(b)(4), based upon the substantial contribution provided by
11 RBLLC, it is entitled to an award of the amounts sought as reasonable compensation for
12 professional services rendered by DMYL on behalf of RBLLC. As of the filing of the
13 Application, approximately \$1,000,000 of services were provided by DMYL as attorneys to
14 RBLLC, from the beginning of this case in June, 2008 through December 31, 2008. No
15 part of the Substantial Contribution Claim involves professional services for RBLLC after
16 December 31, 2008, in connection with this case. DMYL has been paid \$108,000 for the
17 services provided to RBLLC to date. See JTS ¶¶ 22-24.

18 Services provided only for RBLLC's separate benefit in 2008 are not included in the
19 services supporting the calculation of the amount of the Substantial Contribution Claim, as
20 described in Mr. Freeman's Declaration supporting the Application. Recovery of slightly over
21 fifty percent of the attorneys fees for services provided by DMYL are requested. No services
22 provided in 2009 are included, as evidenced by the detailed time entries supporting the
23 Application. RBLLC is only seeking recovery for fees that did indeed foster reorganization.

24 The Application sets forth in detail that the "Iodestar" approach, which has been
25 approved by the United States Supreme Court as the primary basis for evaluating
26 compensation requests, applies to the determination of reasonableness of DMYL's
27 services. As described therein, the professionals' invoices and pre-bills, on which the
28

1 amount of the Substantial Contribution Claim was calculated, were redacted to exclude
2 services that were performed solely for RBLLC's benefit. See DE 1888, pp. 10-11.

3 The Liquidating Trust did not object to the reasonableness of any of DMYL's time
4 entries evidencing attorneys fees incurred by RBLLC and did not provide any evidence
5 that any of the tasks were not reasonable. The Application is supported by Counsel's
6 declaration who was specifically responsible for the representation of RBLLC. That
7 Declaration provides: (1) the requested compensation was limited to the three principal
8 activities for additional benefits provided by DMYL services on which the Substantial
9 Contribution Claim was based, and that those services conferred a substantial benefit on
10 the Estate; (2) the detailed time entries provided were based upon billings to RBLLC that
11 were redacted to exclude legal services provided for the benefit of only RBLLC; (3) those
12 detailed time entries were reviewed and the nature of the services provided required
13 complex and sophisticated legal analysis involving bankruptcy and lending, the
14 professional services provided were performed by attorneys and paraprofessionals with
15 the requisite expertise and skill in the areas in which they rendered services, and were
16 actual and necessary; and (4) based on experience for billings in bankruptcy cases, and
17 knowledge of the fees and charges customarily charged by attorneys in this community,
18 the requested fees are reasonable in light of the compensation paid for comparable
19 services in reorganization cases, and consistent with the cost of other comparable
20 services in Arizona. See JTS ¶¶ 22-25; Freeman Declaration, ¶¶ 2-8; 14-17.

21 The total amount of administrative claims sought on behalf of the Debtor's
22 professionals exceeded \$9 million and the total administrative expenses paid or requested
23 to be paid in this case (including substantial contribution claims) total in excess of \$13
24 million. The amount of such administrative claims, by professional, versus the amount
25 sought in the Substantial Contribution Claim is illustrated in **Exhibit 4** hereto. See JTS ¶
26 30; DE 1800; DE 1810; DE 1814; DE 1823; DE 1836; DE 1838 (& DE 1974); DE 1868; DE
27
28

1 1871; DE 1873; DE 1874; DE 1875; DE 1876; DE 1879; DE 1880; DE 1883; DE 1885; DE
2 1886; DE 1887; DE 1889; DE 1894; DE 1900; DE 1904; DE 1953; DE 1993.

3 RBLLC is entitled to an award of the Substantial Contribution Claim under section
4 503(b)(4).

5 B. Fees Incurred In Connection With Application Are Recoverable

6 Fees and costs incurred in preparing and litigating RBLLC's Application are also
7 recoverable in connection with the Substantial Contribution Claim. In *North Sports, Inc. v.*
8 *Knupfer (In re Wind N' Wave)*, 509 F.3d 938, 943-944 (9th Cir. 2007), the Ninth Circuit
9 Court of Appeals ruled that where a creditor receives attorney's fees under Section
10 503(b)(4), the time and expenses devoted to securing the attorney's fee award are also
11 compensable. The decision relied upon Ninth Circuit precedent, including *In re Nucorp*
12 *Energy*, 764 F.2d 655, 657 (9th Cir.1985). See also *In re Catalina Spa & R.V. Resort,*
13 *Ltd.*, 97 B.R. 13, 21 (Bankr. S.D. Cal. 1989) ("As an attorney seeking fees under § 503(b)
14 must apply to the court in the same manner as an attorney under § 330, this court cannot
15 reasonably justify a different treatment for purposes of compensation for fee applications").
16 RBLLC/DMYL requests the authorization to supplement the amount of fees incurred upon
17 this Court's entry of its findings supporting the determination that RBLLC provided a
18 substantial contribution in this case.
19

20 V. Conclusion and Requested Relief

21 For all of the foregoing reasons, RBLLC requests that this Court enter the proposed
22 Findings of Fact and Conclusions of Law and Amended Order Granting Radical Bunny's
23 Administrative Claim for Substantial Contribution in the form attached as Exhibit 1.
24 RBLLC also requests that the Court direction a distribution from the escrow account
25 established on this matter for the Substantial Contribution Claim and all accrued amounts
26 thereon as well as authorize the filing of a fee application by RBLLC/DMYL. RBLLC
27 further requests such additional and other relief as is just and proper under the
28 circumstances of this Chapter 11 case.

1 DATED this 18th day of October, 2010.

2 DECONCINI McDONALD YETWIN & LACY, P.C.

3
4 BY /s/ SHELTON L. FREEMAN

5 Shelton L. Freeman

6 Counsel to Radical Bunny, L.L.C. and
7 Special Counsel to G. Grant Lyon, Chapter
8 11 Trustee of Radical Bunny, L.L.C.

9 **COPY** sent via the U.S. Bankruptcy
10 Court's ECF noticing system this
11 18th day of October, 2010.

12 **COPY** served via electronic mail this
13 18th day of October, 2010, to:

14 Sharon B. Shively, Esq.
15 Sacks Tierney P.A.
16 sharon.shively@sackstierney.com
17 Attorneys for Liquidating Trustee

18 Mark J. Dorval, Esq.
19 Stradley Ronon Stevens & Young LLP
20 mdorval@stradley.com
21 Attorneys for Liquidating Trustee

22 Cathy L. Reece, Esq.
23 Fennemore Craig, P.C.
24 creece@fclaw.com
25 Attorneys for ML Manager, LLC

26 Richard M. Lorenzen, Esq.
27 Perkins Coie Brown & Bain P.A.
28 rlorenzen@perkinscoie.com
Attorneys for Official Unsecured Creditors Committee
of Radical Bunny, LLC

William Scott Jenkins, Esq.
Myers & Jenkins, P.C.
wjs@mjlegal.com
Attorneys for ML Liquidating Trust

By /s/ Kara Gibson Schrader

DECONCINI McDONALD YETWIN & LACY, P.C.
6909 East Main Street
Scottsdale, Arizona 85251

EXHIBIT 1

1 SHELTON L. FREEMAN (AZ #009687)
2 **DECONCINI McDONALD YETWIN & LACY, P.C.**
3 6909 East Main Street
4 Scottsdale, Arizona 85251

4 Ph: (480) 398-3100
5 Fax: (480) 398-3101
6 E-mail: tfreeman@lawdmyl.com

6 Counsel to Radical Bunny, L.L.C. and
7 Special Counsel to G. Grant Lyon, Chapter 11
8 Trustee of Radical Bunny, L.L.C.

8 **IN THE UNITED STATES BANKRUPTCY COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 In re:
11 MORTGAGES LTD.,

14 Debtor.

Chapter 11

Case No. 2:08-bk-07465-RJH

**FINDINGS OF FACT AND CONCLUSIONS
OF LAW**

AND

**AMENDED ORDER GRANTING RADICAL
BUNNY'S ADMINISTRATIVE CLAIM FOR
SUBSTANTIAL CONTRIBUTION**

18 Creditor RADICAL BUNNY, L.L.C. ("RBLLC"), seeks an award of \$595,798.25 for a
19 substantial contribution administrative claim ("Substantial Contribution Claim") pursuant to
20 Bankruptcy Code § 502(b)(3)(D). RBLLC incurred expenses in providing a substantial
21 contribution to the bankruptcy estate ("Estate") in this case. The claim sought as an
22 administrative expense is calculated on the basis of professional services provided by
23 DMYL on behalf of RBLLC (hereinafter, "RBLLC/DMYL"), in the amount of \$572,945.50 in
24 attorneys' fees, and \$22,852.75 in costs, and is further requested pursuant to Bankruptcy
25 Code § 503(b)(4). The Liquidating Trust and others objected.

26
27 These detailed Findings of Fact and Conclusions of Law are entered on remand
28 from the United States Bankruptcy Panel of the Ninth Circuit.

1 This Court has considered the memoranda filed in support of the Application and in
2 support of objections to the Application and the following evidence:

3 (1) a "Joint Statement of Material Facts of Radical Bunny and Liquidating Trust for
4 Application Pursuant to 11 U.S.C. § 503(b)(3)(D) and (4) for Allowance and Payment of
5 Administrative Claim of Creditor Radical Bunny", DE 2395 ("JTS");

6 (2) a "Supplement to Joint Statement of Material Facts of Radical Bunny and
7 Liquidating Trust for Application Pursuant to 11 U.S.C. § 503(b)(3)(D) and (4) for
8 Allowance and Payment of Administrative Claim of Creditor Radical Bunny", DE 2407
9 ("SJTS"); and

10 (3) the evidence supporting RBLLC's Application, including the docket entries
11 cited in the JTS, SJTS and RBLLC's filings in support of the Application and the record in
12 this Chapter 11 proceeding.

13 **I. FINDINGS OF FACT**

14 Based on the foregoing, this Court's experience in the conduct of this case and the
15 negotiation and ultimate confirmation of the plan of reorganization ("Plan") in this case,
16 and the entire record of this case, this Court finds as follows:

17 **A. General Findings of Fact**

18 1. Mortgages Ltd. ("Mortgages Ltd." or "Debtor") was a private lender that made
19 loans secured by real estate located in Arizona. Real estate loans advanced by Mortgages
20 Ltd. are referred to herein as the "ML Loans". See JTS ¶ 1; DE 20, ¶ 5; DE 315, ¶ 4.

21 2. Prior to taking his own life on June 2, 2008, Scott M. Coles was the chairman
22 and Chief Executive Officer of Mortgages Ltd., and served in those roles since November,
23 1992. A trust created by Mr. Coles was the sole shareholder of Mortgages Ltd., an
24 Arizona corporation. See JTS ¶ 2; DE 20, ¶ 11; DE 315, ¶ 10.

25 3. On Friday June 20, 2008, an involuntary Chapter 7 bankruptcy petition was
26 filed against Mortgages Ltd. by two of its borrowers and a contractor. On Tuesday June
27
28

1 24, 2008 (“Filing Date”), the involuntary case was converted to a Chapter 11 case when an
2 order for relief was entered. See JTS ¶ 3; DE 1; DE 36.

3 4. This is an unusual Chapter 11 bankruptcy case because the Debtor,
4 Mortgages Ltd., was itself a mortgage lender, and because this case was prompted by the
5 suicide of Scott M. Coles, the owner and long-time manager of Mortgages Ltd. As of the
6 Filing Date, the Debtor had advanced approximately \$894 Million of ML Loans. See JTS ¶
7 17; DE 315, ¶ 5.

8 5. The most significant asset in the Estate was the Debtor’s retained interest in
9 about \$162 Million of the ML Loans. The value of this asset of the Estate depended on
10 securing recovery from the Debtor’s borrowers and the related real property collateral
11 securing the ML Loans. See JTS ¶ 12; DE 198, p. 4; DE 1298, Ex. B.

12 6. This case was also unusual because the Debtor owned only a fractional
13 interest in the ML Loans, with more than 80% of the fractional interests in the ML Loans
14 actually being owned by approximately 2,700 investors (“Investors”), and managed by the
15 Debtor. See JTS ¶ 17; DE 315, ¶ 5; DE 1298, Ex. B.

16 7. RBLLC was the largest creditor and the only major secured creditor of
17 Mortgages Ltd. at the inception of this case and during the proceedings. The Debtor
18 admitted that the almost \$200 million in outstanding loans had been advanced by RBLLC
19 to Mortgages Ltd., and those loans were liquidated and undisputed and were not
20 contingent. RBLLC filed a secured proof of claim in this case, with evidence of a perfected
21 security interest in the Debtor’s assets, including the Debtor’s retained interest in about
22 \$162 Million of the ML Loans, as reflected in UCC financing statements attached to
23 RBLLC’s proof of claim. RBLLC had a substantial basis to claim its secured status. See
24 JTS ¶¶ 5-14; RBLLC’s Proof of Claim No. 33, as amended, including the Declaration and
25 other attachments thereto (“RBLLC POC No. 33”); DE 198, pp. 4, 11; DE 293-2, Ex. B; DE
26 1298, Ex. B.
27
28

1 8. RBLLC was formed to make loans to Mortgages Ltd. using funds from
2 various individuals seeking a favorable rate of return. More than 900 loan participants
3 provided funds to RBLLC that were loaned to Mortgages Ltd. Mortgages Ltd. then used
4 funds advanced by RBLLC to make ML Loans. RBLLC's sole source of income was from
5 loan payments made by Mortgages Ltd. Prior to the death of Scott Coles, Mortgages Ltd.
6 had been paying RBLLC more than \$2 million dollars a month in non-default interest
7 payments. Mortgages Ltd. defaulted on its obligations to RBLLC shortly before the Filing
8 Date. See JTS ¶¶ 4-12; RBLLC POC No. 33.

9
10 9. In addition to using funds loaned by RBLLC to make loans secured by
11 Arizona real estate, Mortgages Ltd. used money raised from the Investors. The Investors
12 included (1) Investors who held a direct fractional or participating interest in the ML Loans
13 ("Pass-Through Investors"); and (2) Investors who purchased and own membership
14 interests in limited liability companies ("MP Funds") controlled by Mortgages Ltd., as
15 Manager. As of the Filing Date, the Investors and MP Funds owned approximately \$732
16 million of the approximately \$894 million dollars of outstanding ML Loans. The Debtor
17 also held an interest in several MP Funds. See JTS ¶¶ 15-20; DE 20, ¶¶ 6-9, DE 198, pp.
18 4-5 & 11; DE 293-2, Ex. B; DE 315, ¶¶ 5-8; DE 1298, Ex. B; Plan.

19 10. In addition to RBLLC's loans to Mortgages Ltd. evidenced by RBLLC POC
20 No. 33, RBLLC also held \$3,748,000 in direct pass-through investments in two loans
21 made by Mortgages Ltd. See JTS ¶ 18; RBLLC POC No. 1005; DE 1298, Ex. B.

22 11. Since the Debtor stopped making interest payments to RBLLC and did not
23 repay matured loans, RBLLC had no source of income after June 2008. On October 8,
24 2008, certain RBLLC loan participants filed an involuntary bankruptcy petition against
25 RBLLC under Chapter 7 of the Bankruptcy Code, Case No. 2-08-bk-13884-CGC ("RBLLC
26 Case"), which was converted to a Chapter 11. RBLLC was authorized to employ DMYL to
27 serve as special counsel to represent RBLLC on specific matters, including representation
28 in this case. Pursuant to a stipulation, at the end of December, 2008, G. Grant Lyon

1 (“RBLLC Trustee”) was appointed as Chapter 11 Trustee in the RBLLC Case. As of that
2 date, RBLLC Trustee became the representative of RBLLC's bankruptcy estate under 11
3 U.S.C. § 323(a), and RBLLC no longer had authority to act as debtor-in-possession of the
4 estate. RBLLC Trustee retained separate counsel to represent the RBLLC Trustee in this
5 case. See JTS ¶¶ 42-43.

6
7 12. The Investors asserted that their loan interests were not part of the Estate of
8 the Debtor. Two committees were appointed to represent the interests of the Investors in
9 this case: (1) the Official Committee of Investors (“OIC”) and (2) the Committee of
10 Investors in the Value-To-Loan Opportunity Fund I L.L.C. (“VTLC”). See JTS ¶ 27; DE
11 258; DE 310; DE 352; DE 577.

12 13. An Official Unsecured Creditors Committee (“OCC”) was appointed to
13 represent general unsecured creditors, who held about \$4 Million in unsecured debt, about
14 2% of undisputed claims. See DE 129; DE 225; DE 1531, p. 19.

15 B. RBLLC's Financial Benefit to the Estate for Operation of the Debtor

16 14. RBLLC was the only creditor to subordinate its own interests to allow the
17 Debtor to use more than \$3,000,000 of RBLLC's cash collateral to fund the Debtor's
18 operations, which benefitted the Estate. RBLLC benefitted the Estate by no less than
19 \$3,000,000 due to this funding, which significantly preserved the value of all of the assets
20 of the Estate. If the Debtor had not continued to operate, the value of the ML Loans,
21 including the Investor's fractional interests in the ML Loans, would have substantially and
22 rapidly declined in value. See JTS ¶¶ 55-60; DE 155; DE 203; DE 310, DE 458; DE 868;
23 DE 919; DE 933; DE 1075; DE 1229; DE 1296; DE 1375; DE 1500; DE 1595.

24 15. RBLLC was the only creditor to subordinate its collateral to allow the Debtor
25 to obtain \$5,000,000 in post-petition working capital to fund the Debtor's operations. This
26 financing would not have been forthcoming but for the subordination of RBLLC's priority
27 interest in more than \$13 Million Dollars of RBLLC's collateral, which benefitted the Estate.
28 RBLLC received a \$50,000 payment from this loan representing RBLLC's only payment

1 from the Debtor in this case from the Filing Date through the entry of the Confirmation
2 Order. This was the only payment made to RBLLC from the Estate. RBLLC benefitted the
3 Estate by no less than \$4,950,000 due to this funding, which significantly preserved the
4 value of all of the assets of the Estate. See JTS ¶¶ 67-72; DE 53; DE 165; DE 197; DE
5 206, DE 262; DE 323; DE 459; DE 868; DE 919; DE 933; DE 1075; DE 1229; DE 1296;
6 DE 1375; DE 1500; DE 1595.

7
8 16. Every creditor and the Investors benefitted by RBLLC's funding of the
9 Debtor's post-petition operations. No other Estate creditor or Investor contributed any
10 funds for the operation of the Debtor during the pendency of this case. The Investors'
11 interests in the ML Loans were never subordinated to operate the Debtor or preserve
12 assets of the Estate, despite the fact that 80% of the loan portfolio managed by the Debtor
13 was held by those Investor interests. See JTS ¶¶ 56, 59-60, 68-72; DE 53; DE 155; DE
14 203; DE 262; DE 310; DE 323; DE 458; DE 459; DE 868; DE 919; DE 933; DE 1075; DE
15 1229; DE 1296; DE 1375; DE 1500; DE 1595; RBLLC POC No. 33.

16 17. The Debtor did not pay RBLLC more than \$23 million dollars in non-default
17 interest payments due RBLLC from June, 2008 through entry of the order confirming the
18 plan of reorganization in this Case ("Confirmation Order") on May 20, 2009. In contrast,
19 the Investors did not allow interest payments on their pass-through investments to be used
20 to fund operations of the Debtor. Instead the Investors demanded, and were granted the
21 right to receive interest from the ML Loans in which they held an interest from the Filing
22 Date. See JTS ¶¶ 6-7, 59; DE 310; DE 458; DE 1011.

23 18. RBLLC subordinated its first priority security interest in the Debtor's interest
24 in more than \$94 million in the Centerpoint ML Loans to provide collateral for a \$2,800,000
25 interim loan that the Debtor represented was essential for preservation of the Centerpoint
26 property. In contrast, none of the Investors' interests in Centerpoint were subordinated.
27 This benefitted the Estate by at least \$2,800,000, based on the representations of the
28

1 Debtor regarding the damage to the Centerpoint property if that interim loan was not
2 made. See JTS ¶¶ 76-78; DE 293-2, Ex. B; DE 376, Exs. A & B; DE 408; DE 1298, Ex. B.

3 19. RBLLC pledged its interest in ML Loans, under the Plan, to secure \$20
4 Million in exit financing (“Exit Financing”) that is the source of payment of all post-
5 confirmation expenses, including final applications of administrative claimants, under the
6 confirmed Plan. Without the pledge of RBLLC’s interests in the ML Loans, that Exit
7 Financing would not have been available without a ruling that RBLLC was unsecured.
8 Based on its proportionate share of the ML Loans, this provided at least \$4,000,000 in
9 benefit, in addition to other collateral under RBLLC’s proof of claim which was released
10 under the terms of the Plan to fund the Liquidating Trust. See JTS ¶ 41; Plan; RBLLC
11 POC No. 33.

12 20. Based on the record of this case, RBLLC’s financial contributions to the
13 Estate provided no less than \$14,750,000 in benefit to the Estate. RBLLC did not receive
14 any preferred treatment under the Plan based on RBLLC’s existing rights prior to the Filing
15 Date. RBLLC would have been entitled to the same treatment under the Plan without
16 providing \$14,750,000 in benefit to the Estate. RBLLC did not receive any additional
17 financial benefit under the Plan based on RBLLC’s funding of the entire reorganization of
18 the Debtor. The benefit to the Estate from RBLLC’s contributing \$14,750,000 to the Estate
19 substantially exceeded the benefit to RBLLC from making those financial contributions.
20 Additionally, RBLLC’s contributions provided substantial benefit to the Investors, who did
21 not bear the ongoing costs of the reorganization of the Debtor, but who benefitted from
22 those operations and whose professionals were paid from the Estate.
23

24 21. The requested amount of the Substantial Contribution Claim (\$595,798.25) is
25 just four percent (4.0%) of the \$14,750,000 in benefit that RBLLC provided to the Estate.
26 It is reasonable for RBLLC to seek the Substantial Contribution Claim in an amount
27 measured by the amount of attorneys fees and costs that RBLLC incurred (excluding
28 attorneys fees and costs incurred only for the benefit of RBLLC). On the foregoing facts

1 alone, RBLLC has met its burden to establish its right to recover the entire Substantial
2 Contribution Claim. The Substantial Contribution Claim is reasonable and is substantially
3 less than the financial benefits provided by RBLLC to the Estate.

4 22. The Liquidating Trust has claimed that the Estate incurred costs due to legal
5 positions taken later in this case by the RBLLC Trustee. RBLLC provided evidence from
6 the applications for attorneys fees filed by the OIC and the Debtor that such cost was
7 approximately \$70,300. See DE 2088, pp. 7-9. Even if the \$14,750,000 in benefit is
8 reduced by \$70,300, RBLLC would still have provided \$14,679,700 in benefit. The
9 requested amount of the Substantial Contribution Claim (\$595,798.25) is still about four
10 percent (4.0%) of that \$14,679,700 amount. The costs imposed in this case on the Estate
11 by the RBLLC Trustee does not affect RBLLC's right to recover the entire Substantial
12 Contribution Claim.

13
14 C. Benefit Provided by RBLLC and Its Counsel to the Estate for Preserving
15 Assets of the Estate

16 23. In addition to RBLLC's significant direct financial benefits, RBLLC/DMYL
17 provided substantial benefits to the Estate based upon services provided for the benefit of
18 all creditors of the Estate. RBLLC/DMYL took positions that benefitted all creditors in
19 preserving assets of the Estate.

20 24. During the gap period, the Debtor obtained a \$500,000 loan from Southwest
21 Value Partners Fund XIV, LP ("Gap Lender"), due and payable on July 23, 2008. (DE 165,
22 ¶6). Prior to the appointment of any committees in this case, on June 27, 2008, the Debtor
23 sought approval for a \$5,000,000 working capital loan tied to an additional \$120,000,000
24 construction loan from the Gap Lender. (DE 53). By July 14, 2008, further disclosures
25 revealed that the requested construction loan had increased to \$124,100,000, and the scope
26 of the required security for the loans had expanded to all assets of the Debtor. (DE 165).
27 Interest and points on the working capital loan were fifteen percent (15%). The proposed
28 working capital loan would mature on October 31, 2008, if the construction loan was not

1 timely approved by the bankruptcy court. Half of the proceeds from the working capital loan
2 would not be used for the operation of the Debtor, but would repay the GAP Loan and
3 another loan to the Debtor. These loans were to be secured by a super-priority lien on all
4 assets of Debtor, subject only to valid, perfected, enforceable and nonavoidable liens and
5 security interests existing as of the Filing Date. See JTS ¶61.

6
7 25. RBLLC/DMYL, along with other creditors and individual investors (including
8 an “unofficial” committee of investors), objected to the Debtor’s attempt to encumber
9 virtually all assets of its Estate, and raised objections on behalf of all the creditors of the
10 Debtor’s Estate as to whether the proposed financing would benefit the Estate. See JTS
11 ¶¶ 62-64; DE 53; DE 75; DE 79; DE 165; DE 1888, Ex. F, ¶ 11.

12 26. RBLLC/DMYL also identified alternative providers of post-petition financing
13 on more favorable terms, and urged the Debtor to consider other financing alternatives.
14 RBLLC/DMYL located a lender willing to provide funding without requiring a lien on all
15 assets of the Estate, and that lender appeared, with a check, at an early financing hearing.
16 See JTS ¶ 63; DE 1888, Ex. F, ¶ 11.

17 27. By July 18, 2008, due in part to the strenuous objections of RBLLC, the Debtor
18 withdrew the requested Gap Lender DIP financing. By that time, the interest of other lenders
19 in competing to provide financing was evident, and all hearings on the requested financing
20 were vacated on July 21, 2008 to allow the Debtor to consider financing alternatives. See
21 JTS ¶ 64; DE 197; DE 206.

22 28. On August 1, 2008, the Debtor again sought a hearing on emergency
23 financing, but the proposed terms were limited to a \$5,000,000 initial DIP loan, which no
24 longer included a lien on all estate assets. The interest rate (and points) for that loan were
25 reduced to 13%, and the new loan terms were for a one year maturity date that would not be
26 accelerated if construction financing was not approved. See JTS ¶ 67; DE 53; DE 165; DE
27 197; DE 206; DE 262; DE 459.

28

1 29. RBLLC/DMYL's efforts provided incalculable benefit, by ensuring that the
2 interests of the Estate were protected from financing that could have removed all value
3 from the Estate. If the initial proposed financing had been approved, the Estate could
4 have incurred up to \$124,100,000 in debt that would have primed payment of all claims of
5 the Estate due to the preferred returns that would be paid to the Gap Lender. For the
6 construction loan, the Gap Lender would be guaranteed interest plus excessive preferred
7 returns; the Gap Lender would have been repaid before the Debtor's creditors received one
8 dime. Instead, the Debtor used RBLLC's cash collateral and incurred only \$5,000,000 in
9 working capital to fund the Debtor's operations, subordinating only RBLLC's collateral
10 interest. RBLLC's efforts provided as much as \$119,100,000 in benefit to the Estate, and
11 the benefit to the Estate from RBLLC/DMYL's actions exceeded the benefit to RBLLC. See
12 JTS ¶¶ 74-75; DE 53; DE 75; DE 165; Plan.

13 30. This key benefit provided by RBLLC occurred prior to official committee
14 appearances. On August 5, 2008, counsel for the OIC filed a notice of appearance, DE 290.
15 On August 6, 2008, counsel for the OCC filed a notice of appearance, DE 313. Thus, this
16 benefit was not duplicative with other Estate professionals.

17 31. After the appointment of the OIC and the OCC, RBLLC/DMYL continued to
18 work with those Committees to prevent the Debtor from entering into financing that was
19 unreasonably burdensome to RBLLC and the other creditors of the Debtor's Estate.
20 RBLLC objected on behalf of all creditors of the Estate and reduced the expenses of the
21 Estate by providing detailed objections. For example, RBLLC filed a 12 page objection to
22 unacceptable DIP financing terms in DE 376. The OCC filed a 2 page objection joining in
23 filed objections, DE 380.

24 32. DMYL's services were necessary for RBLLC to subordinate RBLLC's
25 collateral interest in certain ML Loans to provide a \$500,000 Interim Working Capital DIP
26 Loan to fund the Debtor's operations (subject to use of RBLLC's cash collateral, as
27
28

1 available). No other creditors' lien or security interest was subordinated for the Interim
2 Working Capital DIP Loan. See JTS ¶¶ 68-69; DE 323.

3 33. DMYL's services also were provided in connection with RBLLC's
4 subordination of RBLLC's collateral interest in certain ML Loans for the \$5,000,000 Final
5 Working Capital DIP Loan to fund the Debtor's operations. No other creditors' lien or
6 security interest was subordinated for the Final Working Capital DIP Loan. See JTS ¶¶ 70-
7 72; DE 459.

8 34. RBLLC helped structure agreements on financing, cash collateral, and the
9 Plan that ensured the cash flow to allow the Debtor to continue operations. DMYL and the
10 counsel for the OIC divided work based upon strength and resources in dealing with these
11 financing issues. This division of labor was particularly effective given the repeated
12 "emergency" filings by the Debtor which required extensive analysis and short deadlines
13 for objections. See JTS ¶ 53.

14 35. RBLLC's primary attorney, Shelton L. Freeman, was routinely requested to
15 participate in meetings with the OIC, which sometimes requested that RBLLC lead the
16 charge on issues that would have adversely affected the Estate if the Debtor's acts went
17 unchallenged. See JTS ¶ 54.

18 36. RBLLC/DMYL objected to initial proposals for post-petition financing related
19 to the Tempe Land Company's Centerpoint that would have been unreasonably
20 burdensome to RBLLC and other creditors of the Estate. Up to \$75,000,000 of the
21 proposed construction loan from the Gap Lender was to be used for Tempe Land Company's
22 Centerpoint project. See JTS ¶¶ 74-75; DE 53; DE 75.

23 37. RBLLC also objected on behalf of all creditors of the Estate and reduced the
24 expenses of the Estate by providing detailed objections to Centerpoint financing requests.
25 For example, RBLLC filed detailed objections to Centerpoint DIP financing, DE 435, 987
26 and 1008. The OCC filed a one page objection joining in RBLLC's objections, DE 975. In
27 contrast to RBLLC's efforts on behalf of the Estate, the OIC filed a detailed objection of
28

1 reasons that ML could not pledge or subordinate the Investors' interest in the Centerpoint
2 loans, DE 984.

3 38. DMYL's services were necessary for RBLLC to subordinate RBLLC's first
4 priority security interest in the Centerpoint ML Loans as collateral for a \$2,800,000 interim
5 loan for preservation of Centerpoint. None of the Investors' interest in the Centerpoint
6 Loans was subordinated to the \$2,800,000 interim loan for preservation of Centerpoint.

7 See JTS ¶¶ 77-78; DE 483.

8 39. DMYL's services also include those incurred in the preservation of funds
9 wrongfully disbursed to an affiliate of Tempe Land Company. RBLLC was the first creditor
10 to: (1) raise concerns about the improper use of proceeds of the initial \$2,800,000 interim
11 loan to Tempe Land Company and the Debtor's failure to properly monitor such funding
12 and (2) request replacement of the improperly used funds. Although the Debtor never
13 recovered \$568,706 in funds wrongfully disbursed to an affiliate of Tempe Land Company,
14 RBLLC/DMYL's actions ensured that the Debtor did not continue to advance funds to
15 Tempe Land Company that were not used to preserve the Debtor's collateral, again
16 ensuring preservation of Estate assets and providing tangible benefit to this Estate.
17 Although the Debtor had sought a \$4,800,000 loan for Centerpoint, the Debtor never
18 sought approval for the additional \$2,000,000 after the improper use of proceeds was
19 raised. See JTS ¶¶ 79-80; DE 468; DE 1078; DE 1888, Ex. F ¶ 11.

20 40. The benefit to the Estate from RBLLC/DMYL's efforts in preserving the
21 assets of the Estate substantially exceeded the benefit to RBLLC from those efforts.
22 RBLLC/DMYL's efforts were necessary to provide: (1) \$3,000,000 in cash collateral for the
23 Debtor's operations; (2) \$5,000,000 in working capital for the Debtor's operations at more
24 favorable rates; and (3) \$2,800,000 in financing to preserves the assets of Centerpoint.
25 RBLLC/DMYL's efforts also ensured: (1) that the Estate was not subjected to more than
26 \$100 million in debt that could have prevented any payment to creditors of the Estate; and
27 (2) that at least \$2,000,000 in debt was never incurred for Centerpoint for improper
28

1 purposes. RBLLC's contributions to the Estate for preserving assets of the Estate
2 provided millions of dollars in benefit to the Estate in excess of any benefit provided to
3 RBLLC.

4 41. For RBLLC/DMYL's services in preserving assets of the Estate, it is
5 reasonable for RBLLC to seek a claim for substantial contribution in an amount measured
6 by the amount of attorneys fees and costs that RBLLC incurred. RBLLC has met its
7 burden to establish its right to recover the requested amount calculated on services
8 provided for preserving the assets of the Estate of \$356,253. The claim amount requested
9 is millions of dollars less than the benefit to the Estate provided by RBLLC.

10
11 D. Benefit Provided by RBLLC and Its Counsel to the Estate for Formulating the
12 Plan and Working on a Consensual Reorganization

13 42. For the first six months of this case, RBLLC/DMYL worked cooperatively with
14 the OIC and numerous other constituents to formulate, draft and negotiate a plan of
15 reorganization. See JTS ¶ 32.

16 43. DMYL created the original outline for a plan and the major concepts in that
17 plan outline are the same concepts contained in the confirmed Plan of Reorganization.
18 See SJTS ¶ 2 & Ex. A; DE 2398, Ex. 1.

19 44. DMYL prepared an initial plan of reorganization, and RBLLC/DMYL
20 considered the interests of all the creditors of the Estate in formulating that plan. DMYL
21 worked with the Committees appointed in this case and the Debtor to revise that plan to
22 create a consensual, confirmable plan of reorganization. Most of the key terms that DMYL
23 worked on were decided by the end of December, 2008, and the same plan structure
24 developed by DMYL was reflected in the initial plan filed by the OIC and the amended plan
25 filed by the OIC that was confirmed. . See JTS ¶ 34; SJTS ¶ 3 & Ex. B; DE 1888, Ex. F, ¶¶
26 9-10; DE 1297; Plan; DE 2398, Ex. 2.

27 45. While working toward a consensual plan, RBLLC/DMYL worked with the
28 OIC to file a joint objection to extending the Debtor's exclusivity due to the Debtor's failure

1 to provide a feasible plan of reorganization in this case. That joint objection was also
2 joined by the OCC. RBLLC/DMYL's work to end the Debtor's period of exclusivity was
3 necessary for the creditor constituencies to file a competing plan to reduce the Debtor's
4 mounting administrative expenses. See JTS ¶ 33; DE 572; DE 688; DE 1888, Ex. F, ¶¶ 9-
5 10.

6 46. The Debtor made no good faith effort to create a consensual plan with the
7 OIC. See DE 1937, p. 11, lines 24-25.

8 47. RBLLC/DMYL's work toward a confirmable plan of reorganization was
9 successful because (1) RBLLC/DMYL provided the framework for the plan that was
10 ultimately confirmed in this case; and (2) RBLLC/DMYL's draft plan included significant
11 portions of the plan that was ultimately confirmed in this case. See JTS ¶ 34; SJTS ¶ 3 &
12 Ex. B; DE 1888, Ex. F, ¶¶ 9-10; DE 1297; Plan; DE 2398, Ex. 2.

13 48. Without the contribution made by DMYL to the creation, negotiation and
14 revision of the plan, the OIC and other constituents would have had to perform additional
15 work at the expense of the Debtor's Estate. Additionally, RBLLC/DMYL's contributions
16 toward a feasible plan of reorganization could not be duplicated by the Debtor, the OIC
17 and VTLC because RBLLC was the only party with a significant economic stake aligned
18 with the interests of the Estate. See JTS ¶¶ 9, 17; SJTS ¶ 3, Ex. B; DE 310; DE 2398, Ex.
19 2; Plan.

20 49. DMYL services related to the proposed plan included: (1) drafting a form
21 operating agreement necessary for the submission and ultimate implementation of the
22 plan; and (2) clarification of other asset management and financing documents essential to
23 the proposed plan. Although the OIC later proposed the plan and supporting documents
24 on its own (after DMYL no longer represented RBLLC in connection with the Debtors'
25 reorganization), DMYL's services still contributed to a successful reorganization in this
26 case. Even the professionals for the OIC initially made revisions to the DMYL documents
27 and prepared alternative and additional operating agreements to support the plan filed by
28

1 the OIC, as part of actual and necessary services provided by the OIC's professionals in
2 this case. See SJTS ¶ 4, Ex. C; DE 2398, Ex. 3; DE 1879.

3
4 50. After December 30, 2008, when the RBLLC Trustee was appointed,
5 RBLLC/DMYL took no further role in the plan process in this case. The RBLLC Trustee
6 withdrew RBLLC's support for the plan RBLLC/DMYL had been working on with the OIC
7 and other creditors and investors. See JTS ¶ 45.

8 51. The OIC filed the revised plan that the OIC and RBLLC/DMYL had worked
9 on in January, 2009, before the terms of financing of the plan had been finalized. See JTS
10 ¶ 46; DE 1297.

11 52. On April 6, 2009, the OIC filed an amended plan that was confirmed and that
12 amended plan included the terms of the Exit Financing. Under the Plan RBLLC pledged
13 its interest in ML Loans to secure \$20 Million in exit financing ("Exit Financing"). Based on
14 its proportionate share of the ML Loans, this provided at least \$4,000,000 in benefit, in
15 addition to other collateral under RBLLC's proof of claim which is released under the terms
16 of the Plan to fund the Liquidating Trust. See Plan.

17 53. RBLLC/DMYL's efforts resulted in a plan that paid over \$9.5 million in
18 administrative claims in an otherwise administratively insolvent case, addressed almost a
19 billion dollars in interests in the ML Loan portfolio, and provided a priority payout to general
20 unsecured creditors. The Plan could not have been confirmed but for the support and
21 efforts of RBLLC/DMYL. See Plan; DE 2056; DE 2057; DE 2077; DE 2078; DE 2101; DE
22 2102; DE 2103; DE 2130; DE 2131; DE 2132; DE 2133; DE 2134; DE 2139; DE 2147; DE
23 2151; DE 2164; DE 2183; DE 2185; DE 2193; DE 2470; DE 2775; DE 2865.

24 54. RBLLC's contributions to the Estate for formulating and working on a plan of
25 reorganization provided millions of dollars in benefit to the Estate in excess of any benefit
26 provided to RBLLC.

27 55. For RBLLC/DMYL's efforts in formulating and working on a plan of
28 reorganization, it is reasonable for RBLLC to seek a claim for substantial contribution in an

1 amount measured by the amount of attorneys fees and costs that RBLLC incurred.
2 RBLLC has met its burden to establish its right to recover the requested amount calculated
3 on services provided in connection with the confirmed Plan of \$118,810. The claim
4 amount requested is millions of dollars less than the benefit to the Estate provided by
5 RBLLC.

6 56. The Liquidating Trust objected to RBLLC/DMYL's recovery related to the
7 formulation of a plan of reorganization in this case because the RBLLC Trustee objected
8 to the amended plan filed by the OIC in April, 2009, and the OIC and the Debtor incurred
9 no more than \$70,300 in total attorney's fees in connection with the RBLLC Trustee's
10 representation as Chapter 11 Trustee for RBLLC. See JTS ¶ 51; DE 1810; DE 1879; DE
11 2088, pp. 7-9.

12 57. Even factoring in the objections by the RBLLC Trustee, DMYL/RBLLC's
13 efforts in formulating and working on a consensual plan, along with the benefit of funding
14 the Plan through the Exit Financing (as well as funding the operations of the Debtor)
15 provided benefit to the Estate of millions of dollars, which greatly exceeded the minimal
16 administrative costs incurred due to the actions of RBLLC Trustee and the entire
17 Substantial Contribution Claim.

18
19 E. Benefit Provided by RBLLC and Its Counsel to the Estate in Resolving
20 Borrower Claims

21 58. RBLLC/DMYL's efforts in connection with borrower settlements both assisted
22 with the reorganization process and preserved assets of the Estate for the benefit of all
23 creditors. RBLLC/DMYL, along with the OIC and other Committees, challenged, both in
24 court and out of court, unreasonable settlements proposed by the Debtor that would have
25 significantly impaired the value of the Debtor's interest in the ML Loans. See JTS ¶¶ 82 &
26 84; DE 1888, Ex. F, ¶ 12.

27 59. Debtor's new management and counsel negotiated numerous settlements
28 with borrowers without any consultation of the real parties in interest, RBLLC and the

1 Investors. Many of the settlements would have significantly impaired the value of the
2 interest in the ML Loans. That resulted in numerous motions to approve settlements that
3 required objections and significant efforts to address the respective issues of a given
4 borrower, the collateral and impact of the proposed resolution. The objections to the
5 Debtor's proposed settlements had reached the point that extensive discovery was
6 scheduled (32 depositions and document production). See DE 558; DE 559; DE 560; DE
7 561; DE 565; DE 569; DE 570; DE 685.

8
9 60. In an effort to resolve these ongoing disputes and bring the real parties in
10 interest into the initial settlement discussions, RBLLC/DMYL scheduled a meeting with the
11 Debtor, its Board Members and the OIC to discuss a protocol for decision-making. As a
12 result of a lengthy meeting, a Letter Agreement was prepared by DMYL whereby the
13 Debtor, RBLLC and OIC agreed to coordinate future settlements and minimize the need
14 for future objections to settlements by requiring that RBLLC and the OIC had to approve
15 any 9019 motions filed by the Debtor. The Letter Agreement resolved the scheduled
16 discovery, reducing administrative costs of the Estate. See DE 685 & Ex. 3.

17 61. RBLLC/DMYL, along with other parties compensated by the Estate, actively
18 participated in settlement negotiations with the Debtor's borrowers to ensure appropriate
19 resolution of their claims.

20 62. In some instances, modifications to proposed settlements were able to be
21 negotiated that lessened the impact of the Debtor's attempt to give away assets of the
22 Estate. One example of this was on the Rightpath loans. The settlement proposed by the
23 Debtor involved a significant modification of those loans to the detriment of the Estate.
24 Both RBLLC/DMYL and the OIC met with Rightpath and DMYL was an integral part of
25 achieving the eventual settlement that was approved. The benefits achieved by these
26 efforts alone exceed the amount requested. See DE 560; DE 724; DE 912. Under the
27 proposed settlement Agreement that the Debtor had signed with Rightpath parties (DE
28 560, Exhibit A), the Debtor obligated the Estate to fund additional loans of \$14 million and

1 \$10 million as well as subordinate the existing loans to other financing. As a result of
2 RBLLC/DMYL's efforts along with the OIC, the subordination obligation was limited and
3 Rightpath agreed that the Debtor's failure to fund future loans would not be an offset
4 against Rightpath's obligation to pay its current loans of \$108 million.

5 63. In other instances, the Debtor did not pursue final court approval for
6 unfavorable settlements due to RBLLC/DMYL's actions, in conjunction with the OIC and
7 other estate professionals. For example, the Debtor did not pursue an unfavorable
8 settlement with Tempe Land Company that would have given away assets of the Estate,
9 including a proposed release of \$38,500,000 in principal, a proposed 42 month extension
10 of the maturity date with no payments and no accrual of interest, a proposed release of a
11 lien on 2.76 acres of excess land in downtown Tempe valued at more than \$10 million
12 dollars, and a subordination of the first lien on the remainder of the property to a
13 \$75,000,000 lien, as well as a release of all guarantors. See JTS ¶ 85; DE 561.

14 64. RBLLC's contributions to the Estate for resolving claims of borrowers
15 provided millions of dollars in benefit to the Estate in excess of any benefit provided to
16 RBLLC.

17 65. For RBLLC/DMYL's efforts in resolving borrower claims, it is reasonable for
18 RBLLC to seek a claim for substantial contribution in an amount measured by the amount
19 of attorneys fees and costs that RBLLC incurred. RBLLC has met its burden to establish
20 its right to recover the requested amount calculated on services provided in connection
21 with borrower settlements of \$97,882.50. The claim amount requested is millions of
22 dollars less than the benefit to the Estate provided by RBLLC.

23 66. The Liquidating Trust objected to RBLLC/DMYL's recovery related to the
24 resolution of borrower claims on the grounds that no fewer than eight professional's in the
25 Debtor's bankruptcy also sought compensation for their work negotiating with the Debtor's
26 approximately 50 different borrowers. See JTS ¶ 83.
27
28

1 67. The record in this case evidences that RBLLC/DMYL's efforts focused on the
2 largest ML Loans, with a total outstanding principal amount of almost \$443 million. The
3 services provided by DMYL in connection with settlements were also necessary to move
4 the reorganization process forward and to preserve assets of the Estate. These services
5 benefitted all creditors of the Estate, and also reduced unnecessary administrative
6 expenses. Additionally, RBLLC/DMYL's contributions toward resolution of borrower claims
7 could not be duplicated by the Debtor, the OIC and VTLC because RBLLC was the only
8 party with a significant economic stake aligned with the interests of the Estate. See JTS
9 ¶¶ 9, 17; DE 685 & Ex. 3; DE 1888, Ex. F, ¶ 12; Plan.

10 E. Reasonable Compensation is Sought for Benefits to the Estate

11 68. As of the filing of the Application, approximately \$1,000,000 of services were
12 provided by DMYL as attorneys to RBLLC, from the beginning of this case in June, 2008
13 through December 31, 2008. DMYL has been paid \$108,000 for the services provided to
14 RBLLC to date. See JTS ¶¶ 22-24.

15 69. No part of the Substantial Contribution Claim involves professional services
16 for RBLLC after December 31, 2008, in connection with this case. See JTS ¶ 23.

17 70. The Liquidating Trust did not object to the reasonableness of DMYL's time
18 entries evidencing attorneys fees incurred by RBLLC. The Application is supported by
19 Counsel's declaration who was specifically responsible for the representation of RBLLC.
20 That Declaration provides: (1) the requested compensation was limited to the three
21 principal activities for additional benefits provided by DMYL services on which the
22 Substantial Contribution Claim was based, and that those services conferred a substantial
23 benefit on the Estate; (2) the detailed time entries provided were based upon billings to
24 RBLLC that were redacted to exclude legal services provided for the benefit of only
25 RBLLC; (3) those detailed time entries were reviewed and the nature of the services
26 provided required complex and sophisticated legal analysis involving bankruptcy and
27 lending, the professional services provided were performed by attorneys and
28

1 paraprofessionals with the requisite expertise and skill in the areas in which they rendered
2 services, and were actual and necessary; and (4) based on experience for billings in
3 bankruptcy cases, and knowledge of the fees and charges customarily charged by
4 attorneys in this community, the requested fees are reasonable in light of the
5 compensation paid for comparable services in reorganization cases, and consistent with
6 the cost of other comparable services in Arizona. See JTS ¶¶ 22-25; DE 1888, Ex. F., ¶¶
7 2-8; 14-17.

8
9 71. If DMYL does not receive compensation from the Mortgages Ltd. Estate, the
10 only source of payment will be plan distributions to RBLLC, which will only occur after
11 repayment of the Exit Financing. See JTS ¶ 25.

12 72. The total amount of administrative claims sought on behalf of the Debtor's
13 professionals exceeded \$9 million and the total administrative expenses paid or requested
14 to be paid in this case (including substantial contribution claims) total in excess of \$13
15 million. See JTS ¶ 30.

16 **II. CONCLUSIONS OF LAW**

17 Based upon the foregoing facts and the legal standards set forth in *Cellular 101,*
18 *Inc. v. Channel Communications, Inc. (In re Cellular 101, Inc.)*, 377 F.3d 1092, 1096 (9th
19 Cir. 2004)(*"In re Cellular 101, Inc."*), this Court concludes:

20 73. RBLLC is a creditor of the Estate of the Debtor in this case. RBLLC was a
21 legally presumed secured creditor in the Debtor's assets, although RBLLC's security
22 interest in the Debtor's assets was not specifically determined by this Court prior to the
23 confirmation of the Plan.

24 74. RBLLC provided direct financial benefits to the bankruptcy estate of the
25 Debtor in this case of not less than \$14,750,000. RBLLC's direct benefit to the Estate was
26 not incidental or minimal, and RBLLC was the only creditor in this case to contribute
27 financial benefits to the Estate that funded the Debtor's post-petition operations. The
28 benefit to RBLLC from RBLLC's providing such financial benefits to the Estate is

1 “outweighed by the extent of the benefit those efforts conferred on the estate.” Pursuant to
2 Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC is entitled to an award for
3 “substantial contribution” to the Estate in the total requested amount of \$595,798.25 based
4 on this benefit.

5 75. RBLLC provided additional benefit to the Estate that was not incidental or
6 minimal, in its additional contribution toward preserving the assets of the Estate in this
7 case. The benefit to RBLLC from RBLLC’s efforts in preserving the assets of the Estate in
8 this case is “outweighed by the extent of the benefit those efforts conferred on the estate.”
9 Pursuant to Section 503(b)(3)(D), RBLLC is entitled to an award for “substantial
10 contribution” to the Estate of \$356,253 based on this benefit. Additionally, pursuant to
11 Section 503(b)(4) of the Bankruptcy Code, RBLLC is entitled to “payment of reasonable
12 compensation for professional services rendered” by DMYL in the amount of \$356,253.

13 76. RBLLC provided additional benefit to the Estate that was not incidental or
14 minimal, in its contribution toward a feasible plan of reorganization in this case. The benefit
15 to RBLLC from RBLLC’s efforts toward the plan of reorganization confirmed in this case is
16 “outweighed by the extent of the benefit those efforts conferred on the estate.” Pursuant to
17 Section 503(b)(3)(D) of the Bankruptcy Code, RBLLC is entitled to an award for
18 “substantial contribution” to the Estate of \$118,810 based on this benefit. Additionally,
19 pursuant to Section 503(b)(4) of the Bankruptcy Code, RBLLC is entitled to “payment of
20 reasonable compensation for professional services rendered” by DMYL in the amount of
21 \$118,810.
22

23 77. RBLLC provided a direct benefit to the Estate that was not incidental or
24 minimal, in its contribution toward objecting to and reaching settlements with the Debtor’s
25 borrowers in this case. The benefit to RBLLC from RBLLC’s efforts in achieving a
26 reasonable resolution of borrower claims in this case is “outweighed by the extent of the
27 benefit those efforts conferred on the estate.” Pursuant to Section 503(b)(3)(D) of the
28 Bankruptcy Code, RBLLC is entitled to an award for “substantial contribution” to the Estate

1 of \$97,882.50 based on this benefit. Additionally, pursuant to Section 503(b)(4) of the
2 Bankruptcy Code, RBLLC is entitled to "payment of reasonable compensation for
3 professional services rendered" by DMYL in the amount of \$97,882.50.

4 78. Based on the terms of the Plan that provides that the only source of payment
5 will be plan distributions which will only occur after repayment of the Exit Financing,
6 RBLLC is further entitled to its requested award for substantial contribution as a general
7 matter of equity so that RBLLC's 900 participants are not subordinated again for the
8 benefit of the Investors and other creditors of the Estate.

9 79. RBLLC is entitled to an additional award for attorneys fees that RBLLC
10 incurred in preparing and litigating RBLLC's Application pursuant to *North Sports, Inc. v.*
11 *Knupfer (In re Wind N' Wave)*, 509 F.3d 938, 943-944 (9th Cir. 2007).

12 80. RBLLC's total requested award for substantial contribution is \$595,798.25
13 (plus attorneys fees that RBLLC incurred in preparing and litigating RBLLC's Application).
14 RBLLC is not entitled to duplicative recovery based on the independent and substantial
15 benefits provided to the Estate by RBLLC/DMYL, but RBLLC/DMYL has proven that
16 RBLLC is entitled to an award of its total Substantial Contribution Claim based on the total
17 benefits to the Estate provided by RBLLC in excess of the benefit to RBLLC.

18 IT IS HEREBY ORDERED THAT:

19 (1) The Application, which seeks an award in the amount calculated on
20 **\$572,945.50** in attorneys' fees and **\$22,852.75** in costs incurred by DeConcini McDonald
21 Yetwin & Lacy, P.C. as a substantial contribution administrative claim is approved in its
22 entirety.

23 (2) Directing the immediate payment in the amount of **\$595,798.25** to DeConcini
24 McDonald Yetwin & Lacy, P.C. as Counsel for Radical Bunny, L.L.C. as provided in the
25 Confirmation Order.

26 (3) Directing the distribution of the payment from the escrow account
27 established by the Liquidating Trust and RBLLC/DMYL pursuant to this Court's order of
28

1 January 13, 2010, DE 2595, along with all accrued interest through the date of distribution.

2 (4) Directing DeConcini McDonald Yetwin & Lacy, P.C. to file its supplemental
3 application for attorneys fees that RBLLC incurred in preparing and litigating RBLLC's
4 Application within ten days of entry of this Order.
5

6 ORDERED, SIGNED & DATED ABOVE.
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EXHIBIT 2

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
with D. Dinner and others (2.3); telephone conference with employees attorney about plan issues (.4).			
10/10/08 Evaluate claim estimation issues in connection with the plan to be proposed by the committee (.4).	DGLA	0.40	102.60
10/13/08 Meet with party about plan issues (3.5).	CLR	3.50	1,559.25
10/13/08 Conduct legal research regarding the procedural and substantive requirements to obtain claim estimation (2.9).	DGLA	2.90	743.85
10/14/08 Continue legal research regarding the claim estimation process (2.7).	DGLA	2.70	692.55
10/15/08 Attend conference call on Plan (2.3).	CLR	2.30	1,024.65
10/15/08 Telephone conference with H. Gaines regarding formation and organizational structure of LLC's proposed to be formed under plan (.2).	SAG	0.20	81.00
10/16/08 Analysis regarding plan issues (.2).	DGLA	0.20	51.30
10/17/08 E-mail memoranda to and from H. Gaines regarding issues related to structure of proposed loan-ownership LLCs (.3).	SAG	0.30	121.50
10/21/08 Meeting with major constituency group about plan (2.2).	CLR	2.20	980.10
10/21/08 Draft detailed memorandum regarding plan confirmation issues and claim estimation in connection with same (4.1).	DGLA	4.10	1,051.65

December 29, 2008
Invoice# 629073 - 642706

Mortgages Ltd. Bankruptcy
I.D. 25831-001

Page: 14

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
11/15/08 Work on preparation of evidentiary hearing on University and Ash settlement (4.4); work on supplement to objections (.8); work on exhibits (1.2).	KLH	6.40	2,304.00
11/16/08 Work on preparation for hearing on University and Ash and authority issues and work on witness outlines and summary of depositions (4.3).	KLH	4.30	1,548.00
11/16/08 Review pretrial and new pleadings (1.7).	CLR	1.70	757.35
11/17/08 Prepare for evidentiary hearing (4.4); outline testimony for Feldheim and Johnson (4.2); work on exhibit notebooks (3.8); prepare for deposition of M. Tucker (2.0); telephone conference with opposing counsel regarding various issues (.8).	KLH	15.20	5,472.00
11/17/08 Review pleadings and prepare for hearing (5.).	CLR	5.00	2,227.50
11/18/08 Prepare for and attend hearing on U&A settlement (10.2).	CLR	10.20	4,544.10
11/18/08 Prepare for first day of evidentiary hearing on authority and University and Ash settlement and attend hearing (15.9).	KLH	15.90	5,724.00
11/18/08 Prepare exhibits for hearing (.9).	NHOS	0.90	222.75
11/18/08 Review University & Ash, Roosevelt Gateway and Roosevelt Gateway II draft loan documents for cross default and cross collateralization provisions (.8); e-mail	RPR	2.70	1,202.85

Mortgages Ltd. Bankruptcy
I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
to C. Reece with answers (.7); brief conference with C Reece about review of draft of proposed limited liability company agreement to be used for each loan and its investors (.2); upon requests of C. Reece from Bankruptcy Court, review original University & Ash and Roosevelt Gateway and Roosevelt Gateway II legals and compare to legals on new documents proposed by debtor (.4); review and make comments on draft of limited liability company operating agreement which might be used for each loan group (.6).			
11/19/08 Prepare for second day of evidentiary hearing (5.7); prepare additional exhibits (3.2); prepare witness outlines and attend second day of hearing (5.3).	KLH	14.20	5,112.00
11/19/08 Prepare for and attend hearing (5.3).	CLR	5.30	2,361.15
11/19/08 Draft objection to administrative claim (2.2).	NHOS	2.20	544.50
11/20/08 Work on Grace settlement (1.3); prepare for next day of hearing (2.2); work on exhibits, and witness outlines (1.8); analyze issues from prior days of hearing (.4); work on authority issues (.6).	KLH	6.30	2,268.00
11/20/08 Review legal issues raised by judge and B. Stevens' email (1.2).	CLR	1.20	534.60
11/20/08 Research and analysis regarding Section 363(h) issues and Court's ability to approve settlement proposed by debtor as	DDF	3.70	1,248.75

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
issues (.4).			
11/07/08 Conduct extensive legal research regarding the statutory exemption from securities laws for interests transferred to creditors in connection with plan confirmation (4.0); telephone call to C. Reece regarding factual background necessary to the research (.2).	DGLA	4.20	1,077.30
11/10/08 Prepare for plan meeting with Debtor (1.6).	CLR	1.60	712.80
11/10/08 Conduct legal research regarding plan confirmation issues (.8).	DGLA	0.80	205.20
11/11/08 Telephone conference with T. Freeman (.6); prepare for and attend plan meeting (5.5).	CLR	6.10	2,717.55
11/11/08 Finalize research regarding plan confirmation issues and draft brief memo regarding same (3.1).	DGLA	3.10	795.15
11/11/08 Work on form of Operating Agreement for LLCs proposed to be formed for purposes of holding notes (2.2).	SAG	2.20	891.00
11/12/08 Conduct research regarding the classification of claims for purposes of plan confirmation (1.2).	DGLA	1.20	307.80
11/12/08 Work on form of Operating Agreement for LLCs proposed to be formed to hold notes (1.3); send clean and redlined drafts of the document to Heather Gaines via e-mail with explanatory cover memorandum (.2).	SAG	1.50	607.50

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
12/11/08 Conference with R. Robinson regarding structure of entities and various associated management and tax issues (.6).	GH	0.60	267.30
12/11/08 Conference with C. Reece on issues concerning exclusivity period (.3); revision of existing operating agreement for the ML MP funds (5.6).	RPR	5.90	2,628.45
12/12/08 Prepare for and attend meeting on plan issues (7.4).	CLR	7.40	3,296.70
12/12/08 Review and revise form of amended and restated operating agreement for Funds (1.2).	GH	1.20	534.60
12/12/08 Revision of Pool draft operating agreement (3.2); draft holding company operating agreement and analysis of related issues (6.0).	RPR	9.20	4,098.60
12/13/08 Prepare for and attend conference call with parties about plan issues and review information (4.7).	CLR	4.70	2,093.85
12/13/08 Finish revision of proposed holding company limited liability company agreement template (2.1).	RPR	2.10	935.55
12/14/08 Review drafts of plan documents and edit same (6.8).	CLR	6.80	3,029.40
12/14/08 Draft limited liability company operating agreement for proposed manager of the holding companies (2.4); send drafts of	RPR	2.80	1,247.40

Mortgages Ltd. Bankruptcy
I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
all three agreements for review and distribution (.4).			
12/15/08 Prepare for and attend Committee meeting with constituent groups (8.8); draft emails to parties about plan (1.2).	CLR	10.00	4,455.00
12/15/08 Conduct extensive legal research regarding third-party discharge issues under section 524 (4.8); study the plan provisions regarding tax exemption and the channeling injunction (1.0); review statute regarding third-party injunctive relief and draft detailed correspondence to C. Reece regarding same (.8).	DGLA	6.60	1,692.90
12/15/08 Extended meeting with all creditor groups to go over proposed creditor plan and structure and respond to questions and suggestions (5.2); revise three operating agreements to be attached to Plan (2.0).	RPR	7.20	3,207.60
12/16/08 Work on plan issues (6.6).	CLR	6.60	2,940.30
12/16/08 Conduct follow up research regarding the lender exemption from third party liability described in section 524 (2.0); draft detailed correspondence to C. Reece regarding the relevant provisions of the code and arguments in favor of discharging the note holders from liability outside of bankruptcy (1.0).	DGLA	3.00	769.50
12/17/08 Draft email to Committee (.6); meeting with parties on plan (7.3).	CLR	7.90	3,519.45

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
12/23/08 Conference with R. Robinson and C. Reece to discuss various tax and plan-related provisions (.7).	GH	0.70	311.85
12/23/08 Conference to discuss open issues on the proposed plan with the debtor and to discuss structure documents (.5); conference with C. Reece and G. Hanks to discuss tax effects (.7).	RPR	1.20	534.60
12/24/08 Conference call on plan issues and respond to emails (1.6).	CLR	1.60	712.80
12/28/08 Review plan and prepare for meeting (4.8).	CLR	4.80	2,138.40
12/29/08 Work on Coles proof of claim (1.2); confer with parties on plan (.8); telephone conference with Debtor (.8).	CLR	2.80	1,247.40
12/29/08 Review tax issues for plan (.6).	SAG	0.60	243.00
12/29/08 Extended telephone conference with G. Hanks about tax issues in structure to investors and liquidating trustee (.4); revise operating agreements for the new manager, the loan LLCs and the mortgage pool LLCs (3.2).	RPR	3.60	1,603.80
12/29/08 Telephone conference with C. Reece regarding presenting claims against the Estate of Scott M. Coles on behalf of the Official Committee of Investors (.5); review Estate claim of Radical Bunny, LLC (.3); draft Official Committee of Investors' Claims Against Estate (.2).	JPRO	1.00	279.00

February 27, 2009
Invoice# 629073 - 650213

Mortgages Ltd. Bankruptcy
I.D. 25831-001

Page: 15

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
provisions of the plan and potential challenges (.3).			
01/16/09 Extended conference with C. Reece to discuss current status of draft plan and positions of various parties preparatory to revising drafts of operating agreements for all three entitles (1.3).	RPR	1.30	579.15
01/17/09 Work on draft of disclosure statement and exhibits (6.4).	CLR	6.40	2,851.20
01/17/09 Review draft of plan and make notes of required changes (1.4).	RPR	1.40	623.70
01/18/09 Work on disclosure statement and review and edit exhibits (5.6).	CLR	5.60	2,494.80
01/18/09 Review comments from Investors Committee members on draft of three operating agreements to be attached to Plan of Reorganization (1.4); discussion with C. Reece as to needed changes based upon comments (.2).	RPR	1.60	712.80
01/19/09 Edit draft of disclosure statement and review and revise exhibits (7.3).	CLR	7.30	3,252.15
01/19/09 Telephone call to C. Reece to discuss the provisions of the plan (.4).	DGLA	0.40	102.60
01/19/09 Revisions of three draft operating agreement to be attached to Plan of Reorganization and redline and send redlines for Investors Committee to review (3.5).	RPR	3.50	1,559.25

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
01/20/09 Work on plan and disclosure statement issues (1.2).	KLH	1.20	432.00
01/20/09 Edit and revise final drafts of disclosure statement and exhibits (8.3); telephone conference with committee members about drafts (1.9).	CLR	10.20	4,544.10
01/20/09 Telephone conference with B. Robinson regarding issues related to definition of "non-United States person" used in LLC operating agreement (.1).	SAG	0.10	40.50
01/20/09 Review additional comments from committee member on three operating agreements (.4); revise all three operating agreements to be attached to Plan in light of comments (.4); separate telephone conference with committee members Joe Baldino and Bob Facciola to answer questions on draft operating agreements (.4).	RPR	1.20	534.60
01/21/09 Office conference with C. Reece regarding plan and work on disclosure statment (3.6); telephone conference with committee members regarding same (.3); telephone conference with counsel for Grace about plan and related issues (.9).	KLH	4.80	1,728.00
01/21/09 Finalize exhibits and disclosure statement for filing (5.3); telephone calls with committee members (.8).	CLR	6.10	2,717.55
01/21/09 (Paralegal): Office conference with C. Reece regarding voluminous Master Mailing	CML	0.60	81.00

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
(2.8).			
02/23/09 Telephone conferences with representative of the Arizona Department of Financial Institutions regarding licenses required for loan servicing (.4); review and respond to message from investor Mr. Schoonover (.1).	DAHO	0.50	110.25
02/23/09 Work on various plan issues (1.8).	DGLA	1.80	461.70
02/23/09 Conduct research on securities law issues (4.2).	CWRO	4.20	926.10
02/23/09 Research securities law issues (2.4).	JPAR	2.40	756.00
02/24/09 (Paralegal): Review Claims Register (.9).	CML	0.90	121.50
02/24/09 Conference with committee (2.7); draft emails and call candidates (2.2); meeting with possible lender (2.3); telephone conference with creditors about disclosure issues (1.2).	CLR	8.40	3,742.20
02/24/09 Continued revision of Loan LLC operating agreement (2.6); extended discussion with C Reece about SEC issues with plan and alternatives (.3); analysis of modifications to Loan LLC (1.2).	RPR	4.10	1,826.55
02/24/09 Study the plan and disclosure statement in connection with securities issues (1.0); review SEC no action letters and other authority pertaining to 1145 issues (2.1).	DGLA	3.10	795.15
02/24/09 Conduct research regarding securities	CWRO	4.70	1,036.35

Mortgages Ltd. Bankruptcy
 I.D. 25831-001

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
issues and prepare memorandum regarding the same (4.7).			
02/24/09 Review legal authority on securities issues (3.1).	JPAR	3.10	976.50
02/25/09 (Paralegal): Work on obtaining bids (.7).	CML	0.70	94.50
02/25/09 Meeting with possible lender (2.7); meeting with lender (2.3); draft emails about interviews and telephone calls with candidates (1.5).	CLR	6.50	2,895.75
02/25/09 Continued revision of draft of Loan LLC operating agreement (1.8); revise draft of Pool Fund operating agreement (2.2); begin revision of Manager operating agreement (.6).	RPR	4.60	2,049.30
02/25/09 Conferences with C. Reece regarding licenses (.1); calls to the Arizona Department of Real Estate regarding same (.4).	DAHO	0.50	110.25
02/25/09 Research law regarding federal tax issues (1.2).	COLS	1.20	226.80
02/25/09 Telephone conference with R. Robinson regarding accounting provisions for note allocation among multiple borrowers with joint and several liability (.2).	GH	0.20	89.10
02/25/09 Analysis of balloting issues, approval of the notice process and other matters to be addressed in connection with the upcoming hearing (.3); continue legal research	DGLA	1.90	487.35

March 20, 2009
Invoice# 629073 - 652195

Mortgages Ltd. Bankruptcy
I.D. 25831-001

Page: 23

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
regarding plan issues (1.6).			
02/25/09 Revise Loan LLC operating agreement (2.1).	CWRO	2.10	463.05
02/25/09 Analysis of research regarding Securities issues (2.1).	JPAR	2.10	661.50
02/26/09 Prepare for meeting with Rev Op attorneys (1.8); long telephone conference with possible lender (1.2); meeting with possible lender (1.3); work on and prepare for meeting with committee (2.2).	CLR	6.50	2,895.75
02/26/09 Continued revision of Manager LLC operating agreement to incorporate new features (3.2); conference with C Reece regarding solution to SEC issues (.3); further revision to the Loan LLC operating agreement (1.8).	RPR	5.30	2,361.15
02/26/09 Follow up calls to Department of Real Estate regarding licensing issues (.2).	DAHO	0.20	44.10
02/26/09 Research law regarding federal tax issues (4.3).	COLS	4.30	812.70
02/26/09 Complete legal research on plan issues (1.2) conduct preliminary research regarding the ballot format (.8); begin reviewing the disclosure statement in connection with same (.6).	DGLA	2.60	666.90
02/26/09 Analysis and research of tenants-in-common interests (.5).	CWRO	0.50	110.25
02/27/09 (Paralegal): Review Master Mailing List	CML	1.10	148.50

April 20, 2009
Invoice# 629073 - 655816

Mortgages Ltd. Bankruptcy
I.D. 25831-001

Page: 13

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
creditors about plan issues (.6); prepare for committee meeting (1.8).			
03/01/09 Conduct research concerning disclosure statement hearing (1.7).	NHOS	1.70	420.75
03/01/09 Draft the initial response to Debtor's objection to the disclosure statement and transmit same to C. Reece for review (4.0); finish drafting the Class 8 ballot and transmit same to C. Reece for review (1.0); begin reviewing the plan and disclosure statement in connection with the other ballots (.8).	DGLA	5.80	1,487.70
03/01/09 Revise Loan LLC draft operating agreement based upon comments from various groups (1.1); draft new potential Servicing agreement to use (1.1).	RPR	2.20	980.10
03/02/09 Prepare for meeting (1.3); attend day-long committee meeting (8.2); work on Plan issues after meeting (2.2).	CLR	11.70	5,212.35
03/02/09 Continue research concerning disclosure issues (4.3).	NHOS	4.30	1,064.25
03/02/09 Analysis to determine what changes need to be made to Plan and exhibits (.4); locate copies of various documents for review for potential causes of action (.6); begin review of documents for possible names of potential defendants (.6).	RPR	1.60	712.80
03/02/09 Review tax research (.9).	JPAR	0.90	283.50

April 20, 2009
Invoice# 629073 - 655816

Mortgages Ltd. Bankruptcy
I.D. 25831-001

Page: 16

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
03/06/09 Long telephone conference with servicer (1.2); review information and servicing proposal (1.8); telephone conference with D. Dinner and G. Lyon regarding plan issues (1.2); telephone conference with R. Zahn about background check on K. O'Halloran (.4); draft emails to file (1.4).	CLR	6.00	2,673.00
03/07/09 Work on exhibits and plan issues (2.6); edit and revise plan (1.6); review and respond to emails (.8).	CLR	5.00	2,227.50
03/09/09 Review debtor list of claims not being waived (.1).	RPR	0.10	44.55
03/10/09 Work on plan revisions (3.4); review proposals and edit same (2.2).	CLR	5.60	2,494.80
03/11/09 Address issues regarding vesting of property of the estate and discharge regarding tax implications (1.1); investigate possible structures of postpetition entities and advise R. Robinson of results of investigations (.8); review additional information regarding same (.4).	BAA	2.30	828.00
03/11/09 Prepare for an attend committee meeting (8.4); work on edits to plan and exhibits (2.6).	CLR	11.00	4,900.50
03/11/09 Further revision of master servicing agreement to disclosure statment (1.4); extended meeting regarding possible tax	RPR	3.80	1,692.90

April 20, 2009
Invoice# 629073 - 655816

Mortgages Ltd. Bankruptcy
I.D. 25831-001

Page: 17

DESCRIPTION OF SERVICES	ATTY	HOURS	AMOUNT
consequences and review tax materials (1.0); draft new ML Master operating agreement if no Loan LLCs are to be used (1.4).			
03/11/09 Research re plan taxation issues (1.5).	JPAR	1.50	472.50
03/12/09 Continue analysis regarding liquidating trusts and other post-confirmation entities (.8).	BAA	0.80	288.00
03/12/09 Edit and revise exhibits for Disclosure Statement (2.9); telephone conference with E. McDonough about exhibits (.8); revise exhibits (1.3); edit and revise Plan (4.7); edit and revise Disclosure Statement (5.3).	CLR	15.00	6,682.50
03/12/09 Review materials on tax issues and extended conference with tax attorneys concerning issues (3.9); finish revision of the alternative ML Manager operating agreement (1.2); revise master servicing agreement (1.1); telephone conference with Ed McDonough (.4); conference regarding changes in plan (.6); make changes to plan and disclosure statement (1.4).	RPR	8.60	3,831.30
03/12/09 Research tax issue (.9).	COLS	0.90	170.10
03/12/09 Analysis of tax issues associated with capitalization of liquidating trust (1.3); office conference with R. Robinson regarding structure (.2).	SAG	1.50	607.50
03/12/09 Analysis regarding discharge of	GH	1.30	579.15

EXHIBIT 3

Settlements Specifically Discussed in Global Letter Agreement

DE	Borrower	Loan Balance
570	University & Ash and Roosevelt Gateway	\$43,400,000.00
561	Tempe Land Company (Centerpoint)	\$133,500,000.00
569	Grace Communities Borrowers	\$120,000,000.00
558	MK Custom	\$11,245,000.00
559	Bisontown	\$1,500,000.00
565	SOJAC	\$23,970,000.00
560	Rightpath & Maryland Way	\$109,336,287.00
TOTAL		\$442,951,287.00

Letter Agreement

- 1) Review 9019 motions for University & Ash and Centerpoint (Tempe Land Company, LLC) and Vento and if no agreement is made by Monday, October 6, 2008 then, Mortgages Ltd. will withdraw the 9019 motion;
- 2) Review MK, Bison Communities, and SOJAC settlements and if Mortgages Ltd., Investor Committee and Radical Bunny, LLC cannot agree by Monday, October 6, 2008, all will be continued for 2 weeks and if no agreement is reached, the motions will be withdrawn;
- 3) Review Rightpath settlements and if Mortgages Ltd., Investor Committee and Radical Bunny, LLC cannot agree by Monday, October 6, 2008, then Mortgages Ltd. will decide whether to proceed after consultation with relevant parties;
- 4) Review Centerpoint financing and if Radical Bunny, LLC and the Investors Committee agree, hearing goes forward as planned; otherwise continue financing motion on Centerpoint for two (2) weeks;
- 5) Agree that no new 9019 motions will be filed unless Mortgages Ltd., Investor Committee and Radical Bunny, LLC approve of settlement;
- 6) Mortgages Ltd., Radical Bunny, LLC, Mortgages Ltd. and Investor Committee will cooperate in formulating plan of reorganization;
- 7) The hearing on October 21st, 2008 shall remain on the calendar pending further agreement; and
- 8) Nothing in this agreement prevents Mortgages Ltd. from making ^{separate} presentations to other parties regarding the above deal points.

Dated this 1st of October, 2008.


DEGONCINI McDONALD YETWIN & LACY, P.C.

BY 
SHELTON L. FREEMAN
ATTORNEYS FOR RADICAL BUNNY, LLC

FENNEMORE CRAIG, P.C.

BY 
CATHY L. REECE (SUBJECT TO APPROVAL OF
OFFICIAL INVESTOR COMMITTEE)
ATTORNEYS FOR OFFICIAL INVESTORS COMMITTEE


JENNINGS, STROUSS & SALMON, P.L.C.

BY 
CAROLYN JOHNSON
ATTORNEYS FOR THE DEBTOR,
MORTGAGES LTD.


MORTGAGES, LTD.

BY 
RICHARD FELDHEIM
PRESIDENT AND CEO

MORTGAGES, LTD.

BY 
CHRIS OLSON
CFO

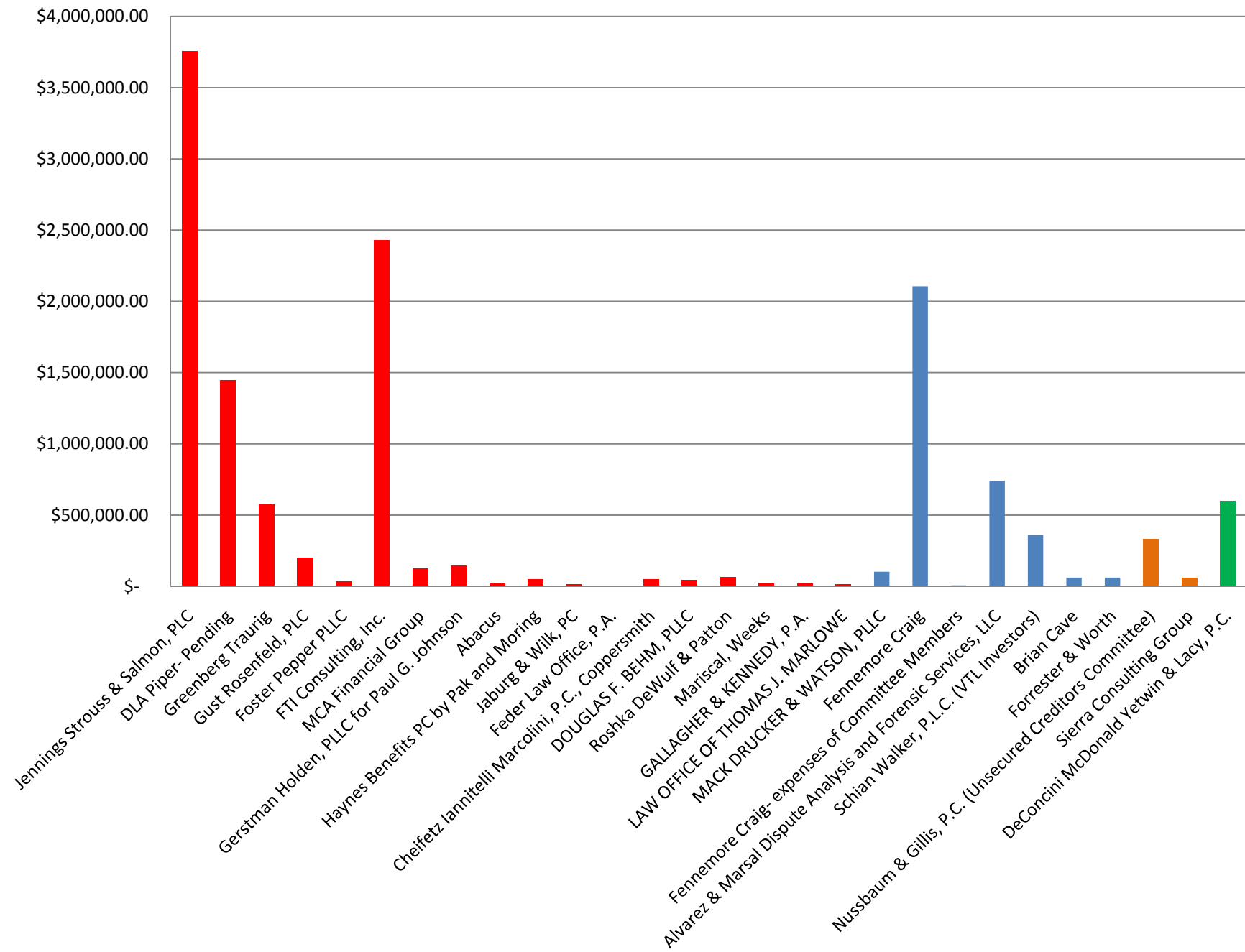
MORTGAGES, LTD.

BY 
GEORGE EVERETTE
VICE PRESIDENT & CIO

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EXHIBIT 4

Administrative Claims



- Jennings Strouss & Salmon, PLC
- DLA Piper- Pending
- Greenberg Traurig
- Gust Rosenfeld, PLC
- Foster Pepper PLLC
- FTI Consulting, Inc.
- MCA Financial Group
- Gerstman Holden, PLLC for Paul G. Johnson
- Abacus
- Haynes Benefits PC by Pak and Moring
- Jaburg & Wilk, PC
- Feder Law Office, P.A.
- Cheifetz Iannitelli Marcolini, P.C., Coppersmith
- DOUGLAS F. BEHM, PLLC
- Roshka DeWulf & Patton
- Mariscal, Weeks
- GALLAGHER & KENNEDY, P.A.
- LAW OFFICE OF THOMAS J. MARLOWE
- MACK DRUCKER & WATSON, PLLC
- Fennemore Craig
- Fennemore Craig- expenses of Committee Members
- Alvarez & Marsal Dispute Analysis and Forensic Services, LLC
- Schian Walker, P.L.C. (VTL Investors)
- Brian Cave
- Forrester & Worth
- Nussbaum & Gillis, P.C. (Unsecured Creditors Committee)
- Sierra Consulting Group
- DeConcini McDonald Yetwin & Lacy, P.C.

Debtor Professionals--\$8,994,672.02 Investor Professionals--\$3,441,355.53 Unsecured Creditor Professionals--\$389,240.02 Secured Creditor Professionals--\$595,798.25