

1 MONIKA PLEYER LEE, SBN 117019
2 **LEE LAW OFFICES**
3 1700 South El Camino Real, Suite 505
4 San Mateo, California 94402
5 Telephone: (650) 212-3400
6 Facsimile: (650) 212-3414
7
8 Special Insurance Counsel
9 for Official Committee of Equity Security Holders

10 UNITED STATES BANKRUPTCY COURT
11
12 NORTHERN DISTRICT OF CALIFORNIA
13
14 SAN FRANCISCO DIVISION

15 In re
16 CMR MORTGAGE FUND, LLC,
17 CMR MORTGAGE FUND II, LLC,
18 CMR MORTGAGE FUND III, LLC,
19
20 Debtors.

21 Affects **FUND I**
22 Affects **FUND II**
23 Affects **FUND III**
24 Affects **ALL FUNDS**

Case Nos. 08-32220 TEC
09-30788 TEC
09-30802 TEC

Chapter 11

**FIRST INTERIM APPLICATION FOR
COMPENSATION AND
REIMBURSEMENT OF EXPENSES FOR
LEE LAW OFFICES AS SPECIAL
INSURANCE COUNSEL FOR THE
OFFICIAL COMMITTEE OF EQUITY
SECURITY HOLDERS**

Date: October 1, 2010
Time: 9:30 a.m.
Place: 235 Pine Street
Courtroom 23
San Francisco, CA 94104

25 **I. SUMMARY OF RELIEF REQUESTED**

26 Lee Law Offices ("Lee Law" or "Applicant"), special insurance counsel for the Official
27 Committee of Equity Security Holders (the "Committee") of CMR Mortgage Fund, LLC ("Fund
28 I"), CMR Mortgage Fund II, LLC ("Fund II") and CMR Mortgage Fund III, LLC ("Fund III")
(collectively the "Funds" or "Debtors") in the above-captioned cases, hereby presents its first
interim application, seeking an order for allowance of \$33,981.00 in fees and reimbursement of

1 \$29.00 in expenses incurred for the period April 1, 2010, through July 31, 2010 (the
2 "Application").

3 Lee Law submits this Application in accordance with the ORDER AUTHORIZING
4 EMPLOYMENT OF LEE LAW OFFICES AS INSURANCE COUNSEL FOR THE OFFICIAL COMMITTEE OF
5 EQUITY SECURITY HOLDERS ("Employment Order") entered on April 19, 2010, in all Funds [Doc.
6 No. 523 in Fund I's case] (attached as Exhibit A); Federal Rule of Bankruptcy Procedure 2016; the
7 Bankruptcy Court's Guidelines for Compensation and Expense Reimbursements of Professionals
8 and Trustees ("Court Guidelines"); and the United States Trustee Guidelines for Reviewing
9 Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330
10 ("UST Guidelines").

11 **II. NOTICE OF APPLICATION**

12 Notice of this Application, in the form attached as Exhibit A to the Application of McNutt
13 Law Group for hearing on the same date as this Application, is being sent concurrently with its
14 filing to all creditors, equity interest holders, and other parties in interest. Full copies of the
15 Application are being transmitted by mail to the United States Trustee, Debtors' counsel, and
16 parties who have requested special notice. Applicant respectfully submits that no further notice is
17 required in this matter.

18 **III. BACKGROUND AND BASIS FOR RELIEF REQUESTED**

19 **A. Background**

20 The Funds are California limited liability companies that are managed by California
21 Mortgage and Realty, Inc. ("CMRI" or the "Manager"), a Delaware corporation, and were formed
22 for the purpose of making or investing in business loans secured by deeds of trust on real estate
23 properties - predominately commercial income producing structures or land held by businesses
24 located primarily in California. The principal assets of the Funds are promissory notes secured by
25 liens on real and personal property, other receivables, and interests in limited liability corporations
26 that own real property acquired by foreclosure.

27 On November 18, 2008, Fund I filed its voluntary petition for relief under Chapter 11 of
28 the Bankruptcy Code, and on March 31, 2009, Fund II and Fund III filed their respective voluntary

1 petitions for relief under Chapter 11 of the Bankruptcy Code.

2 On October 2, 2009, the United States Trustee appointed the Committee to serve in the
3 Fund I, Fund II, and Fund III bankruptcy cases, as reflected in the Appointment of Official
4 Committee of Unsecured Creditors filed with this Court on October 2, 2009. The Committee
5 hired McNutt Law Group ("MLG") as counsel ("Committee Counsel") on October 16, 2009, and
6 LECG as financial advisors ("Committee Financial Advisors") on November 2, 2009. On April 19,
7 2010, the Court authorized the Committee to employ and retain Lee Law Offices – effective as of
8 April 1, 2010 – to represent the Committee pursuant to Bankruptcy Code section 1103(a) and to
9 compensate Lee Law Offices pursuant to the Bankruptcy Code and any additional procedures
10 established by this Court, subject to approval by the Court pursuant to Bankruptcy Code Sections
11 330 and 331.

12 **B. Prior Payments to Applicant**

13 Lee Law has received no previous payments.

14 **C. Available Funds and Administrative Expenses**

15 Lee Law is informed and believes that there are sufficient assets held by the estates to
16 produce funds to pay Lee Law's fees and costs, though the complete funds may not be readily
17 available at this time. Applicant respectfully submits, therefore, that there are or will be sufficient
18 proceeds to make the payments sought herein by Applicant now or in the near future as funds
19 become available or assets are liquidated.

20 **IV. SUMMARY OF FEES AND COST REIMBURSEMENT**

21 From April 1, 2010, through July 31, 2010, Lee Law rendered the services described in this
22 Application and in the invoices attached to the DECLARATION OF MONIKA P. LEE IN SUPPORT OF
23 FIRST INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR LEE
24 LAW OFFICES AS SPECIAL INSURANCE COUNSEL FOR THE OFFICIAL COMMITTEE OF EQUITY
25 SECURITY HOLDERS filed concurrently herewith ("Lee Decl."). Lee Law also incurred the actual
26 and necessary expenses itemized in the invoices. Lee Law expended a total of 77.1 hours
27 rendering services to the Committee during the period covered by this Application for which it
28 seeks \$33,981.00 in compensation. Lee Law also seeks \$29.00 in reimbursement of expenses

1 incurred during the period.

2 **V. REQUIRED DISCLOSURE**

3 Lee Law has not entered into any agreement for the purpose of fixing the fees or other
4 compensation to be paid for services rendered and expenses incurred in connection with this case.
5 Lee Law has not agreed to share the compensation to be received for the services rendered in this
6 case with any other entity. See Lee Decl., ¶ 6.

7 The names and hourly rates of the professionals and paraprofessionals of Lee Law who
8 billed time for the period covered by this Application are as follows:

9

PROFESSIONAL	INITIALS	POSITION	DATE ADMITTED	RATE AS OF 02/01/2009
Monika P. Lee	MPL	Attorney	1984	\$450
Anne T. Kirkland	ATK	Paralegal		\$110

10
11

12 The hourly rates charged by Lee Law are the customary rates charged by comparably
13 skilled practitioners in cases other than cases under Title 11. Lee Law's rates in this case are not
14 greater than those charged to its other clients for comparable services.

15 As set forth below, Lee Law has compiled a task-based itemization of services rendered
16 based upon its contemporaneous daily records during the period covered by this Application. The
17 Committee has been given an opportunity to review this Application and has not objected to the
18 amounts requested herein. See Lee Decl., ¶ 8. The following chart summarizes project billing
19 categories and the total hours expended for each category during the period covered by this
20 Application, and is followed by a narrative and detail.

21

CATEGORY	TOTAL HOURS BILLED	TOTAL FEES
A. Meetings and Communications with Committee	3.7	\$1,665.00
B. Fee/Employment Applications	2.1	\$231.00
C. Insurance Issues	45.3	\$20,385.00
D. Plan and Disclosure Statement	21.4	\$9,630.00
E. Learning Case History and Current Status	4.6	\$2,070.00
TOTAL:	77.1	\$33,981.00

22
23
24
25
26
27
28

1 **VI. SERVICES RENDERED**

2 **A. Meetings and Communications with Committee**

3 Lee Law was retained to assist the Committee in connection with matters involving
4 insurance coverage. Since its retention, Lee Law has reviewed and analyzed relevant insurance
5 policies and communications with insurers, performed research, and provided advice to the
6 Committee regarding insurance issues. Lee Law understands that the Committee has used the
7 advice thus provided to formulate its strategies for maximizing recovery of the losses incurred by
8 investors whose interests are represented by the Committee.

9 Lee Law participated in several Committee meetings to provide advice regarding insurance
10 issues. The breakdown of fees incurred in this category is as follows. See Lee Decl., Ex. A.

11

12 PROFESSIONAL	HOURS BILLED	TOTAL FEES
13 Monika P. Lee	3.7	\$1,665.00

14

15 **B. Fee/Employment Applications**

16 Time incurred in this category concerns two items: (1) Lee Law's employment application
17 and (2) the instant fee application.

18 The breakdown of fees incurred in this category is as follows. See Lee Decl., Ex. B.

19

20 PROFESSIONAL	HOURS BILLED	TOTAL FEES
21 Anne Kirkland	2.1	\$231.00

22

23 **C. Insurance Advice**

24 The Committee identified proceeds from insurance policies providing coverage for the
25 professional services provided by the Manager of the Funds as a potential source of recovery for
26 the Committee's constituency, equity investors in the Funds. The policies at issue consist of a
27 Financial Services Liability Policy issued by Indian Harbor Insurance Company with limits of
28 \$5,000,000 and a Mortgage Bankers and Mortgage Brokers Professional Liability Insurance
Policy issued by Certain Underwriters at Lloyd's, London, with limits of \$3,000,000. Lee Law

1 assisted the Committee by analyzing the insurance policies and correspondence with the insurers,
2 researching applicable law, and providing advice in formulating the Committee's strategy.

3 The breakdown of fees incurred in this category is as follows. *See* Lee Decl., Ex. C.

4

PROFESSIONAL	HOURS BILLED	TOTAL FEES
Monika P. Lee	45.3	\$20,385.00

6

7 **D. Plan and Disclosure Statement**

8 During the period covered by this Application the Debtors and the Committee negotiated a
9 joint Plan and Disclosure Statement that were filed on June 24, 2010. Lee Law provided review
10 and advice regarding certain portions of the Plan and the Disclosure Statement that had the
11 potential of impacting insurance issues. Lee Law further provided advice relevant to the
12 Committee's negotiations with the Debtors over various provisions of the joint Plan and Disclosure
13 Statement.

14 The breakdown of fees incurred in this category is as follows. *See* Lee Decl., Ex. D.

15

PROFESSIONAL	HOURS BILLED	TOTAL FEES
Monika P. Lee	21.4	\$9,630.00

18

19 **E. Learning Case History and Current Status**

20 In order to provide effective and accurate advice regarding the insurance issues arising out
21 of the complex transactions of the Debtor funds that resulted in investor losses, Lee Law reviewed
22 various documents and materials to learn about the history of the entities involved, their legal
23 relationships, and the actions and omissions of the Manager that gave rise to the investors' losses.
24 Lee Law also reviewed the various state court actions that were instituted by certain investors in
25 the Debtor Funds and their procedural history and related insurance coverage issues.

26 The breakdown of fees incurred in this category is as follows. *See* Lee Decl., Ex. E.

27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROFESSIONAL	HOURS BILLED	TOTAL FEES
Monika P. Lee	4.6	\$2,070.00

VII. SUMMARY OF EXPENSES

Lee Law does not charge for incidental in-house copying, faxes, de minimis postage, or long-distance phone charges. Lee Law does charge for expenses incurred with third party vendors, at Lee Law's actual cost. Lee Law charges for attorney travel expenses.

The total expenses incurred by Lee Law in this case for the period covered by this Application are as follows. See Lee Decl., Ex. F.

CATEGORY	EXPENSES BILLED
A. Travel and Parking	\$29.00
TOTAL EXPENSES BILLED:	\$29.00

VIII. RESPONSIBLE PERSONNEL

The services subject to this Application were performed by attorney Monika Pleyer Lee. A description of Ms. Lee's experience and qualifications is set forth in the accompanying declaration of Monika P. Lee. See Lee Decl., Ex. G.

IX. ESTABLISHMENT OF FEES

"A compensation award based on a reasonable hourly rate multiplied by the number of hours actually and reasonably expended is presumptively a reasonable fee." *In re Manoa Finance Company*, 853 F.2d 687 (9th Cir. 1988). Establishing a reasonable hourly rate requires consideration of market rates in the relevant community which are, in turn, at least partly a function of the type of services rendered and the lawyer's experience, skill, and reputation. Lee Law has more than 20 years of experience representing policy holders and beneficiaries in litigation involving insurance coverage issues and in providing legal advice concerning insurance matters to companies and individuals, including individuals and companies affected by or involved in Chapter 11 proceedings. See Lee Decl., Ex. G. For this level of skill and experience,

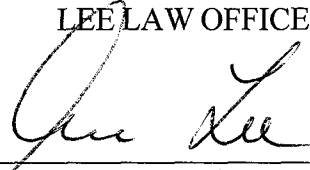
1 the hourly rate charged by Lee Law is within the normal range for attorneys in the San Francisco
2 area legal market. See Lee Decl., ¶ 5.

3 **X. CONCLUSION**

4 WHEREFORE, Applicant requests that the Court approve an award of attorneys' fees in
5 the amount of \$33,981.00 and reimbursement of expenses in the amount of \$29.00 on account of
6 Lee Law's services rendered to the Committee for the period April 1, 2010, through July 31, 2010.

7
8 Dated: September 9, 2010

LEE LAW OFFICES

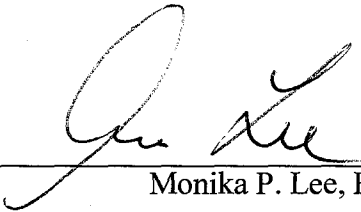
9
10 By: 
11 Monika P. Lee
12 Special Insurance Counsel for Official Committee of
13 Equity Security Holders

14 **CERTIFICATION**

15 I, Monika P. Lee, do hereby certify as follows:

16 I am a partner with Lee Law Offices, special insurance counsel for the Official Committee
17 of Equity Security Holders of CMR Mortgage Fund, LLC , CMR Mortgage Fund II, LLC and
18 CMR Mortgage Fund III, LLC. I am the attorney primarily responsible for this case. I hereby
19 certify (a) that I have read the First Interim Application for Compensation and Reimbursement of
20 Expenses for Lee Law Offices as Special Counsel for the Official Committee of Equity Security;
21 (b) to the best of my knowledge, information and belief, formed after reasonable inquiry, the
22 compensation and expense reimbursement sought are in conformity with these guidelines, except
23 as specifically noted in the certification application; and (c) the compensation and expense
24 reimbursement requested are billed at rates, in accordance with practices, no less favorable than
25 those customarily employed by the applicant and generally accepted by the applicant's clients.

26
27 Dated: September 9, 2010

28 
Monika P. Lee, Esq.