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8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 In re  
12 CMR MORTGAGE FUND, LLC,  
CMR MORTGAGE FUND II, LLC,  
13 CMR MORTGAGE FUND III, LLC,  
14 Debtors.

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

Chapter 11

- 15  Affects **FUND I**  
16  Affects **FUND II**  
17  Affects **FUND III**  
18  Affects **ALL FUNDS**

**SECOND INTERIM APPLICATION FOR  
COMPENSATION AND  
REIMBURSEMENT OF EXPENSES FOR  
McNUTT LAW GROUP LLP AS  
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  
Judge: Hon. Thomas E. Carlson

23  
24 **I. SUMMARY OF RELIEF REQUESTED**

25 McNutt Law Group LLP ("MLG" or "Applicant"), attorneys for the Official Committee of  
26 Equity Security Holders (the "Committee") of CMR Mortgage Fund, LLC ("Fund I"), CMR  
27 Mortgage Fund II, LLC ("Fund II") and CMR Mortgage Fund III, LLC ("Fund III") (collectively  
28 the "Funds" or "Debtors") in the above-captioned cases (the "Cases"), hereby presents its second

1 interim application, seeking an order for allowance of \$572,688.50 in fees and reimbursement of  
2 \$23,708.55 in expenses incurred for the period February 1, 2010 through July 31, 2010 (the  
3 "Application").

4 Further, MLG requests that the Court allow the release of the 20% "holdback" (in the total  
5 amount of \$57,257.39) that was set aside under the March 31, 2010, order on MLG's First Interim  
6 Fee Application.

7 MLG submits this Application in accordance with the orders authorizing MLG's  
8 employment as counsel for the Committee entered on November 2, 2009, in the Fund I case [Doc.  
9 No. 296], the Fund II case [Doc. No. 169], and the Fund III case [Doc. No. 143] (collectively, the  
10 "Employment Order"); § 327(a) of Title 11 of the United States Code ("Bankruptcy Code");  
11 Federal Rule of Bankruptcy Procedure 2016; the Guidelines for Compensation and Expense  
12 Reimbursement of Professionals and Trustees for the United States Bankruptcy Court for the  
13 Northern District of California ("Court Guidelines"); and the United States Trustee Guidelines for  
14 Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11  
15 U.S.C. § 330 ("UST Guidelines").

## 16 **II. NOTICE OF APPLICATION**

17 Notice of this Application, in the form attached hereto as Exhibit A, is being sent  
18 concurrently with its filing to all creditors, equity interest holders, and other parties in interest.  
19 Full copies of the Application are being transmitted by mail to the United States Trustee, Debtors'  
20 counsel, and parties who have requested special notice. Applicant respectfully submits that no  
21 further notice is required in this matter.

## 22 **III. BACKGROUND AND BASIS FOR RELIEF REQUESTED**

### 23 **A. Background**

24 The Funds are California limited liability companies that are managed by California  
25 Mortgage and Realty, Inc. ("CMRI" or the "Manager"), and were formed for the purpose of  
26 making or investing in business loans secured by deeds of trust on real estate properties –  
27 predominately commercial income producing structures or land held by businesses located  
28 primarily in California. The principal assets of the Funds currently are interests in limited liability

1 corporations that own real property acquired by foreclosure.

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

5 On October 2, 2009, the United States Trustee appointed the Committee to serve in the  
6 Fund I, Fund II, and Fund III bankruptcy cases, as reflected in the Appointment of Official  
7 Committee of Unsecured Creditors filed with this Court on October 2, 2009. The Committee  
8 hired MLG as counsel ("Committee Counsel") on October 16, 2009, and LECG as financial  
9 advisors ("Committee Financial Advisors") on November 2, 2009.

10 Since its appointment in the case the Committee has taken an active role. Most  
11 significantly, it has taken the lead in bringing the Debtors and the investor constituency together to  
12 reach consensus on a joint plan and disclosure statement. The Committee and its professionals  
13 took the lead in formulating a wind-down plan (the "Plan" or "Joint Plan") that will allow a  
14 measured sale of the Funds' assets over a three to five year period, a process that will allow the  
15 payment of all unsecured debts in full and is likely to yield a decent return to equity investors.  
16 These are unusual achievements in Chapter 11 cases.

17 The Committee's professionals including MLG negotiated the key provisions of the Joint  
18 Plan with the Debtors as well as various creditors with significant interests in the estates. The  
19 Committee's professionals including MLG then located a lender willing to provide bankruptcy exit  
20 financing for the Plan when the DIP financing proposed by the Debtors failed to materialize.

21 The Committee's professionals, particularly MLG, then took the lead in drafting a plan and  
22 disclosure statement as well as the related motion for substantive consolidation of the estates in the  
23 three Funds' bankruptcy cases. Substantive consolidation was conditionally approved on March  
24 31, 2010. After interim presentations to the Court of a plan, the Joint Plan as finally proposed was  
25 filed on June 24, 2010. The Disclosure Statement for the Joint Plan was approved on June 24,  
26 2010. Upon submission to creditors and equity investors, the Plan received overwhelmingly  
27 support. All objections to confirmation of the Plan have been overruled (with qualifications as  
28 directed by the Court) except for the objection by Canpartners Realty Holding Company IV LLP

1 ("Canpartners"). That objection is resolved via a settlement which is now pending before the  
2 Court for hearing on approval.

3 Assuming that the final obstacles to Plan approval have been eliminated, the Committee  
4 would expect the Plan to have an early-October effective date.

5 **B. Prior Payments to Applicant**

6 MLG made one prior interim fee application, which was considered by the Court on March  
7 26, 2010. The first interim fee application covered the period of October 16, 2010, through  
8 January 31, 2010, and was approved with a 20% hold-back. Because the Debtors had very limited  
9 funds available, MLG has received only \$50,000 towards the first fee award. Aside from the  
10 single \$50,000 distribution, MLG has received no additional compensation to date in these cases.

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

12 Pursuant to the Plan, there should be sufficient funds available on its effective date, or soon  
13 afterwards, to pay all administrative expenses including MLG's fees and costs.

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

15 From February 1, 2010, through July 31, 2010, MLG rendered the services described in  
16 this Application and in the invoices attached to the Declaration of Michael A. Sweet in Support Of  
17 Second Interim Application for Compensation and Reimbursement of Expenses for McNutt Law  
18 Group LLP as Counsel For the Official Committee of Equity Security Holders, filed concurrently  
19 herewith ("Sweet Decl."). MLG also incurred the actual and necessary expenses itemized in the  
20 invoices. MLG expended a total of 1,440.70 hours rendering services to the Committee during the  
21 period covered by this Application, for which it seeks \$572,688.50 in compensation. MLG also  
22 seeks \$23,708.55 in reimbursement of expenses incurred during the period.

23 **V. REQUIRED DISCLOSURE**

24 MLG has not entered into any agreement for the purpose of fixing the fees or other  
25 compensation to be paid for services rendered and expenses incurred in connection with this case.  
26 MLG has not agreed to share the compensation to be received for the services rendered in this case  
27 with any other entity. *See* Sweet Decl., ¶ 10.

28 The names and hourly rates of the professionals and paraprofessionals of MLG who billed

1 time for the period covered by this Application are as follows:

2 PROFESSIONAL	INITIALS	POSITION	DATE ADMITTED	RATE THROUGH 6/30/2010	RATE FROM 7/1/2010
4 Scott H. McNutt	SHM	Attorney	1982	\$500	\$525
5 Michael A. Sweet	MAS	Attorney	1996	\$450	\$495
Dale L. Bratton	DLB	Attorney	1986	\$450	\$450
6 Douglas C. Graham	DCG	Attorney	2001	\$375	\$395
Lindsey R. Moran	LRM	Attorney	2005	\$325	\$325
7 Shane J. Moses	SJM	Attorney	2005	\$325	\$325
Marianne M. Dickson	MMD	Attorney	2006	\$275	\$300
8 Jackie Jacobus	JJ	Paralegal	n/a	\$150	\$150

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 10 The hourly rates charged by MLG in this case are its customary rates charged by  
 11 comparably skilled practitioners in cases other than cases under Title 11. MLG's rates in this case  
 12 are not greater than those charged to other clients in other than bankruptcy matters.

13 As set forth below, MLG has compiled a project-based itemization of services rendered  
 14 based upon its contemporaneous daily records during the period covered by this Application.  
 15 MLG has utilized the project categories suggested by the UST Guidelines. The Committee has  
 16 been given an opportunity to review this Application. *See Sweet Decl.*, ¶ 9.

17 The following chart summarizes project billing categories and the total hours expended for  
 18 each category during the period covered by this Application, and is followed by a narrative and  
 19 detail.

20 CATEGORY	TOTAL HOURS BILLED	TOTAL HOURS NOT BILLED	TOTAL FEES
22 A. Case Administration	6.50		\$2,894.00
23 B. Asset Analysis and Recovery	34.10		13,435.00
24 C. Asset Disposition	45.40		17,113.00
25 D. Recovery of Insurance Policy and Proceeds			
26 1) Analysis of Insurance/Attempts at Direct Recovery From Insurers	57.00		\$22,710.00
27 2) Derivative Litigation	62.10		22,182.50

CATEGORY	TOTAL HOURS BILLED	TOTAL HOURS NOT BILLED	TOTAL FEES
E. Relief from Stay and Adequate Protection Proceedings	6.50		\$2,797.50
F. Fee and Employment Applications	49.70	.70	16,984.00
G. Other Fee and Employment Applications	19.00		6,555.00
H. Compensation of Professionals	2.90		1,230.00
I. Communications with Creditors	21.00		8,239.00
J. Communications with Committee Members	25.90		10,522.00
K. Equity Committee Meetings	64.70		27,133.50
L. Committee Meetings Preparation and Follow Up	21.20		8,238.00
M. Avoidance Action Analysis	13.20		5,077.50
N. Plan and Disclosure Statement			
1) Substantive Consolidation			
a) Motion for Substantive Consolidation	117.10		44,582.50
b) Addressing Objections to Substantive Consolidation	48.50		18,812.50
2) Financing and Cash Collateral			
	63.30	.40	27,885.00
3) Disclosure Statement			
a) Outline Essential Terms	11.80		5,060.00
b) Drafting of Disclosure Statement	60.70		27,385.00
c) Liquidating Trust Agreement	14.50		6,702.50
d) Disclosure Issues/Responding to Inquiries	43.30		19,745.00
e) Objections to Disclosure Statement	31.60		13,185.00
f) Disclosure Hearings and Related Matters	22.20		\$9,990.00

CATEGORY	TOTAL HOURS BILLED	TOTAL HOURS NOT BILLED	TOTAL FEES
4) Joint Plan of Reorganization			
a) Plan Outline and Essential Terms	62.40		27,057.50
b) Preparation of Plan and Revisions	84.60		37,170.00
c) Procedural and Logistical Issues	38.00		\$14,461.00
d) Inquiries and Negotiations	58.50		26,269.00
e) Tax Issues	7.40		3,465.00
f) Claims and Plan	35.10		15,170.000
g) Objections to Plan	17.50		8,280.00
h) Plan Voting and Balloting	73.80	.30	19,863.00
i) Confirmation Hearings and Related Matters	9.80		4,690.50
O. Litigation and Contested Matters	122.50		43,825.00
P. Claims Administration and Objections	70.60		27,674.00
Q. Committee Website	18.30		6,305.00
<b>TOTAL:</b>	<b>1,440.70</b>	<b>1.40</b>	<b>\$572,688.50</b>

**VI. SERVICES RENDERED**

**A. Case Administration**

This is a complicated Chapter 11 case. There are three Debtors, approximately \$188 million in initial invested capital, over 1,200 investors, and various assets with intertwined interests and relationships. In most instances MLG has been able to place tasks into specific categories. However, some time entries relate to the most general areas of case administration, or bridge multiple categories.

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1 The breakdown of fees incurred in this category is as follows. See Sweet Decl., Ex. A.

2 PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
3 Scott H. McNutt	SHM	.40	\$210.00
4 Michael A. Sweet	MAS	4.90	2,259.00
5 Dale L. Bratton	DLB	.40	180.00
6 Douglas C. Graham	DCG	.40	150.00
7 Lindsey R. Moran	LRM	.20	65.00
8 Jackie Jacobus	JJ	.20	30.00
<b>TOTALS</b>		<b>6.50</b>	<b>2,894.00</b>

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10 **B. Asset Analysis and Recovery**

11 The various intertwined interests and interdependent relationships among the Funds  
12 required that the Committee carefully scrutinize potential assets. Following the execution of the  
13 term-sheet with the Debtors and the Manager, and in support of efforts to determine the best  
14 approach for addressing options for a joint Chapter 11 Plan, the Committee analyzed materials  
15 related to various assets that might be available to the post-confirmation liquidating trust ("Trust")  
16 under the Plan. There are two significant areas of claims under this category. First, the Debtors  
17 have significant claims against David Choo and CMRI for losses suffered as a result of  
18 management practices. The Debtors have analyzed these claims and attempted to negotiate  
19 settlements with Choo and the Manager. The initial analysis and settlement discussions fall under  
20 this category. Second, in many of their loan transactions the Debtors obtained personal guarantees  
21 of third-parties. Since it was anticipated that the rights against these guarantors would pass to the  
22 Trust through the Plan, it was essential that the Committee gain some understanding of the  
23 potential value of these assets.

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

25 PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
26 Michael A. Sweet	MAS	10.40	\$4,680.00
27 Dale L. Bratton	DLB	3.70	1,665.00
28 Douglas C. Graham	DCG	11.80	4,425.00



<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Lindsey R. Moran	LRM	8.20	2,665.00
<b>TOTALS</b>		<b>34.10</b>	<b>\$13,435.00</b>

**C. Asset Disposition**

The Debtors' business was to make relatively short-term loans secured by deeds of trust on real estate. As this real estate was developed, the Funds' investments would be "taken out" by construction financing or other equity financing. However, as the real estate market began to collapse, the Funds ended up foreclosing on many of these properties. The foreclosed properties, in most cases, were then held through single-purpose real estate entities. Usually when a Fund foreclosed, it was doing so from a junior position which meant that it still needed to service more senior debt or negotiate some other arrangement with banks and other creditors. Because the ability to hold onto the Debtors' interests in these properties is key to the success of the proposed Chapter 11 Plan, the Committee Financial Advisors and Committee Counsel have taken an active role in activities relating to the disposition of these assets.

For example, in order to protect the Wheatland property, the Committee actively participated in negotiations with senior lenders on that property. The Committee is also actively involved in work relating to preserving the Debtors' interest in an entity known as Pfau, Pfau and Pfau LLC. This entity is itself the debtor in a bankruptcy in San Diego. This entity has two real estate holdings that will be significant assets of the post-confirmation Trust.

Committee Counsel has been engaged in negotiations over a settlement of claims related to a property in the East Bay called Saigon Plaza. Committee Counsel has also been involved with negotiations concerning claims arising out of the Debtors' interest in a property called Hamilton Creek, which is the subject of an entirely separate bankruptcy case in this court.

Much of Committee Counsel's time in this category relates to work to keep these properties from being lost to senior secured creditors.

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1 The breakdown of fees incurred in this category is as follows. See Sweet Decl., Ex. C.

2 PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
3 Michael A. Sweet	MAS	15.60	\$7,128.00
4 Dale L. Bratton	DLB	2.40	1,080.00
5 Lindsey R. Moran	LRM	27.40	8,905.00
6 <b>TOTALS</b>		<b>45.40</b>	<b>\$17,113.00</b>

7 **D. Recovery of Insurance Policy Proceeds**

8 A promising avenue for recovery is insurance policies which cover actions related to the  
9 Manager's conduct. The Funds purchased at least eight million dollars worth of insurance, a  
10 \$5,000,000 financial services liability policy issued through Indian Harbor Insurance Company  
11 and \$3,000,000 in mortgage bankers and brokers professional liability coverage under a policy  
12 issued by Certain Underwriters at Lloyd's, London. With far more than eight million dollars lost  
13 to the investors in the three Funds, and with no other entities or persons claiming damage under  
14 the policies besides equity investors, it seems clear that these policy proceeds should be paid to the  
15 investors in an efficient and equitable way and with a minimal expenditure on attorneys' fees  
16 (particularly since these are "wasting" or "declining policies").

17 **1. Analysis of Insurance/Attempts at direct recovery from insurers**

18 Committee Counsel analyzed the two insurance policies and made demands on the carriers.  
19 Simultaneously Committee Counsel worked to open communications with the law firm that had  
20 represented CMRI on insurance matters prior to the bankruptcy filing and which had apparently  
21 tendered claims to one or both of the insurers. MLG engaged in these efforts for several months  
22 as it attempted to bring the insurers into the Chapter 11 cases in a constructive way. Meeting with  
23 strong resistance, and no prospect of voluntary cooperation from the insurers, the Committee then  
24 retained an attorney specializing in insurance issues to assist in these efforts.

25 The breakdown of fees incurred in this category is as follows. See Sweet Decl., Ex. D.

26 PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
27 Scott H. McNutt	SHM	2.00	\$1,000.00

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Michael A. Sweet	MAS	15.20	6,840.00
Dale L. Bratton	DLB	6.20	2,790.00
Douglas C. Graham	DCG	23.20	8,700.00
Lindsey R. Moran	LRM	10.40	3,380.00
<b>TOTALS</b>		<b>57.00</b>	<b>22,710.00</b>

## 2. Derivative Litigation

The Committee and its professionals were unable to engage meaningfully with the insurance carriers. Lloyds had denied coverage completely prior to the Committee retaining counsel, and Indian Harbor asserted that its policy was not obligated to respond because the investors had not asserted any claims against any of the insureds. Committee Counsel then commenced analysis of the most efficient and inexpensive vehicle for asserting the investors' claims to bring the insurance proceeds into the estate.

Ultimately Committee Counsel advised the Committee that the most likely avenue to yield results with the insurance carriers was to file litigation against the Manager and David Choo (both of whom are insureds). Committee counsel researched claims for relief against Choo and CMRI and prepared to file a derivative and class action complaint.

This effort involved complex issues and a careful investigation of the potential consequences of various possible approaches. The goal was to find a way to resolve all claims between the Manager, David Choo, and the investors, obtain the maximum recovery for investors, and achieve global settlement. This would require that not only the debtors, but also non-debtor parties be given releases, something that typically cannot be done via a Chapter 11 plan.

Committee Counsel ultimately advised the Committee that an action against Choo and CMRI should be framed as a suit by investor plaintiffs on behalf of the Funds derivatively and on behalf of a class of all similarly situated investors. Three committee-members elected to file a class

1 action lawsuit along these lines.<sup>1</sup>

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

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	4.70	\$2,115.00
Dale L. Bratton	DLB	11.30	5,085.00
Lindsey R. Moran	LRM	45.70	14,852.50
Shane J. Moses	SJM	.40	130.00
<b>TOTALS</b>		<b>62.10</b>	<b>\$22,182.50</b>

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9 **E. Relief from Stay and Adequate Protection Proceedings**

10 Several of the investors in the Funds have filed state court actions through which they are  
11 attempting to obtain judgments against the Funds as well as other entities insured under the Indian  
12 Harbor and Lloyd's policies. As described above, the Committee believes that the limited amount  
13 of insurance proceeds should benefit the entire equity body, not just select investors, and has  
14 objected to the attempts by this small group of investors to continue state court lawsuits against  
15 the Manager and related entities. During the period covered by this fee application there were  
16 several hearings on pending relief from stay motions by state court plaintiffs. Committee Counsel  
17 has also responded to inquiries from the attorney representing the Debtors and the Manager in  
18 state court as to the impact of the bankruptcy proceedings on the state court actions. Finally,  
19 Committee Counsel has been required to address, from time to time, a pending relief from stay  
20 motion in the Hamilton Creek case by the senior secured lender.

21 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. F.*

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	4.80	2,160.00
Douglas C. Graham	DCG	1.70	637.50

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26 <sup>1</sup> While MLG is representing these individual committee-members in the class action, it is doing  
27 so under a separate engagement agreement and MLG has not billed the Committee for its work in  
28 connection with this class action once the decision was made that the action would need to be  
brought by individuals and not the entire Committee.

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
<b>TOTALS</b>		<b>6.50</b>	<b>\$2,797.50</b>

**F. Fee and Employment Applications**

Time incurred in this category primarily concerns MLG's First Interim Fee Application which was approved by the Court on March 31, 2010. There is also some time billed during the period of this Application related to this Second Interim Fee Application.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. G.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	13.00	\$6,106.50
Lindsey R. Moran	LRM	30.70	9,977.50
Jackie Jacobus	JJ	6.00	900.00
<b>TOTALS</b>		<b>50.40</b>	<b>\$17,351.50</b>

(The bulk of the time incurred in preparation of this Second Interim Fee Application will appear in the application for the next period, but pursuant to the Court Guidelines an estimate – approximately \$18,000 – is provided here.)

**G. Other Fee and Employment Applications**

As primary counsel for the Equity Committee, MLG has supported the Committee's other retained professionals as appropriate with regard to their employment applications and fee applications. Entries in this category include assisting the Committee Financial Advisors with their first interim fee application which was granted by the Court on March 31, 2010. Committee Counsel also assisted the special insurance counsel and special tax counsel with their employment applications, which were approved by the Court on April 19, 2010, and June 16, 2010, respectively. Finally, Committee Counsel was called upon to advise on applications for employment of and payment to professionals who have been providing services to the various Debtor entities.

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1 The breakdown of fees incurred in this category is as follows. See Sweet Decl., Ex. H.

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	1.20	\$540.00
Dale L. Bratton	DLB	2.90	1,305.00
Lindsey R. Moran	LRM	13.50	4,387.50
Marianne M. Dickson	MMD	.90	247.50
Jackie Jacobus	JJ	.50	75.00
<b>TOTALS</b>		<b>19.00</b>	<b>\$6,555.00</b>

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9 **H. Compensation of Professionals**

10 As these are rather complicated cases with complex financial situations, the Debtors have  
11 hired numerous professionals including accountants, tax professionals, and special counsel since  
12 the commencement of these cases. Charges in this category refer to the Committee's review and  
13 analysis of the proposed or requested compensation for these various professionals, and attendance  
14 at one hearing on such matters.

15 The breakdown of fees incurred in this category is as follows. See Sweet Decl., Ex. I.

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	2.30	\$1,035.00
Lindsey R. Moran	LRM	.60	195.00
<b>TOTALS</b>		<b>2.90</b>	<b>\$1,230.00</b>

20

21 **I. Communications with Creditors**

22 MLG has continued to incur considerable time responding to inquiries from among the  
23 1,200-plus investors in the Funds. This has included general inquiries about the Plan and  
24 Disclosure statement, the financial status of the Funds' assets, and the Committee's intended  
25 strategy for recovery. MLG has received and responded to these inquiries by telephone, email,  
26 and postal mail. As a general rule such inquiries are handled by non-attorneys, but if requested an  
27 attorney will communicate with an investor. Most inquiries are handled in a comparatively short  
28 time. There have been some situations where investors have engaged MLG staff and attorneys in

1 lengthy calls or have posed inquiries that required detailed email responses.

2 The breakdown of fees incurred in this category is as follows. *See* Sweet Decl., Ex. J.

3

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	1.60	\$800.00
Michael A. Sweet	MAS	5.00	2,349.00
Dale L. Bratton	DLB	4.40	1,980.00
Lindsey R. Moran	LRM	9.20	2,990.00
Jackie Jacobus	JJ	.80	120.00
<b>TOTALS</b>		<b>21.00</b>	<b>\$8,239.00</b>

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10 **J. Communications with Committee Members**

11 Most of the work with the Committee is handled through regular Committee meetings.

12 *See* the following category. However, members of the Committee also work individually with  
13 Committee Counsel from time to time, for example to discuss developments in the case and their  
14 implications for the investors, or to provide input on the formulation of specific strategies for the  
15 Committee. During the period covered by the Second Interim Fee Application, communications  
16 between MLG and Committee members have generally related to issues surrounding the plan  
17 process. There have also been discussions on other topics, such as the status of the Canpartners  
18 litigation or plans for the disposition of various Debtor assets.

19 The breakdown of fees incurred in this category is as follows. *See* Sweet Decl., Ex. K.

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	9.10	\$4,212.00
Dale L. Bratton	DLB	6.80	3,060.00
Lindsey R. Moran	LRM	10.00	3,250.00
<b>TOTALS</b>		<b>25.90</b>	<b>\$10,522.00</b>

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25 **K. Equity Committee Meetings**

26 During the period covered by this Application, the Committee has met about once per  
27 month. Occasionally the Committee meets more frequently, when the workload or hearing  
28

1 schedule so dictates. Generally, meetings take place via telephone conference and run three to  
 2 four hours; some members occasionally attend in person. For most meetings the two MLG  
 3 attorneys who are most active in the case, Michael Sweet and Dale Bratton, participate. However,  
 4 from time to time other attorneys participate for some or all of a meeting to discuss specific tasks  
 5 that those attorneys are performing for the Committee.

6 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. L.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	.60	\$300.00
Michael A. Sweet	MAS	23.40	10,611.00
Dale L. Bratton	DLB	23.40	10,530.00
Douglas C. Graham	DCG	1.40	525.00
Lindsey R. Moran	LRM	15.90	5,167.50
<b>TOTALS</b>		<b>64.70</b>	<b>\$27,133.50</b>

14 **L. Committee Meeting Preparation and Follow Up**

15 The time in this category includes preparation of agendas and minutes for Committee  
 16 meetings, as well as preparing or reviewing materials that are to be the subject of discussion at  
 17 these meetings. Such materials have often involved complex legal and financial issues.

18 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. M.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	8.30	\$3,820.50
Dale L. Bratton	DLB	1.80	810.00
Lindsey R. Moran	LRM	11.10	3,607.50
<b>TOTALS</b>		<b>21.20</b>	<b>\$8,238.00</b>

24 **M. Avoidance Action Analysis**

25 Part of the Committee's work has been to determine whether monies could be recovered  
 26 through avoidance actions under the Bankruptcy Code. Although the Debtors did not make many  
 27 payments to creditors (since these payments generally took place through the Manager), there  
 28



1 were some distributions to equity investors during the months leading up to the bankruptcy filings.  
2 Committee Counsel, working with the Committee Financial Advisor, reviewed the Debtors'  
3 cashflow during the months leading up to the filings to determine whether any of these  
4 distributions were recoverable. This analysis will be utilized by the post-confirmation Trust.

5 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. N.*

6 PROFESSIONAL	7 INITIALS	8 HOURS BILLED	9 TOTAL FEES
10 Michael A. Sweet	MAS	1.30	\$585.00
Dale L. Bratton	DLB	.40	180.00
Douglas C. Graham	DCG	11.50	4,312.50
<b>TOTALS</b>		<b>13.20</b>	<b>\$5,077.50</b>

11 **N. Plan and Disclosure Statement**

12 At the time the Committee was appointed, the three Debtor-funds appeared to be working  
13 at cross-purposes. Funds II and III had separate plans pending before the Court. There appeared  
14 to be no coherent or viable strategy for putting forward a plan that was actually likely to bring a  
15 positive result for any part of the equity body. Meanwhile, Fund I was embroiled in expensive,  
16 and high-stakes, litigation with Canpartners over a property which may, in the final analysis, be of  
17 no value at all to the Funds.

18 Having been appointed to represent the equity interests in all three Funds, the Committee  
19 early on focused on bringing the various divergent interests together. The goal was to formulate a  
20 Chapter 11 plan that actually had prospects of recovering significant value for equity investors, in  
21 difficult legal and financial circumstances and from a precariously-positioned pool of illiquid  
22 assets.

23 The first step in this process was the entry into a term-sheet with the Debtor funds. This  
24 occurred in mid-January 2010, which was in the period covered by the Committee's prior fee  
25 application. The term-sheet called for the three Debtors to work together with the Manager and  
26 the Committee to negotiate a joint plan of reorganization. Shortly thereafter, the Committee and  
27 the Debtors set to work on such a plan. This eventually became the Plan as filed on June 24.  
28

1 The Plan, as conceived by MLG along with the Committee Financial Advisors, would use  
2 a liquidating trust to sell off the Funds' various real property assets over a three to five-year period.  
3 By utilizing a controlled-sale process, the Trust can identify specific assets that should be sold in  
4 the near term while the proceeds of those sales can be utilized to service senior indebtedness on  
5 other properties or to pay for entitlements or other improvements that will improve the long-term  
6 sale price of key holdings in the Funds' property portfolio.

7 At the time of submission of this Application, the Plan is progressing well on its way to  
8 confirmation. The final confirmation objection, by Canpartners, has been resolved through a  
9 settlement agreement subject to the Court's approval, and a motion for such approval is set for  
10 hearing on September 22, 2010. If all goes well, the Plan could go effective in early October.

11 This section of the fee application addresses each of the various tasks undertaken by  
12 Committee Counsel to bring this Plan to fruition.

13 **1. Substantive Consolidation**

14 Substantive consolidation is authorized when multiple debtors' books and records cannot  
15 be adequately disentangled, or keeping the entities separate would be inequitable to creditors and  
16 interest holders. Both of these factors are present here. The books and records inadequately  
17 reflect the intent of the various parties involved with these Funds on how investment funds were  
18 treated and lien positions were created. The Manager in many respects treated what should have  
19 been formally distinct Funds as if they were a single pool of investable funds.

20 Early in the conceptual process for the Joint Plan, it became clear that the most efficient  
21 vehicle for generating a recovery for equity investors would be through a single substantively  
22 consolidated plan. It would be seriously inequitable to the various parties, particularly equity  
23 holders, to maintain the illusion that these funds were operated separately and in full accord with  
24 their operating agreements. The legal and financial issues involved were complex, and the subject  
25 of a good deal of analysis. The results of the analytical efforts, however, clearly favored  
26 consolidation.

27 The Committee recognized that combining presentation of the substantive consolidation  
28 issue with the presentation of separate Chapter 11 plans for three separate Funds would raise

1 serious logistical issues. Investors would then have been faced with a ballot decision that would  
2 have had to be framed in a very complex and inherently confusing way. The results of balloting  
3 through three separate plans could also have been difficult to reconcile, and might have led to an  
4 internally contradictory result. After analyzing these issues, the Committee determined to first  
5 move to substantively consolidate the three Funds' cases, and only subsequently create a single  
6 plan and disclosure statement. Then, with this threshold issue clearly presented and resolved, a  
7 single coherent plan for dealing with all assets and all claims in a systematic way could be  
8 proposed.

9 **(a) Motion For Substantive Consolidation**

10 The time in this category relates to the actual research, analysis, and drafting of the  
11 Committee's Motion for Substantive Consolidation. It also includes preparation for and  
12 attendance at the hearing on the Motion.

13 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. O.*

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	3.80	\$1,900.00
Michael A. Sweet	MAS	17.60	7,920.00
Dale L. Bratton	DLB	30.40	13,680.00
Lindsey R. Moran	LRM	64.50	20,962.50
Jackie Jacobus	JJ	.80	120.00
<b>TOTALS</b>		<b>117.10</b>	<b>\$44,582.50</b>

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21 **(b) Addressing Objections to Substantive Consolidation**

22 There were two objections to the Committee's Motion for Substantive Consolidation. The  
23 Office of the U.S. Trustee filed one. The Committee found that odd, since the UST had actually  
24 appointed a single Committee to represent the investors in the three Funds. The other was by  
25 Canpartners, which the Committee perceived as intent on preventing the Funds from pooling  
26 resources to better maintain the litigation over Fund I's losses suffered as a result of the Hawaii  
27 investment with Canpartners.  
28

1 In an attempt to accommodate inquiries by Canpartners and try to address questions raised  
2 in its objection to substantive consolidation, Committee Counsel and the Committee's Financial  
3 Advisor engaged in informal discovery with Canpartners' counsel. Ultimately, Canpartners went  
4 forward with its objection anyway, which made it necessary for additional briefing and  
5 declarations to be prepared by Committee Counsel.

6 This category covers work by Committee Counsel to respond to the objections. The  
7 breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. P.*

8	PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
9	Michael A. Sweet	MAS	17.10	\$7,695.00
10	Dale L. Bratton	DLB	7.30	3,285.00
11	Lindsey R. Moran	LRM	24.10	7,832.50
12	<b>TOTALS</b>		<b>48.50</b>	<b>\$18,812.50</b>

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14 **2. Financing and Cash Collateral**

15 At the time the Committee was appointed, the Debtor Funds were in the process of  
16 attempting to raise debtor-in-possession ("DIP") financing for their various Chapter 11 plans. The  
17 proposal was to raise money from investors who were already participants in the various funds.  
18 The Committee's Financial Advisor began making projections for how a liquidating plan might  
19 operate and it was clear that there would be a need for over \$10 million in interim financing for  
20 the Plan to have a good prospect for successful implementation. Committee Counsel and the  
21 Committee's Financial Advisor realized clearly that the ability of the Debtors and the Manager to  
22 raise sufficient additional money to finance a plan that had a realistic chance of achieving  
23 confirmation was highly speculative. The Committee instructed Committee Counsel and the  
24 Committee Financial Advisor to explore alternate sources of exit financing.

25 Securing financing necessary for a plan was not an easy task. The Debtors had not been  
26 able to raise any significant amount of DIP financing. Bankruptcy exit financing such as the  
27 Committee sought was not readily available on the commercial market. Committee Counsel  
28

1 therefore engaged in extensive outreach to various individuals and entities with which MLG had  
2 worked in other bankruptcies in an effort to identify a viable funding source.

3 Ultimately MLG was able to secure a commitment for a \$12 million loan through ASK  
4 Financial which would become the financing upon which the Joint Plan is based. As a pre-  
5 requisite to its lending, and in order to support its due diligence efforts, ASK Financial required  
6 appraisals of key properties in the Funds' portfolio. In addition to the \$12 million loan, ASK also  
7 agreed to make a loan of \$200,000 in order to finance the preparation of these appraisals.

8 This category covers work by Committee Counsel to identify a lender, as well as to  
9 document the two ASK Financial loan commitments (one for \$12 million and the smaller  
10 appraisal loan of \$200,000). The category also includes fees associated with bringing a motion  
11 before the Court for approval of the \$200,000 borrowing to fund the appraisals.

12 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. Q.*

13

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	24.70	\$12,532.50
Michael A. Sweet	MAS	15.50	7,020.00
Dale L. Bratton	DLB	6.60	2,970.00
Lindsey R. Moran	LRM	16.50	5,362.50
<b>TOTALS</b>		<b>63.30</b>	<b>\$27,885.00</b>

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19 **3. Disclosure Statement**

20 The task of preparing and obtaining approval of a disclosure statement in a case as  
21 complex as this was complicated. In order to comply with the appropriate fee application  
22 guidelines, Committee Counsel has divided its work on the disclosure statement into several sub-  
23 categories that reflect the work performed on different disclosure-related tasks.

24 **(a) Outline Essential Terms**

25 This category covers work by Committee Counsel to organize the general concepts of the  
26 Disclosure Statement and to outline its key components.

27 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. R.*

28

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Michael A. Sweet	MAS	3.70	\$1,665.00
Dale L. Bratton	DLB	6.10	2,745.00
Lindsey R. Moran	LRM	2.00	650.00
<b>TOTALS</b>		<b>11.80</b>	<b>\$5,060.00</b>

**(b) Drafting of Disclosure Statement**

This category covers work by Committee Counsel on the actual drafting of the disclosure statement as well as various key exhibits.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. S.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Scott H. McNutt	SHM	1.40	\$700.00
Michael A. Sweet	MAS	6.90	3,105.00
Dale L. Bratton	DLB	52.40	23,580.00
<b>TOTALS</b>		<b>60.70</b>	<b>\$27,385.00</b>

**(c) Liquidating Trust Agreement**

This category covers work by Committee Counsel in drafting the Wind-Down Trust Agreement, which is an exhibit to the Disclosure Statement and a key document that will govern the Trust under the Plan post-confirmation.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. T.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Scott H. McNutt	SHM	3.40	\$1,707.50
Dale L. Bratton	DLB	11.10	4,995.00
<b>TOTALS</b>		<b>14.50</b>	<b>\$6,702.50</b>

**(d) Disclosure Issues/Responding to Inquiries**

As the disclosure process moved forward a number of issues and inquiries arose both internally among the plan proponents and externally from interested parties. This category

1 encompasses efforts by Committee Counsel to respond to these various inquiries as well as the  
2 process of incorporating supplements or modifications to the Disclosure Statement that would  
3 address such concerns.

4 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. U.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	10.00	\$5,000.00
Michael A. Sweet	MAS	10.30	4,635.00
Dale L. Bratton	DLB	22.20	9,990.00
Jackie Jacobus	JJ	.80	120.00
<b>TOTALS</b>		<b>43.30</b>	<b>\$19,745.00</b>

11 (e) **Objections to Disclosure Statement**

12 Objections to the Disclosure Statement were made by Canpartners, Robert Feinbaum, and  
13 the United States Trustee. Work in this category relates to responding to these objections,  
14 including making changes to the Disclosure Statement to accommodate requests of the objectors  
15 when appropriate.

16 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. V.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	7.50	\$3,375.00
Dale L. Bratton	DLB	15.30	6,885.00
Lindsey R. Moran	LRM	8.00	2,665.00
Shane J. Moses	SJM	.80	260.00
<b>TOTALS</b>		<b>31.60</b>	<b>\$13,185.00</b>

23 (f) **Disclosure Hearings and Related Matter**

24 The Court held several hearings on the Disclosure Statement during the period of this  
25 Application. This category includes work by Committee Counsel preparing for and attending  
26 those hearings as well as post-hearing follow-up activities.

27 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. W.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Michael A. Sweet	MAS	12.40	\$5,580.000
Dale L. Bratton	DLB	9.80	4,410.00
<b>TOTALS</b>		<b>22.20</b>	<b>\$9,990.00</b>

**4. Joint Plan of Reorganization**

As with the Disclosure Statement, the task of preparing the Plan was also complicated. In order to comply with the appropriate fee application guidelines, Committee Counsel has divided its work on the Plan into several sub-categories that reflect the work performed on different plan-related tasks.

**(a) Plan Outline and Essential Terms**

This category covers work by Committee Counsel to organize the general concepts of the Plan and to outline its key components.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. X.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Scott H. McNutt	SHM	8.30	\$4,247.50
Michael A. Sweet	MAS	7.10	3,195.00
Dale L. Bratton	DLB	34.70	15,615.00
Douglas C. Graham	DCG	2.50	937.50
Lindsey R. Moran	LRM	9.10	2,957.50
Jackie Jacobus	JJ	.70	105.00
<b>TOTALS</b>		<b>62.40</b>	<b>\$27,057.50</b>

**(b) Preparation of Plan and Revisions**

This category covers work by Committee Counsel on the actual drafting of the Plan and exhibits.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. Y.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Scott H. McNutt	SHM	3.60	\$1,620.00



<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Dale L. Bratton	DLB	77.40	34,830.00
Douglas C. Graham	DCG	.80	300.00
Jackie Jacobus	JJ	2.80	420.00
<b>TOTALS</b>		<b>84.60</b>	<b>\$37,170.00</b>

(c) **Procedural and Logistical Issues**

The Committee had the lead role in putting forward the Joint Plan. This also necessitated taking the lead on coordinating procedural and logistical issues for the Plan both among the co-proponents and interested third parties. This category covers work by Committee Counsel on things like allocating work among the other proponents, setting hearings on the Plan, and ensuring that all parties performed agreed tasks on the timeline as the case moved towards balloting and confirmation hearing.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. Z.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Scott H. McNutt	SHM	2.50	\$1,267.50
Michael A. Sweet	MAS	7.60	3,478.50
Dale L. Bratton	DLB	11.90	5,355.00
Lindsey R. Moran	LRM	11.20	3,640.00
Jackie Jacobus	JJ	4.80	720.00
<b>TOTALS</b>		<b>38.00</b>	<b>\$14,461.00</b>

(d) **Inquiries and Negotiations**

In order to achieve plan confirmation, the needs of many disparate constituencies had to be addressed. In addition to efforts to address issues raised by plan objectors and equity investors, which are addressed under other categories, Committee Counsel also responded to other parties who had interests in the Plan. This category covers responses to inquiries by and negotiations with these parties, including among others the SEC, the Office of the United States Trustee, and Wells Fargo Foothill.

1 Included in this category is substantial negotiation and documentation effort with Wells  
2 Fargo Foothill, for Plan treatment of WFF's secured claim that results in a major discount from the  
3 full amount of WFF's claim in return for earlier payment of the discounted amount.

4 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. AA.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	1.60	\$820.00
Michael A. Sweet	MAS	3.10	1,426.50
Dale L. Bratton	DLB	52.30	23,535.00
Lindsey R. Moran	LRM	1.50	487.50
<b>TOTALS</b>		<b>58.50</b>	<b>\$26,269.00</b>

11 (e) **Tax Issues**

12 As the Court is aware, the Committee retained special tax counsel because the Plan has tax  
13 implications for the equity investors, and disclosure materials on those implications are required as  
14 well. This category covers work by Committee Counsel to synthesize the input of special tax  
15 counsel into the Joint Plan.

16 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. BB.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	2.70	\$1,350.00
Michael A. Sweet	MAS	.10	45.00
Dale L. Bratton	DLB	4.60	2,070.00
<b>TOTALS</b>		<b>7.40</b>	<b>3,465.00</b>

23 (f) **Claims and Plan**

24 The Committee's goal was to provide a mechanism for a plan that would pay creditors in  
25 full. This would allow money after that is achieved to flow to the equity body. So a significant  
26 component of developing the Plan was to evaluate claims of various parties (both insiders and  
27 third-parties) to determine the appropriate treatment of these creditors.

28 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. CC.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	2.30	\$1,035.00
Dale L. Bratton	DLB	27.80	12,510.00
Lindsey R. Moran	LRM	5.00	1,625.00
<b>TOTALS</b>		<b>35.10</b>	<b>\$15,170.00</b>

**(g) Objections to Plan Confirmation**

Objections to confirmation were filed by Canpartners, several investors, investors who are plaintiffs in state court actions against the Funds and/or the Manager, and a real estate speculator with no apparent standing in the case. At the time of this drafting it appears that the Canpartners objection has been resolved via settlement; a hearing on approval of that settlement has been scheduled. The other confirmation objections were overruled by the Court. This category includes work by Committee Counsel to analyze objections to confirmation and to develop and implement strategies for responding to the objections.

The breakdown of fees incurred in this category is as follows. *See* Sweet Decl., Ex. DD.

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	4.80	\$2,520.00
Michael A. Sweet	MAS	1.00	495.00
Dale L. Bratton	DLB	11.70	5,265.00
<b>TOTALS</b>		<b>17.50</b>	<b>\$8,280.00</b>

**(h) Plan Voting and Balloting**

Over 2,100 plans, disclosure statements, and ballots were mailed out in this case to creditors and equity investors. (Many investors had multiple accounts.) As the lead proponent of the Joint Plan, the Committee took the responsibility for the mailings as well as tallying all ballots voted.

Given the importance of the decision the investors were asked to make in balloting on the Plan, the Committee determined to hold an open information session for all interested investors and made preparations to make it a useful event. The informational meeting took place on July

1 21, 2010, and lasted approximately three hours. Over 100 investors participated in person, with  
 2 30-50 more participants accessing the meeting live by telephone conferencing facility. Investors  
 3 heard presentations from members of the Equity Committee as well as its advisors including MLG  
 4 attorneys, the Committee Financial Advisor, special tax counsel, and a representative of the  
 5 Manager. Dozens of questions were submitted by investors, both those attending in person and  
 6 participating via telephone. In days prior to and following the meeting MLG attorneys and staff  
 7 also fielded dozens of questions from investors about the plan process and balloting requirements.

8 This category includes work by Committee Counsel on all of these facets of outreach to  
 9 investors as well as distributing, collecting, and tallying the ballots for the Joint Plan.

10 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. EE.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	2.70	\$1,387.50
Michael A. Sweet	MAS	9.60	4,630.50
Dale L. Bratton	DLB	15.40	6,930.00
Jackie Jacobus	JJ	46.10	\$6,915.00
<b>TOTALS</b>		<b>73.80</b>	<b>\$19,863.00</b>

17 (i) **Confirmation Hearings and Related Matters**

18 The Court held an initial hearing on plan confirmation during the period of this Second  
 19 Interim Fee Application. (Additional hearings on confirmation were held after the end date for  
 20 this Application.) This category includes work by Committee Counsel preparing for and attending  
 21 that hearing, as well as post-hearing follow-up activities.

22 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. FF.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	2.30	\$1,207.50
Michael A. Sweet	MAS	2.90	1,413.00
Dale L. Bratton	DLB	4.60	2,070.00
<b>TOTALS</b>		<b>9.80</b>	<b>\$4,690.00</b>

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**O. Litigation and Contested Matters**

There are a number of items of pending litigation that affect the interests of the equity-holders. The most significant piece of litigation is the dispute between Fund I and Canpartners over the failed Hawaii investment. During the period covered by this Application Committee Counsel engaged in analysis of the remaining claims in the litigation. The purpose was to advise the Committee as to likely costs and benefits that would result from the post-confirmation Wind-Down Trust retaining rights to the litigation or otherwise playing an active role in the litigation post-confirmation. Ultimately, based largely on this analysis, the Committee elected to seek negotiations for a global settlement between Canpartners and the Funds, with the purpose of resolving all issues through an appropriate compromise and bringing the litigation to an end.

The other litigation that was the focus of the Committee's efforts during the period of this fee application was the various state court actions brought by certain investors against the Manager, David Choo, and the Debtor Funds. Because the state court actions named entities that were "insureds" under the same \$5 million to \$8 million in insurance policies that have been a focus of Committee recovery efforts, Committee Counsel has carefully monitored the actions. Where appropriate, the Committee has acted to take steps that would preserve policy proceeds and prevent parties from running up significant legal bills that would drain the wasting policies.

The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. GG.*

<b>PROFESSIONAL</b>	<b>INITIALS</b>	<b>HOURS BILLED</b>	<b>TOTAL FEES</b>
Scott H. McNutt	SHM	.40	\$200.00
Michael A. Sweet	MAS	23.30	\$10,512.00
Dale L. Bratton	DLB	7.80	3,510.00
Douglas C. Graham	DCG	.40	158.00
Lindsey R. Moran	LRM	83.80	27,235.00
Shane J. Moses	SJM	6.80	2,210.00
<b>TOTALS</b>		<b>122.50</b>	<b>\$43,825.00</b>

1 **P. Claims Administration and Objections**

2 In preparation for Plan confirmation, Committee Counsel scrutinized the various claims by  
3 unsecured creditors of the three funds. Committee Counsel concluded that, at a minimum, the  
4 largest unsecured claim - \$5.8 million, filed by Canpartners, was objectionable. The Committee  
5 needed to prevent this disputed claim from distorting voting on confirmation of the Plan, with  
6 potential adverse effect on achieving confirmation. Accordingly, a claim objection needed to be  
7 filed prior to balloting, and – potentially – the claim would need to be estimated for voting  
8 purposes. Committee Counsel prepared and filed an objection. This was a substantial task given  
9 the complexity of the dispute between the parties and the size of the claim.

10 Soon after the claim objection was filed, Canpartners and the Committee were able to  
11 commence the serious settlement discussions that led to the resolution through compromise one of  
12 the most contentious and costly components of this case. By eliminating this single claim,  
13 Committee Counsel also succeeded in eliminating the sole remaining objection to confirmation  
14 while simultaneously freeing up a significant amount of post-confirmation cash that might have  
15 otherwise had to be reserved for the Canpartners claim.

16 This category includes time related to analyzing and objecting to the Canpartners claim, as  
17 well as negotiations over resolution of that objection.

18 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. HH.*

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PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Scott H. McNutt	SHM	1.70	\$892.50
Michael A. Sweet	MAS	9.00	4,351.50
Dale L. Bratton	DLB	23.70	10,665.00
Shane J. Moses	SJM	36.20	11,765.00
<b>TOTALS</b>		<b>70.60</b>	<b>\$27,674.00</b>

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25 **Q. Committee Website**

26 With over 1,200 investors as the Committee constituency, MLG anticipated expending  
27 considerable time responding to investor inquiries, concerns, and requests for information.  
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1 Accordingly, the Committee sought authorization from the court to establish procedures on how  
2 the Committee should disseminate information as well as an order defining the extent of the  
3 Committee's obligation to provide access to the Debtor's confidential and other non-public  
4 proprietary information and to the Committee's privileged information. Such protocols would  
5 ensure that confidential, privileged, proprietary, and/or material non-public information will not be  
6 disseminated to the detriment of the Debtors' estates and aid the Committee in performing its  
7 statutory function under §section 1102(b)(3)(A) of Bankruptcy Code, as amended by the  
8 Bankruptcy Abuse Prevention Consumer Protection Act of 2005.

9 Establishing a website is one such way the Committee achieves its dissemination of  
10 information to its large constituency. Committee Counsel constructed a website that made the  
11 following information available: (i) general public information concerning the Funds' cases,  
12 including documents filed in the cases and links to the Court's PACER system and case docket,  
13 (ii) the Committee's occasional written reports summarizing recent public proceedings, public  
14 events, and financial information, (iii) a calendar with upcoming significant events in the cases,  
15 (iv) a general overview of the Chapter 11 process, (v) press releases (if any) issued by the  
16 Committee or the Debtors, and (vi) answers to frequently asked questions. Additionally,  
17 Committee Counsel distributed case updates via electronic mail for investors that have registered  
18 for this service on the Committee website. Committee Counsel also established and maintained a  
19 telephone number and electronic mail address for investors to submit questions and comments.

20 In Chapter 11 cases Committees often outsource the committee website to companies that  
21 charge tens of thousands of dollars to setup and maintain the website. By keeping the website in-  
22 house at MLG, the Committee believes it is saving a significant amount of money. This category  
23 includes work by Committee Counsel to keep the Committee website updated.

24 The breakdown of fees incurred in this category is as follows. *See Sweet Decl., Ex. II.*

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Michael A. Sweet	MAS	1.10	\$495.00
Dale L. Bratton	DLB	2.60	1,170.00
Lindsey R. Moran	LRM	14.00	\$4,550.00

PROFESSIONAL	INITIALS	HOURS BILLED	TOTAL FEES
Jackie Jacobus	JJ	.60	90.00
<b>TOTALS</b>		<b>18.30</b>	<b>\$6,305.00</b>

## **VII. SUMMARY OF EXPENSES**

MLG does not charge for incidental in-house copying, faxes, de minimus postage, or long-distance phone charges (other than third-party vendor hosted conference calls). MLG does charge for attorney travel expenses, and costs incurred with third party vendors, at actual cost. Committee Members incurred some travel expenses when attending Committee meetings in person.

The total expenses incurred by MLG in this case for the period covered by this Application are as follows. *See Sweet Decl., Ex. JJ.*

CATEGORY	EXPENSES BILLED
A. Copying	\$5,346.06
B. Outside Printing	29,678.88
C. Conference Calls	2,353.56
D. Online Research	2,114.60
E. Delivery/Messengers	339.45
F. Postage	12,084.81
G. Local Travel	200.95
H. Meals	53.37
I. Litigation Support Vendors	750.00
J. Committee Expenses	465.75
<b>TOTAL EXPENSES BILLED:</b>	<b>\$53,387.43</b>

## **VIII. INTEROFFICE CONFERENCES**

Some of the attorneys' fees expended by Applicant in its representation of the Committee in this case include conferences between and among the attorneys of MLG. Applicant believes such meetings are necessary to the efficient and economical administration of the case to (i) ensure that all professionals involved in the case understand and appreciate the overall case strategy and



1 the ultimate goals of the case; (ii) effectively delegate those matters which can be most  
2 economically handled by junior professionals with a lower hourly billing rate while providing the  
3 necessary guidance and support to such junior professionals regarding their assignments; and  
4 (iii) ensure that the efforts of all professionals working on the case complement each other without  
5 waste or duplication. Applicant does not believe that there has been an extraordinary or  
6 unwarranted use of interoffice conferences in this case. Sweet Decl., ¶ 6.

7 **IX. MULTIPLE PROFESSIONALS**

8 At various times in the course of its representation of the Committee in this case, more  
9 than one professional from MLG may have participated in a significant meeting. Such  
10 participation was based on the mix of issues involved, and particular professionals' knowldege and  
11 expertise on the relevant aspects of this representation. Applicant believes that its use of multiple  
12 professionals in these instances was reasonable and was beneficial to the efficient representation  
13 of the Committee. Sweet Decl., ¶ 7.

14 **X. RESPONSIBLE PERSONNEL**

15 The services subject to this Application were performed by attorneys Scott H. McNutt,  
16 Michael A. Sweet, Dale L. Bratton, Douglas C. Graham, Lindsey R. Moran, Shane J. Moses, and  
17 Marianne M. Dickson, and paralegal Jackie Jacobus. A description of these individuals'  
18 experience and qualifications is set forth as an exhibit to the accompanying declaration of Michael  
19 A. Sweet. See Sweet Decl., Ex. MM.

20 **XI. ESTABLISHMENT OF FEES**

21 "A compensation award based on a reasonable hourly rate multiplied by the number of  
22 hours actually and reasonably expended is presumptively a reasonable fee." In re Manoa Finance  
23 Company, 853 F.2d 687 (9th Cir. 1988). Establishing a reasonable hourly rate requires  
24 consideration of market rates in the relevant community which are, in turn, at least partly a  
25 function of the type of services rendered and the lawyer's experience, skill, and reputation. MLG  
26 has more than 20 years of successful experience representing creditors, trustees, debtors, creditors'  
27 committee's, equity committees, and other parties in interest in bankruptcy proceedings. See  
28 Sweet Decl., ¶ 8. For this level of skill and experience in Chapter 11 work, the hourly rates

1 charged by MLG are within the market range for attorneys in the San Francisco area legal market.  
2 Id.

3 **XII. CONCLUSION**

4 WHEREFORE, Applicant requests that the Court approve an interim award of attorneys'  
5 fees in the amount of \$572,688.50 and reimbursement of expenses in the amount of \$23,708.55 on  
6 account of MLG's services rendered to the Committee for the period February 1, 2010, through  
7 July 31, 2010.

8 AND WHEREFORE, Applicant further requests that the Court allow the release of the  
9 \$57,257.39 (20%) holdback that was to be retained following Committee Counsel's First Interim  
10 Fee Application.

11  
12 Dated: September 10, 2010

McNUTT LAW GROUP LLP

13  
14 By: /s/ Michael A. Sweet

Michael A. Sweet

15 Attorneys for Official Committee of Equity Security  
16 Holders  
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**CERTIFICATION**

I, Michael A. Sweet, do hereby certify as follows:

I am a partner with McNutt Law Group LLP, counsel of record to the Official Committee of Equity Security Holders of CMR Mortgage Fund, LLC, CMR Mortgage Fund II, LLC, and CMR Mortgage Fund III, LLC. I am the attorney primarily responsible for this case.

I hereby certify (a) that I have read the Second Interim Fee Application of the McNutt Law Group; (b) to the best of my knowledge, information and belief, formed after reasonable inquiry, the compensation and expense reimbursement sought is in conformity with this Court's Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees, except as specifically noted in the certification application; and (c) the compensation and expense reimbursement requested are billed at rates, in accordance with practices, no less favorable than those customarily employed by the applicant and generally accepted by the applicant's clients.

Dated: September 10, 2010

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*/s/ Michael A. Sweet*  
Michael A. Sweet, Esq.