

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

www.flsb.uscourts.gov

| | | |
|---|---|-----------------------|
| In re: |) | Chapter 11 Cases |
| |) | |
| TOUSA, INC., <i>et al.</i> , ¹ |) | Case No. 08-10928-JKO |
| |) | |
| Debtors. |) | Jointly Administered |
| |) | |

NOTICE OF FILING
SUUPLEMENTAL DECLARATION OF DANIEL H. GOLDEN IN CONNECTION WITH
THE RETENTION OF AKIN GUMP STRAUSS HAUER & FELD LLP BY THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS

PLEASE TAKE NOTICE that the undersigned, co-counsel for the Official Committee of Unsecured Creditors, files the attached *Supplemental Declaration of Daniel H. Golden In Connection with the Retention of Akin Gump Strauss, Hauer & Feld LLP By the Official Committee of Unsecured Creditors.*

¹ The Debtors in the cases are: TOUSA, Inc.; Engle Homes Commercial Construction, LLC; Engle Homes Delaware, Inc.; Engle Homes Residential Construction, L.L.C.; Engle Siena Verde P4, LLC; Engle Sierra Verde P5, LLC; Engle/Gilligan LLC; Engle/James LLC; LB/TE #1, LLC; Lorton South Condominium, LLC; McKay Landing LLC; Newmark Homes Business Trust; Newmark Homes Purchasing, L.P.; Newmark Homes, L.L.C.; Newmark Homes, L.P.; Preferred Builders Realty, Inc.; Reflection Key, LLC; Silverlake Interests, L.L.C.; TOI, LLC; TOUSA Associates Services Company; TOUSA Delaware, Inc.; TOUSA Funding, LLC; TOUSA Homes Arizona, LLC; TOUSA Homes Colorado, LLC; TOUSA Homes Florida, L.P.; TOUSA Homes Investment #1, Inc.; TOUSA Homes Investment #2, Inc.; TOUSA Homes Investment #2, LLC; TOUSA Homes Mid-Atlantic Holding, LLC; TOUSA Homes Mid-Atlantic, LLC; TOUSA Homes Nevada, LLC; TOUSA Homes, Inc.; TOUSA Homes, L.P.; TOUSA Investment #2, Inc.; TOUSA Mid-Atlantic Investment, LLC; TOUSA Realty, Inc.; TOUSA, LLC; and TOUSA/West Holdings, Inc.



Dated: June 6, 2008.

Respectfully submitted,

I hereby certify that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(A).

**STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.**

Museum Tower, Suite 2200
150 West Flagler Street
Miami, Florida 33130
Telephone: (305) 789-3553
Facsimile: (305) 789-3395

By: /s/ Patricia A. Redmond
Patricia A. Redmond
predond@swmwas.com
Florida Bar No. 303739

- and -

We hereby certify that the undersigned attorneys are appearing *pro hac vice* in this matter pursuant to Court orders dated February 27, 2008 and March 3, 2008.

AKIN GUMP STRAUSS HAUER & FELD LLP

590 Madison Avenue
New York, NY 10022
Telephone: (212) 872-1000
Facsimile: (212) 872-1002

*Counsel for the Official Committee Unsecured
Creditors of TOUSA, Inc., et al.*

**UNITED STATES BANKRUPTCY COURT
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| In re: |) | |
| |) | Chapter 11 Cases |
| TOUSA, Inc., <u>et al.</u> , ¹ |) | Case No. 08-10928 (JKO) |
| |) | Jointly Administered |
| Debtors. |) | |
| |) | |

**SUPPLEMENTAL DECLARATION OF DANIEL H. GOLDEN IN
CONNECTION WITH THE RETENTION OF AKIN GUMP
STRAUSS HAUER & FELD LLP BY THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS**

DANIEL H. GOLDEN, hereby declares:

1. I am an attorney at law admitted to practice before the state court of New York and the United States District Courts for the Eastern and Southern Districts of New York. I am a member of the firm of Akin Gump Strauss Hauer & Feld LLP ("Akin Gump"), which firm maintains offices at 590 Madison Avenue, New York, New York 10022.

2. I am familiar with the matters set forth herein and make this supplemental declaration (the "Declaration") in connection with Akin Gump's role as co-counsel to the Official Committee of Unsecured Creditors (the "Committee") of TOUSA, Inc. ("TOUSA") and certain of its direct and indirect subsidiaries (collectively with TOUSA, the "Debtors"). The purpose of the Declaration is to fulfill Akin Gump's continuing obligation to update its disclosures as set forth in the Application (the

¹ The Debtors in the cases are: TOUSA, Inc.; Engle Homes Commercial Construction, LLC; Engle Homes Delaware, Inc.; Engle Homes Residential Construction, L.L.C.; Engle Sierra Verde P4, LLC; Engle Sierra Verde P5, LLC; Engle/Gilligan LLC; Engle/James LLC; LB/TE #1, LLC; Lorton South Condominium, LLC; McKay Landing LLC; Newmark Homes Business Trust; Newmark Homes Purchasing, L.P.; Newmark Homes, L.L.C.; Newmark Homes, L.P.; Preferred Builders Realty, Inc.; Reflection Key, LLC; Silverlake Interests, L.L.C.; TOI, LLC; TOUSA Associates Services Company; TOUSA Delaware, Inc.; TOUSA Funding, LLC; TOUSA Homes Arizona, LLC; TOUSA Homes Colorado, LLC; TOUSA Homes Florida, L.P.; TOUSA Homes Investment #1, Inc.; TOUSA Homes Investment #2, Inc.; TOUSA Homes Investment #2, LLC; TOUSA Homes Mid-Atlantic Holding, LLC; TOUSA Homes Mid-Atlantic, LLC; TOUSA Homes Nevada, LLC; TOUSA Homes, Inc.; TOUSA Homes, L.P.; TOUSA Investment #2, Inc.; TOUSA Mid-Atlantic Investment, LLC; TOUSA Realty, Inc.; TOUSA, LLC; and TOUSA/West Holdings, Inc.

“Application”) of the Official Committee of Unsecured Creditors of TOUSA, Inc., et al. to Retain and Employ Akin Gump Strauss Hauer & Feld LLP as Co-Counsel, nunc pro tunc to February 14, 2008 [D.E. # 531].

3. On February 13, 2008, pursuant to section 1102 of title 11 of the United States Code (the “Bankruptcy Code”), the United States Trustee for the Southern District of Florida appointed the Committee. On February 14, 2008, the Committee selected Akin Gump to serve as co-counsel to the Committee pursuant to Bankruptcy Code section 1103(a).

4. On March 5, 2008, the Committee filed the Application seeking this Court’s approval to retain and employ Akin Gump as co-counsel to the Committee. In connection with the Application, the Committee submitted the Declaration of Daniel H. Golden (the “Initial Declaration”).

5. On March 25, 2008, this Court approved the Application on a final basis by its entry of the Order Authorizing the Official Committee of Unsecured Creditors of TOUSA, Inc., et al. to Retain and Employ Akin Gump Strauss Hauer & Feld LLP as Co-Counsel, nunc pro tunc to February 14, 2008 [D.E. # 657].

6. On April 22, 2008, the Committee filed its Motion (the “Standing Motion”) of the Official Committee of Unsecured Creditors of TOUSA, Inc., et al., Pursuant to 11 U.S.C. §§ 105(a), 1103(c) and 1109(b), for Entry of an Order Granting Leave, Standing and Authority to Prosecute, and, if Appropriate, Settle Causes of Action on Behalf of the Debtors’ Estates [D.E. # 850] seeking standing to prosecute certain causes of action (the “Claims”) arising from a series of transactions consummated by the Debtors during the Summer of 2007 in connection with a “global settlement” among numerous parties. Attached as Exhibit H to the Standing Motion was a draft complaint which named the following as defendants in the proposed litigation (the “Litigation”):

- Citicorp North America, Inc., as administrative agent under the New Revolving Debt² and First Lien Term Loan.

² Terms not otherwise defined herein shall have the meanings ascribed to such terms in the Standing Motion.

- Wells Fargo Bank, N.A., as successor administrative agent under the Second Lien Term Loan and as indenture trustee under the New Subordinated Notes.³
- Doe New Lenders Nos. 1-100 (as the unidentified original lenders under the New Loans and their respective successors, assigns and participants).
- Doe New Subordinated Noteholders Nos. 1-100 (as the unidentified original holders of the New Subordinated Notes and their respective successors, assigns and participants).
- The CIT Group/Business Credit, Inc., as administrative agent in connection with the Transeastern Debt.

7. Due to the large number of potential (and unidentified) additional parties to the Litigation, it was indicated at footnote 23 of the Standing Motion that Akin Gump, as primary counsel to the Committee, would “. . . continuously vet whether any ethical conflicts develop in connection with the prosecution of the Claims.” Consistent with the terms of Akin Gump’s retention, to the extent that any actual conflicts arose, it was the intention of Akin Gump to either obtain a waiver of such conflict or utilize “conflicts” counsel with respect to any Akin Gump client unwilling to grant such waiver.

8. On May 28, 2008, after notice and hearing, this Court granted the Committee authority to prosecute the Claims and entered the Order Granting Leave, Standing and Authority to the Official Committee of Unsecured Creditors of TOUSA, Inc., et al. to Prosecute Avoidance Actions on Behalf of the Debtors’ Estates [D.E. # 1092].

9. During a telephonic hearing on June 3, 2008, Akin Gump disclosed to the Court and significant parties in interest in these cases that certain existing clients of Akin Gump had asserted that the prosecution of the Claims by Akin Gump, on behalf of the Committee, constituted an actual conflict and that these clients were unwilling to waive such conflict or agree to the use of “conflicts” counsel. Akin Gump advised the Court that while Akin Gump believed the use of “conflicts” counsel

³ Subsequent to the filing of the Standing Motion, the Committee ascertained that HSBC Bank USA, N.A. had become successor indenture trustee of the New Subordinated Notes. Upon information and belief, HSBC Bank USA, N.A. has since resigned as indenture trustee of the New Subordinated Notes but no successor indenture trustee has yet been appointed.

would resolve any conflicts otherwise prohibiting Akin Gump from representing the Committee in connection with the prosecution of the Claims, Akin Gump believed that there was a possibility that to the extent Akin Gump elected to do so, one or more parties in interest may seek to disqualify Akin Gump from representing the Committee in connection therewith. Accordingly, Akin Gump advised the Court that Akin Gump (and the Committee) believed it was in the best interests of the Debtors' estates and their unsecured creditors for Akin Gump not to represent the Committee in connection with the prosecution of the Claims and for the Committee to retain special litigation counsel in connection therewith. As of the date of this Declaration, the Committee is in the process of selecting such special litigation counsel.

10. In preparing this Declaration, through my colleagues, I submitted to Akin Gump's computerized client and conflict database (the "Conflict Database") the names of the parties listed on Schedule 1 annexed hereto (collectively, the "Searched Parties"), which consist of the Transeastern Lenders and the currently identified holders of the Second Lien Term Loan (as supplied by counsel for the administrative agent for the Second Lien Term Loan).⁴

11. The Conflict Database maintained by Akin Gump is designed to include every matter on which the firm is now and has been engaged, by which entity the firm is now or has been engaged and, in each instance, the identity of related parties and adverse parties and certain of the attorneys in the firm that are knowledgeable about the matter. It is the policy of Akin Gump that no new matter may be accepted or opened within the firm without completing and submitting to those charged with maintaining the computer Conflict Database the information necessary to check each such matter for conflicts, including the identity of the prospective client, the matter, and related and adverse parties. Accordingly, Akin Gump maintains and systematically updates this system in the regular course of business of the firm, and it is the regular practice of the firm to make and maintain these records.

⁴ Akin Gump did not receive a list of currently identified holders of the New Revolving Debt and First Lien Term Loan until after the close of business on June 5, 2008. Accordingly, Akin Gump will file a further supplemental declaration with respect thereto.

Representation of Parties in Interest⁵

12. Set forth on Schedule 2 annexed hereto is a listing of those parties from Schedule 1 (Searched Parties) that (i) Akin Gump currently represents (the "Current Clients") in matters wholly unrelated to the Debtors' chapter 11 cases, (ii) Akin Gump has in the past represented in matters wholly unrelated to the Debtors' chapter 11 cases or (iii) are affiliates of Current Clients. As noted in the Initial Declaration, in connection with the services to be rendered to the Committee, Akin Gump will not commence a cause of action against any Current Client with respect to the Debtors' chapter 11 cases, unless Akin Gump receives a waiver from the Current Client allowing Akin Gump to commence such an action. In connection with these chapter 11 cases, to the extent any causes of action are commenced by or against any Current Client, and a waiver letter is not obtained permitting Akin Gump to participate in such action, the Committee will use Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., its local counsel, or conflicts counsel to represent the interests of the Debtors' unsecured creditors.

Connections with Parties Representing 1% or More of Akin Gump's Revenues for 2005, 2006 or 2007

13. Akin Gump reviews the information relating to the parties involved in a bankruptcy case to determine whether any such party, together with its known related entities, were clients of Akin Gump and as a result made payments to Akin Gump for services rendered in the calendar year prior to the date of review that in the aggregate for each such party exceeds 1% of Akin Gump's total revenues for such calendar year. In connection with this Declaration, Akin Gump has reviewed similar information for the years 2005, 2006 and 2007 with respect to those parties listed on Schedule 1 (Searched Parties).

14. Akin Gump's revenues for services rendered on behalf of the parties in interest identified in Schedule 2 aggregate, with respect to each such party in interest, less than 1% of Akin Gump's annual revenues in each of calendar years 2005, 2006 and 2007.

⁵ Akin Gump does not act as general counsel to any of the parties in interest or related entities described herein.

**Searched Parties and/or Related Parties Who Are Currently or
Formerly Adverse to Clients of Akin Gump Serve**

15. Set forth in Schedule 3 annexed hereto is a listing of those parties from Schedule 1 (Searched Parties) that are currently or have in the past been adverse to clients of Akin Gump in matters wholly unrelated to these chapter 11 cases.

**Searched Parties Which Currently Serve or Have Served
on Informal and/or Official Creditors' Committees Represented By
Akin Gump During the Period January 1, 2005 through the Present**

16. Set forth in Schedule 4 annexed hereto is a list of those Searched Parties that currently serve or have served on informal and/or official creditors' committees represented by Akin Gump during the period January 1, 2005 through the present.

Other Connections and General Disclosures

17. Akin Gump may have represented in the past and/or may currently represent or in the future represent entities (other than parties in the attached schedules) not currently known to Akin Gump in matters wholly unrelated to the Debtors' chapter 11 cases who may be parties in interest in these cases. To the extent that Akin Gump discovers any such information or needs to update the information disclosed herein, Akin Gump will disclose such information by filing a supplemental declaration pursuant to Bankruptcy Rule 2014.

I hereby declare under the penalty of perjury that the foregoing is true and correct.

Executed on June 5, 2008

/s/ Daniel H. Golden
Daniel H. Golden

SCHEDULE 1 (Searched Parties)

Transeastern Lenders

Distressed High Yield Trading Ops. Fund Ltd
3V Capital Master Fund Ltd., as a Lender under the Senior Credit Agreement
Deutsche Bank Trust Company Americas
Silver Oak Capital, LLC
Bear Stearns Investment Products Inc.
Bank of America, N.A.
Black Diamond CLO 2005-1
Fall Creek CLO, Ltd.
Eaton Vance Senior Debt Portfolio¹
Eaton Vance Senior Income Trust¹
Eaton Vance Grayson & Co.¹
Eaton Vance VT Floating-Rate Income Fund¹
Eaton Vance Limited Duration Income Fund¹
Eaton Vance Senior Floating-Rate Trust¹
Eaton Vance Floating-Rate Income Trust¹
Eaton Vance Credit Opportunities Fund¹
Farallon Capital Institutional Partners, L.P.²
Farallon Capital Institutional Partners, L.P.²
Tinicum Partners, L.P.²
Farallon Capital Offshore Investors, Inc.²
Farallon Capital Offshore Investors II, L.P.²
Farallon Capital Partners, L.P.²
Farallon Capital Institutional Partners, L.P.²
Aurum CLO 2002-1 Ltd.³
Flagship CLO III³
Flagship CLO IV³
Flagship CLO V³
Goldman Sachs Credit Partner, L.P.
Grand Central Asset Trust, CED Series
Hartford Mutual Funds, Inc. on behalf of the Hartford Floating Rate Fund by Hartford Investment
Management Company, its sub-advisor
Stedman CBNA Loan Funding LLC
Atascosa Investments, LLC
Gleneagles CLO Ltd
Grand Central Asset Trust, HLD Series
Grand Central Asset Trust, SOH
Jasper CLO, Ltd.
Liberty CLO, Ltd.
Burnet Partners, LLC
Rockwall CDO, Ltd.

¹ Collectively referred to as the "Eaton Vance Entities".
² Collectively referred to as the "Farallon Entities".
³ Collectively referred to as the "Flagship Entities".

Highland CDO Opportunity Fund, Ltd.⁴
Highland Credit Strategies Master Fund, L.P.⁴
Highland Floating Rate LLC⁴
Highland Floating Rate Limited Liability Company⁴
Highland Floating Rate Advantage Fund⁴
Highland Loan Funding V Ltd.⁴
Highland Legacy Limited Loan Funding VII, LLC⁴
Highland Offshore Partners, L.P.⁴
Highland Credit Opportunities CDO LTD.⁴
Highland Floating Rate Advantage Fund⁴
JPMorgan Chase Bank, N.A.
LL Blue Marlin Funding LLC
Merrill Lynch Credit Products, LLC
Ocean Bank
Quadrangle Master Funding Ltd.
Centurion CDO 10, LTD.⁵
Centurion CDO XI, Ltd.⁵
Centurion CDO 8, Limited⁵
Centurion CDO 9, Ltd.⁵
Centurion CDO II, Ltd.⁵
Centurion CDO VI, Ltd.⁵
Sequils-Centurion V, Ltd.⁵
Centurion CDO VII, Ltd.⁵
RiverSource Floating Rate Fund
Van Kampen Senior Loan Fund⁶
Van Kampen Dynamic Credit Opportunities Fund⁶
Van Kampen Senior Income Trust⁶
The Foothills Group, Inc.
Employee Insurance Company of Wausau
Jasper CLO, Ltd.
Liberty Mutual Life Insurance Company⁷
Liberty Mutual Insurance Company⁷
Loan Funding VII LLC
Restoration Funding CLO, LTD.
First Trust/Four Corners Senior Floating Rate Income Fund
First Trust/Four Corners Senior Floating Rate Income Fund II
Augusta Trading LLC
Stanfield Modena CLO, Ltd.⁸
Stanfield Bristol CLO, Ltd.⁸
Stanfield Carrera CLO, Ltd.⁸
Stanfield Arbitrage CDO, Ltd.⁸
Brook United, FBB

⁴ Collectively referred to as the “Highland Entities”.
⁵ Collectively referred to as the “Centurion Entities”.
⁶ Collectively referred to as the “Van Kampen Entities”.
⁷ Collectively referred to as the “Liberty Mutual Entities”.
⁸ Collectively referred to as the “Stanfield Entities”.

Second Lien Lenders

AIG
Chilton
Deutsche Bank Securities
HBK
JPMorgan Securities
Longacre
Monarch
Plainfield
Wells Fargo (Agent)
Stonehill

SCHEDULE 2

**SEARCHED PARTIES THAT ARE FORMER OR CURRENT CLIENTS OF AKIN GUMP
IN MATTERS WHOLLY UNRELATED TO THE DEBTORS' CHAPTER 11 CASES**

Transeastern Lenders

Akin Gump has in the past represented and currently represents the following companies and/or certain related parties of such companies on matters wholly unrelated to the Debtors' chapter 11 cases. Unless otherwise noted in a footnote below, the Current Client is the entity listed.

| | |
|---|---|
| Deutsche Bank Trust Company Americas | Quadrangle Master Funding Ltd. ⁽⁹⁾ |
| Bear Stearns Investment Products, Inc. ⁽¹⁾ | Liberty Mutual Entities |
| Bank of America, N.A. ⁽²⁾ | |
| Farallon Entities ⁽³⁾ | |
| Goldman Sachs Credit Partner, L.P. ⁽⁴⁾ | |
| Hartford Mutual Funds, Inc. ⁽⁵⁾ | |
| Highland Entities ⁽⁶⁾ | |
| JPMorgan Chase Bank, N.A. ⁽⁷⁾ | |
| Merrill Lynch Credit Products, LLC ⁽⁸⁾ | |

¹ Akin Gump's Current Clients are Bears Stearns & Co., Inc.; The Bear Stearns Companies, Inc.; Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd.; and Bear Stearns High-Grade Structured Credit Strategies Enhanced Leverage Master Fund, Ltd.

² Akin Gump's Current Clients are Bank of America Business Credit, LLC; Bank of America Development, Inc.; and Banc of America Strategic Investment Corporation.

³ Akin Gump's Current Client is Farallon Capital Management LLC.

⁴ Akin Gump's Current Client is Goldman Sachs & Co.

⁵ Akin Gump's Current Clients are Hartford Life Inc.; Hartford Financial Group; Hartford Life and Annuity Insurance Co.; Hartford Life Annuity Operations; Hartford Life and Accident Insurance, Co.; Hartford Life Insurance Company; Hartford Integrated Medical Solutions; Hartford Fire Insurance Co.; The Hartford Financial Securities Group, Inc.; Hartford Life Group Insurance Company; Hartford Equity Specialists Fund, L.P.; and Hartford Life Alliance LLC.

⁶ Akin Gump's Current Client is Highland Capital Management, L.P.

⁷ Akin Gump's Current Clients are JPMorgan Asset Management, L.P.; J.P. Morgan Securities, Inc.; and JPMorgan Global Access Portfolios, Ltd.

⁸ Akin Gump's Current Clients are Merrill Lynch & Co., Inc.; and Merrill Lynch/PSI Global Partners.

⁹ Akin Gump's Current Clients are Quadrangle Group LLC and Monarch Alternative Capital LP.

Akin Gump has in the past represented the following companies and/or certain related parties of such companies on matters wholly unrelated to the Debtors' chapter 11 cases:

3V Capital Master Fund Ltd.

Centurion Entities

Flagship Entities

Employee Insurance Company of Wausau

Gleneagles CLO Ltd.

Second Lien Lenders

Akin Gump has in the past represented and currently represents the following companies and/or certain related parties of such companies on matters wholly unrelated to the Debtors' chapter 11 cases:

AIG¹⁰

Deutsche Bank Securities¹¹

HBK¹²

JPMorgan Securities¹³

Longacre¹⁴

Monarch¹⁵

Plainfield¹⁶

Wells Fargo¹⁷

Stonehill¹⁸

¹⁰ Akin Gump Current Clients are: AIG VALIC; AIG Highstar Capital, L.P.; AIG Corporation Insurance Company; AIG SunAmerica Life Assurance Company; SunAmerica Financial Corporation; AIG Retirement Services, Inc.; AIG Global Investment Corp.; AIG Capital Partners, Inc.; AIG Retirement – AIG Annuity; American International Group, Inc.; American General Life Companies; AIG Global Investment Group; AIG Retirement Services, Inc.; AIG Global Capital Partners, Inc.

¹¹ Akin Gump Current Clients are: Deutsche Bank; Deutsche Bank AG New York; and Deutsche Bank Trust Company Americas.

¹² Akin Gump Current Client is HBK Investments, L.P.

¹³ Akin Gump Current Clients are: JP Morgan Asset Management, L.P.; J.P. Morgan Securities, Inc. and JPMorgan Global Access Portfolios, Ltd.

¹⁴ Akin Gump Current Client is Longacre Management.

¹⁵ Akin Gump Current Client is Monarch Alternative Capital LP.

¹⁶ Akin Gump Current Client is Plainfield Asset Management LLC.

¹⁷ Akin Gump Current Client is Wells Fargo Bank, National Association.

¹⁸ Akin Gump Current Client is Stonehill Capital Management.

SCHEDULE 3

**PARTIES AND/OR RELATED PARTIES LISTED ON SCHEDULE 1
WHO ARE RECORDED IN THE CONFLICT DATABASE AS BEING
CURRENTLY OR FORMERLY ADVERSE TO CLIENTS OF AKIN GUMP**

| | |
|--|------------------------------------|
| AIG | Highland Entities |
| Bank of America, N.A. | JPMorgan Chase Bank, N.A. |
| Bear Stearns Investment Products, Inc. | JPMorgan Securities |
| Black Diamond CLO 2005-1 | Liberty Mutual Entities |
| Deutsche Bank Securities | Longacre |
| Deutsche Bank Trust Company Americas | Merrill Lynch Credit Partners, LLC |
| Eaton Vance Entities | Monarch |
| Employee Insurance Company of Wausau | Ocean Bank |
| Farallon Entities | Plainfield |
| Goldman Sachs Credit Partner, L.P. | Quadrangle Master Funding Ltd. |
| Hartford Mutual Funds, Inc. | Silver Oak Capital, LLC |
| HBK | Wells Fargo (agent) |

SCHEDULE 4

**PARTIES AND/OR RELATED PARTIES LISTED ON SCHEDULE 1
WHO ARE RECORDED IN THE CONFLICT DATABASE AS SERVING OR HAVING
SERVED ON OTHER INFORMAL AND/OR OFFICIAL CREDITORS'
COMMITTEES REPRESENTED BY AKIN GUMP**

| | |
|--|---------------------------|
| 3V Master Fund Ltd. | Highland Entities |
| AIG | JPMorgan Chase Bank, N.A. |
| Bear Stearns Investment Products, Inc. | JPMorgan Securities |
| Black Diamond CLO 2005-1 | Liberty Mutual Entities |
| Deutsche Bank Securities | Plainfield |
| Deutsche Bank Trust Company Americas | Stanfield Entities |
| Eaton Vance Entities | Van Kampen Entities |
| Farallon Entities | Wells Fargo (agent) |
| Goldman Sachs Credit Partner, L.P. | |