

1 William A. Leonard Jr., the Chapter 7 trustee (“Trustee”) in the Consolidated Resorts, Inc.
2 related bankruptcy cases, BK-S-09-22035-LBR (Lead Case), jointly administered with case numbers
3 09-22030 through 09-22043, hereby submits his Agenda for the Hearing on September 1, 2010.

4 **I.**

5 **AGENDA FOR HEARING**

6 The matters presently set for hearing on September 1, 2010 include the following:

7 1. Second Interim Application for Compensation for SULLIVAN HILL LEWIN REZ &
8 ENGEL, Fees: \$556,489.25, Expenses: \$1,732.49 (filed in Lead Case No. 09-22035 as Docket No.
9 503).

10 2. First Interim Application for Compensation for CBIZ MHM, LLC, Fees: \$55,399.00,
11 Expenses: \$701.17 (filed in Lead Case No. 09-22035 as Docket No. 505).

12 3. Such other matters affecting the administration of these related Consolidated Resorts
13 Chapter 7 debtor estates as may be raised by the Court, including a report by the Trustee as to the
14 status of closing of the sale of assets of the debtor estates.

15 4. The Trustee is poised to file and serve a motion to approve an expedited resolution of
16 the Lahaina Ticket Co. estate. The majority of the signatures on the stipulation have been obtained.
17 The Trustee expects to have the balance of the signatures shortly. When he does, he will file and
18 serve the Lahaina Ticket Company estate motion.

19 **II.**

20 **PROCEDURAL BACKGROUND**

21 On or about July 7, 2009 (“Petition Date”), each of the 14 Consolidated Resorts, Inc.
22 affiliated debtors (each a “Debtor,” and collectively, the “Debtors”) filed a voluntary petition for
23 relief with this Court under Chapter 7 of the Bankruptcy Code (11 U.S.C. § 101 et seq.). On July 8
24 and July 10, 2009, the Trustee was appointed as the Chapter 7 trustee for each of the Debtor estates.

25 On August 21, 2009, the Court entered an order authorizing and directing the joint
26 administration of all 14 cases, a copy of which was served on all creditors by the Trustee’s Court-
27 approved noticing agent, Kurtzman Carson Consultants (“KCC”).
28

1 On August 26, 2009, the Court entered an order limiting notice in these cases, a copy of
2 which was served on all creditors by KCC. On June 17, 2010, an Order Approving Trustee's Ex
3 Parte Application to Employ Kurtzman Carson Consultants LLC as Claims Agent was entered.

4 KCC has since served on all creditors the Trustee's Notice of Assets and Notice to File
5 Claims for the following five estates: Consolidated Resorts, Inc. (Case No. 09-22035), Consolidated
6 Maui, Inc. (Case No. 09-22036), Consolidated Kona, Inc. (Case No. 09-22037), Soleil LV, LLC
7 (Case No. 09-22040), and Consolidated Tahiti, Inc. (Case No. 09-22041) (See Docket Nos. 474
8 through 478). The deadline to file claims in these estates is October 22, 2010.

9 At the Trustee's direction, KCC launched a dedicated website for these cases, which can be
10 accessed online at <http://www.kccllc.net/consolidatedresorts>. There, the Trustee posts updates about
11 the cases, including case status reports and other important pleadings and updated dockets for the
12 cases.

13 III.

14 **THE ESTATES' ASSETS**

15 These bankruptcy estates do not include ownership of the timeshare resorts themselves. The
16 Trustee has worked cooperatively with the timeshare resorts management companies, the several
17 secured creditors which hold collateral interests in timeshare assets, and ASNY, the Debtors'
18 principal investor and equity interest holder, all with an aim to keep the timeshare resorts open and
19 operational, and very significantly, to make sure that the timeshare owners have timeshare resorts
20 that can be used without limitation or interference from these bankruptcy cases. This cooperative
21 effort had the salutary effect of keeping more than 100,000 timeshare owners and their potential
22 claims "outside" these cases, and maintained value in the core unencumbered assets of the estates
23 until they could be sold.

24 As this Court is well aware, the Trustee and his professionals have devoted substantial time
25 and energy in marketing and packaging for sale the unencumbered assets of the Debtor estates to
26 realize maximum value in today's market for the assets that could be sold and from which proceeds
27 could be realized for creditors. A more detailed history of the Trustee's and his professionals efforts
28 in this regard is set forth in the Second Interim Application for Compensation filed by the Trustee's

1 counsel set for hearing on this date. Docket No. 503. As an update to that detailed description of
2 activities, the Trustee is pleased to report that the parties are on track to close the sale of the assets of
3 the Debtor estates to ASNY LLC for \$13,851,890 on August 31, 2010, as approved by this Court's
4 order entered on July 29, 2010. Docket No. 492. Shortly after the sale to ASNY LLC closes, the
5 Trustee will be filing his Trustee's report of sale, with a listing the assets sold and proceeds received
6 on an estate-by-estate basis, tracking the allocations of proceeds in accordance with this Court's sale
7 order and the Asset Purchase Agreement ("APA") between the Trustee and ASNY LLC. Briefly,
8 the gross proceeds payable to the Debtor estates will approximate \$8,950,000 not counting the sale
9 proceeds payable to GMAC from escrow pursuant to the terms of the sale order and the APA. From
10 this sum, Nevada State Bank will be paid in full (approximately \$2,775,000). In addition, GMAC
11 will pay approximately \$275,000 to the estates from its portion of the sale proceeds to cover a large
12 portion of the estates' costs and expenses of sale, as provided in the much earlier approved GMAC
13 Stipulation (See Docket No. 374).

14 Other assets of these Debtor estates to be sold include remaining undeveloped and partially
15 developed real property interests including the Kauai Sands Hotel and undeveloped Palm Springs
16 raw land property. The Trustee expects to be noticing up a sale of the Kauai Sands Hotel property
17 shortly based on offers to purchase just received. Additionally, the Trustee is working with ASNY
18 to obtain turnover to the Trustee of funds and proceeds from security deposits that were posted pre-
19 petition for now-cancelled marketing bonds (which the Trustee is informed are approximately \$1.8
20 million), and which should be returned to the Consolidated Resorts, Inc estate free and clear of liens.

21 Since his appointment, the Trustee has worked with representatives of the Debtors and their
22 principals, including ASNY, who have been cooperative and forthcoming with the Trustee. Such
23 representatives have provided access to documents and other information to the Trustee and the
24 Trustee's professionals that are essential to (i) the ongoing, albeit limited, operation of the Debtors'
25 businesses by the Trustee, as authorized by Court order; and (ii) the disposition of estate assets in a
26 fashion intended to maximize potential distributions to unsecured creditors, as described below. In
27 this regard, ASNY and its personnel have assisted the Trustee clear up long stalled escrow deposit
28 accounts maintained at Chicago Title and First American Title relating to the sale of timeshare sale

1 contracts that had closed and were paid in full at the commencement of these cases, and relating to
2 timeshare sale contracts that were fully defaulted and were terminated prior to the commencement of
3 the cases. This activity has already brought \$436,794.90 into the Consolidated Orlando, Inc. from its
4 paid in full escrows relating to that estate's Regal Palms development property, and another
5 approximately \$307,000 of proceeds are expected to come in shortly from other cleared up escrow
6 accounts. Additional funds are expected to be realized from similar paid in full timeshare contract
7 sales for the Soleil LV, Consolidated Tahiti, Consolidated Maui and Consolidated Kona estates
8 relating to their sales of timeshares for the Tahiti Village and various Hawaii timeshare resort
9 properties. Conversely, there were a number of timeshare sales on contracts that had not closed fully
10 by the time of the commencement of these cases and which timeshare sale contracts were rejected as
11 a matter of law pursuant to Bankruptcy Code section 365(d)(1). The Trustee is in the process of
12 identifying the particular timeshare purchasers for these rejected contracts and will be proposing to
13 the Court a mechanism to notify these consumers regarding their contracts and a procedure for
14 refunding most, if not all in most cases, of their partial payments on their timeshare contracts which
15 funds were paid into and are being held by the Trustee in trust accounts. In short, the estates will
16 each net more dollars in from closing up the completed, paid in full timeshare contracts than will be
17 refunded from funds paid in and held on the not-paid in full contracts.

18 IV.

19 SERVICING OF ACCOUNTS RECEIVABLE

20 Prior to the Petition Date, the Debtors handled internally all customer service functions, as
21 well as "collection" of its large timeshare notes receivable portfolios. On the Debtors' behalf,
22 Concord Servicing Company ("Concord") handled "servicing" of the notes receivable.¹
23 Immediately prior to the Petition Date, the Debtors ceased their in-house collection services.

24 After his appointment, following consultation with all of the secured creditors, the Trustee
25 sought and obtained Court approval to retain Concord to handle all servicing and some collection
26

27 ¹ "Servicing" of notes receivable refers to the work involved in collecting accounts in good standing. "Collection" of
28 notes receivable refers to the work involved in collecting delinquent accounts.

1 work -- on both encumbered and unencumbered accounts. Under the Court-approved arrangements,
2 all of the secured creditors who held liens in the timeshare note portfolios (inclusive of GMAC,
3 HSBC, Textron and Liberty Bank) have advanced to the estates the fees and costs for services
4 provided by Concord, including certain of the Trustee's and Trustee's counsel's fees and costs.

5 Substantial funds have been collected through this process -- by both secured creditors and
6 the estates. The Trustee will provide the Court a report of those collections in open court on
7 September 1, 2010. Following the closing of the sale to The ASNY Company, LLC, the Trustee will
8 be phasing out the services of Concord for the estates.

9 **V.**

10 **LIMITED BUSINESS OPERATIONS BY THE TRUSTEE**

11 Throughout these cases, the Court has entered various orders authorizing the Trustee to
12 conduct limited operations of the Debtors' businesses designed to preserve asset values while
13 winding down the Debtors' business operations and liquidating assets in an orderly manner. The
14 Trustee has maintained collection efforts and resolved pending sales and foreclosure actions,
15 including working with escrow companies and collateral control agents for the secured creditors on
16 reconveyances, timeshare upgrade sales, and closing escrows that were pending at the time these
17 bankruptcy cases were filed. His efforts encompass both "house" timeshare interests, as well as
18 encumbered interests (if and to the extent secured creditors consent). The current authority for the
19 Trustee's limited operation of the Debtors' businesses remains in place through October 1, 2010.
20 The Court authorized the Trustee to seek further extensions of the limited operations authority by
21 oral motion from time to time at continued status conference, which the Trustee intends to renew
22 again in open court at the September 1, 2010 hearing., at least through the period needed to close the
23 sale to ASNY and phase out the collection services of Concord.

24 **VI.**

25 **EXPEDITED RESOLUTION OF LAHAINA TICKET COMPANY ESTATE**

26 The estate of Lahaina Ticket Company ("Lahaina Ticket") is smaller and less complex than
27 the estates of the other Debtors. The Trustee believes that an expedited resolution of this estate may
28 be possible, in a fashion which avoids protracted litigation involving the conflict between Hawaiian

1 state trust law and bankruptcy law and which will allow dollars to be paid in an expedited fashion to
2 this estate's creditors. The Trustee is currently engaged in discussions with counsel representing the
3 vast majority of creditors in the Lahaina Ticket estate, as well as with counsel for the bank holding
4 the funds which represent the bulk of the assets of the Lahaina Ticket estate. The Trustee has
5 circulated among the parties a proposed stipulation establishing a claims process and distribution
6 procedure for the expedited resolution of this estate (including financial models supporting the
7 stipulation), and the involved parties are currently engaged in settlement discussions to implement
8 this process. Once the stipulation is approved by the parties and their counsel, the Trustee will
9 present that agreement to the Court for approval.

10 VII.

11 INTERIM FEE APPLICATIONS

12 As authorized by the Court at the July 20, 2010 hearing, Sullivan Hill has filed its Second
13 Interim Application for Compensation for services rendered and costs advanced from January 1,
14 2010 through June 30, 2010. This Second Interim Fee Application, which is on the agenda for the
15 hearing September 1, 2010, painstakingly details the firm's services and carefully allocates those
16 services among the various estates based on objective and logical criteria which fairly apportions
17 the requested fees and costs accordingly. In addition, as set out in the Supplemental Declaration of
18 James P. Hill dated August 27, 2010 (See Docket No. 512), the Trustee and his counsel reallocated
19 the time and charges set out in Sullivan Hill's First Interim Application for Compensation in the
20 same manner as the Second Interim Application for Compensation, which the Trustee also asks to be
21 approved and carried forward at this time.

22 Sullivan Hill is requesting that the Court consider further review and approval at this hearing
23 of the first interim application of the Trustee's counsel, Sullivan Hill, for allowance of its fees and
24 costs incurred through December 31, 2009. See Docket No. 313. By separate fee orders entered on
25 March 22, 2010, April 29, 2010 and May 20, 2010, this Court has approved an aggregate amount of
26 \$503,757.44 to date to the Trustee's counsel on an interim basis, representing an approximate 64%
27 interim award on the total fees and costs sought to date for the period through December 31, 2009.
28

1 The firm has dedicated an enormous amount of time, resources and expense to these cases,
2 and enormous progress has been made. The cost of carrying these cases for more than one year with
3 only a partial payment has been extremely difficult and a financial burden on the firm. Nevertheless,
4 Sullivan Hill pressed forward as quickly as events and the other parties involved in the case and the
5 underlying transactions allowed. Accordingly, recognizing that the firm has provided more than
6 thirteen months of services as Trustee's counsel, Sullivan Hill requests that the Court award it all of
7 its fees reserved from its first fee application and at least 80% of the fees requested in its second fee
8 application, all subject to review and further order of the Court at a later time.

9 **VIII.**

10 **MOVING FORWARD**

11 As noted above, substantial progress has been made in these jointly administered cases. By
12 the time of this status hearing on September 1, 2010, the sale to ASNY should be closed. This
13 positive result could not have been achieved without the coordinated and cooperative efforts of the
14 Trustee and several secured creditors of these estates. The goal of the Trustee and his professionals
15 has been to get the Debtors' assets to market and sold in as timely a fashion as practical under the
16 circumstances, with the least disruption and adverse effect on the timeshare resorts and their many
17 (more than 100,000) timeshare owners who remain outside of these cases, retaining full use and
18 enjoyment of their timeshare resorts. The Trustee believes that his approach has and will provide a
19 return of the greatest value for the most people affected by these bankruptcy cases, and ultimately
20 will realize the greatest possible distributions to creditors. Had the Trustee not taken this approach,
21 he believes that there likely would have been serious disruption of services at the timeshare resorts,
22 and timeshare owners likely would have stopped paying on their timeshare notes and timeshare
23 maintenance contracts, and would have filed enormous claims for damages in these cases. Instead of
24 taking a contrary approach with catastrophic and far reaching consequences, the parties (including
25 ASNY, the timeshare management companies, GMAC, Textron, various other creditor parties, and
26 the Trustee and his professionals) have worked cooperatively, albeit at times not always eye to eye,
27 thereby preserving maximum value under the circumstances not only in the estates' core assets, but
28 also in the secured creditors' large and valuable note portfolios and other collateral bundles -- which

1 preserved asset value, minimized deficiency claims of secured creditors, and thus enriched future
2 distributions to creditors. In the end, all parties are benefiting.

3 As the Trustee proceeds in his administration of these cases, he and the major parties in
4 interest will continue to cooperate to keep all of the non-debtor timeshare resorts operating
5 independently, without interruption of services for the benefit of the more than 100,000 timeshare
6 owner, and in so doing will return maximum value to the estates and their creditors.

7
8 Dated: August 30, 2010

SULLIVAN, HILL, LEWIN, REZ & ENGEL
A Professional Law Corporation

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10
11 By: /s/ James P. Hill
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