

M E M O R A N D U M

December 23, 2008

To: Official Committee of Unsecured Creditors (the “LES Committee”) of LandAmerica 1031 Exchange Services, Inc.

From: Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”)

Re: In re LandAmerica Financial Group, Inc., *et al.* – Summary of December 16, 2008 Hearing

This memorandum summarizes the hearing that took place on December 16, 2008 (the “Hearing Date”) in the jointly administered chapter 11 cases of LandAmerica 1031 Exchange Services, Inc. (“LES”) and its parent affiliate LandAmerica Financial Group, Inc. (“LFG” and together with LES, the “Debtors”) in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the “Bankruptcy Court”). The motions described below were heard on either an interim or a final basis by the Bankruptcy Court on the Hearing Date, and the resolution of any such motions is noted below.

I. Uncontested, Agreed or Settled Matters

A. Application to Employ Willkie Farr & Gallagher LLP as Co-Counsel to Debtors (the “Willkie Application”)

By the Willkie Application, the Debtors requested authority to employ and retain Willkie Farr & Gallagher LLP as co-counsel to the Debtors, effective as of November 26, 2008 (the “Petition Date”). As no objections were filed, the Bankruptcy Court granted the Willkie Application.

B. Application to Employ McGuireWoods LLP as Co-Counsel to Debtors (the “McGuireWoods Application”)

By the McGuireWoods Application, the Debtors requested authority to employ and retain McGuireWoods LLP as co-counsel to the Debtors, effective as of the Petition Date. As no objections were filed, the Bankruptcy Court granted the McGuireWoods Application.

C. Application to Employ Williams, Mullen, Clark & Dobbins, P.C. as Special Corporate Counsel to LFG (the “Williams Application”)

By the Williams Application, LFG requested authority to employ and retain Williams, Mullen, Clark & Dobbins P.C. as special corporate counsel to render legal services to LFG

relating to LFG's ongoing business operations, effective as of the Petition Date. As no objections were filed, the Bankruptcy Court granted the Williams Application.

D. Application for Order Approving the Debtors' Agreement with EPIQ Bankruptcy Solutions, LLC and Appointing EPIQ as Agent of the Court (the "EPIQ Application")

By the EPIQ Application, the Debtors requested authority to engage EPIQ Bankruptcy Solutions, LLC to assist the Debtors in managing the claims process and implementing the plan solicitation process. As no objections were filed, the Bankruptcy Court granted the EPIQ Application.

E. Debtors' Motion to Approve Interim Compensation Procedures (the "Interim Compensation Motion")

By the Interim Compensation Motion, the Debtors proposed a procedure by which professionals would serve monthly fee requests on the Debtors, the U.S. Trustee, counsel to the LES Committee and the Official Committee of Unsecured Creditors of LFG (the "LFG Committee"), and certain other interested parties for interim approval and payment of fees for services rendered and expenses incurred by each professional during the preceding month. As no objections were filed, the Bankruptcy Court granted the Interim Compensation Motion.

II. Contested Matters

A. LFG's Motion to Enter into Agreement with Zolfo Cooper and Jonathan A. Mitchell to Serve as CRO (the "Zolfo Motion")

By the Zolfo Motion, LFG requested authority to employ and retain Zolfo Cooper and Jonathan A. Mitchell as LFG's CRO, effective as of the Petition Date. The Bankruptcy Court granted the Zolfo Motion, noting that the request was within LFG's business judgment. At the hearing, the Debtors clarified that no fee will be paid to Zolfo Cooper for the sale of LFG's underwriting business. The Debtors also stated that a supplemental application will be filed by LES seeking authority to engage Zolfo Cooper to assist in various matters including the preparation of schedules of assets and a statement of financial affairs.

B. Motion for Sale of LFG's Stock in Certain Underwriting Subsidiaries and Approving Related Stock Purchase Agreement (the "Sale Motion")

By the Sale Motion, LFG requested authority to sell the Underwriters to Fidelity National Financial, Inc. ("Fidelity") and Chicago Title Insurance Company ("Chicago Title") for \$298 million in cash in a private sale. Under the proposed sale, Fidelity will also assume \$150 million in intercompany obligations and \$45 million in deferred compensation obligations pursuant to a stock purchase agreement (the "SPA"). As of the Petition Date, based on the recommendation of the Nebraska Department of Insurance ("NEDOI"), the Underwriters were placed into rehabilitation, with the Director of NEDOI appointed as the rehabilitator.

On December 14, 2008, Stewart Title Guaranty Company (“Stewart”) submitted a draft purchase agreement (the “Draft Stewart SPA”) to the NEDOI, whereby Stewart submitted a bid to purchase the Underwriters.

On December 15, 2008, the LFG Committee filed a motion to adjourn the Sale Hearing (the “Adjournment Motion”) seeking to adjourn the Sale Hearing until December 19, 2008 to allow time for LFG to seek alternative bids for the Underwriters. The Bankruptcy Court denied the LFG Committee’s Adjournment Motion, finding that to maximize the value of the Underwriters as going concerns, the sale must occur immediately.

Before the sale of the Underwriters to Fidelity could be approved, LFG required the approval of (a) NEDOI, (b) the Federal Trade Commission (the “FTC”), and (c) the Bankruptcy Court.

NEDOI’s sole concern with respect to the sale is confirming that the newly formed company will have sufficient assets to satisfy its obligations under the insurance policies issued. At the Sale Hearing, NEDOI represented that it had reviewed the documents submitted by both Fidelity and Stewart and had determined that each entity was an acceptable party to purchase the Underwriters. NEDOI advised, however, that it had not reviewed the underlying stock purchase agreements to determine if one or both of the proposed purchasers would be able to close the proposed transaction.

The FTC’s sole concern with respect to the sale is preserving a competitive market. In furtherance of this, the FTC advised the Bankruptcy Court that because Fidelity’s acquisition of the Underwriters would result in Fidelity controlling more than 50% of the underwriting market, if it was determined that the Draft Stewart SPA was a viable alternative to the SPA, the FTC would prefer, for antitrust reasons, to approve the Draft Stewart SPA. Consequently, if an option other than the SPA existed, the FTC would issue a request for additional information by December 18, 2008. This would almost certainly prevent the sale to Fidelity from being completed.¹

After listening to all of the evidence, the Bankruptcy Court determined (a) that the Stewart transaction did not represent a viable alternative to the SPA, (b) that the SPA was a fair and reasonable offer to purchase the Underwriters, and (c) that LFG had not received any offer that was higher or better than Fidelity’s offer. Accordingly, the Bankruptcy Court granted the Sale Motion.

C. Motion to Approve Settlement Procedures Under 9019 for Claims Involving Segregated Exchange Funds (the “9019 Motion”)

During the course of its operations, LES allegedly entered into exchange agreements (the “Segregated Exchange Agreements”) with certain customers to segregate their exchange funds (the “Segregated Exchange Funds”). By the 9019 Motion, LES requested authority to:

¹ In addition, according to the Director of NEDOI, if a sale of the Underwriters was not consummated by December 22, 2008, the Underwriters would be placed in “run-off” or liquidation.

- Settle claims asserted by LES customers whose exchange funds are allegedly segregated pursuant to Segregated Exchange Agreements in exchange for a full release by the customer of any claims against the estates of LES and LFG.²
- Otherwise perform its obligations under the Segregated Exchange Agreements in the ordinary course of business.

On December 12, 2008, the LES Committee objected to the 9019 Motion, asserting that the Debtors had failed to establish that the Segregated Exchange Funds were not property of the LES estate and, in the alternative, that the proposed procedure failed to provide for oversight by the Bankruptcy Court and/or the LES Committee.

After hearing arguments from those parties in favor of and against the 9019 Motion, the Bankruptcy Court found that, due to the lack of information regarding the segregated or commingled nature of the funds, the Bankruptcy Court could not grant the 9019 Motion in its current form. The Bankruptcy Court directed LES to work with the LES Committee to establish a protocol for resolving the question of ownership of the alleged Segregated Exchange Funds. The Bankruptcy Court concluded that it would only grant the 9019 Motion on the approval of the LES Committee, without prejudice to the reurging of the 9019 Motion by the Debtors at a later time.

III. Adversary Proceedings

After the Bankruptcy Court's resolution of the 9019 Motion as outlined above, the Bankruptcy Court concluded that the adversary proceedings that were seeking to be heard at the December 16, 2008 hearing should be continued to January 12, 2009.

² Of the approximately 450 exchange customers of LES, not less than 50 are allegedly related to Segregated Exchange Agreements, representing not less than \$227.5 million in Segregated Exchange Funds.