

2. On December 13, 2015 (the “**Initial Petition Date**”), the Original Debtors with the exception of Tag Forest, LLC (“**Tag**”) commenced a voluntary case under chapter 11 of the Bankruptcy Code. On December 14, 2015, Tag commenced its voluntary case under chapter 11 of the Bankruptcy Code. On the date hereof (the “**Petition Date**”), each of the Additional Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as “debtors in possession,” as I understand that term. The Original Debtors’ chapter 11 cases are being jointly administered, for procedural purposes only. The Additional Debtors have sought an order directing that their cases be jointly administered for procedural purposes only by this Court. No official committees have been appointed in the Debtors’ chapter 11 cases and no request has been made for the appointment of a trustee or an examiner.

3. The Debtors have requested a variety of forms of relief in the “first day” motions and applications (collectively, the “**First Day Pleadings**”) filed concurrently herewith to minimize the adverse effects of the commencement of the chapter 11 cases on the Debtors’ businesses.

4. As set forth below, I am generally familiar with the contents of each of the First Day Pleadings. The First Day Pleadings seek relief necessary to avoid immediate and irreparable harm to the Debtors by allowing them to continue their operations and minimize disruptions to their business that could otherwise result from the commencement of these chapter 11 cases. Specifically, the First Day Pleadings seek relief allowing the Debtors to: (i) stabilize and maintain their business operations through, among other things, the use of cash collateral; (ii) preserve relationships with tenants, residents, guests, brokers, franchisors, hotel managers, customers, employees, and other key constituencies; (iii) limit disruption to the Debtors’

business by permitting the use of their new prepetition cash management system; and (iv) establish certain administrative procedures to facilitate an orderly transition into, and uninterrupted operations throughout, the chapter 11 process.

5. Accordingly, I submit this declaration (this “**Declaration**”) in support of the Additional Debtors’ chapter 11 petitions and the relief requested in the First Day Pleadings. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, or information supplied to me by other members of the Debtors’ management or professionals, or my opinion based upon my experience, discussions with the Debtors’ advisors, and knowledge of the Debtors’ operations and financial condition. I am authorized to submit this Declaration on behalf of the Debtors. I am of sound mind and, if called to testify, I would attest to the facts described herein.

6. To assist the Court in becoming familiar with the Debtors and the initial relief sought by the Debtors to stabilize operations and facilitate their restructuring, this Declaration is organized into four main sections. Part I describes the Debtors’ corporate structure, business operations, and employees. Part II describes the Debtors’ prepetition capital structure and indebtedness. Part III describes the circumstances leading to the commencement of the Debtors’ chapter 11 cases. Part IV sets forth the relevant facts in support of each of the First Day Pleadings.

PART I

(Corporate Structure and Business Operations)

A. Corporate Structure

7. The Debtors in these chapter 11 cases are: Newbury Common Associates, LLC; Seaboard Realty, LLC; 600 Summer Street Stamford Associates, LLC; Seaboard Hotel

Member Associates, LLC; Seaboard Hotel LTS Member Associates, LLC; Park Square West Member Associates, LLC; Seaboard Residential, LLC; One Atlantic Member Associates, LLC; 88 Hamilton Avenue Member Associates, LLC; 316 Courtland Avenue Associates, LLC; 300 Main Management, Inc.; 300 Main Street Member Associates, LLC; PSWMA I, LLC; PSWMA II, LLC; Tag Forest, LLC; Newbury Common Member Associates, LLC; Century Plaza Investor Associates, LLC; Seaboard Hotel Associates, LLC; Seaboard Hotel LTS Associates, LLC; Park Square West Associates, LLC; Clocktower Close Associates, LLC; One Atlantic Investor Associates, LLC; 88 Hamilton Avenue Associates, LLC; 220 Elm Street I, LLC; and 300 Main Street Associates, LLC. An organizational chart summarizing the entire Seaboard enterprise, including Debtors' corporate and capital structure and the known DiMenna entities is attached hereto as **Exhibit A**.

8. The Debtors are all privately owned and no debt or equity securities of any Debtor are currently listed or traded on any public securities exchange or market. Seaboard Realty, LLC ("**Seaboard Realty**"), its principals or entities it manages serve as the manager under the operating agreements for each of the Debtors and is owned 50% by John J. DiMenna, Jr., 25% by Thomas L. Kelly, Jr. and 25% by William A. Merritt, Jr.

B. Overview of Business Operations

9. The Debtors comprise a corporate enterprise that owns a diverse portfolio of high quality, distinctive commercial, hospitality and residential properties with an aggregate of approximately 800,000 square feet located primarily in Stamford, Connecticut. Stamford is the largest financial district in the New York Metro area outside of New York City itself, and is one of the largest concentrations of corporations in the nation.

10. The following Debtors own the underlying properties (collectively, the “**Property Owner Debtors**”):²

11. Hospitality Properties (the “**Hotel Properties**”):³

- a. *Seaboard Hotel Associates, LLC* (“**Seaboard Hotel**”) has a ground lease for the Courtyard by Marriott Stamford, CT (the “**Courtyard Marriott Property**”). The Courtyard Marriott Property is a 9-story 63,085 SF hotel comprised of 115 guest rooms in the heart of downtown Stamford. Its amenities include an indoor pool, business center/library, valet garage parking for 125 cars, fitness center, hardwired and wireless internet access, shuttle service, and a full service restaurant/lounge, Napa & Co. on the ground floor. It is among the top ten performing Courtyards in the Marriott Courtyard portfolio which is comprised of approximately 700 hotels.
- b. *Seaboard Hotel LTS Associates, LLC* (“**Seaboard LTS**”) owns the under construction Residence Inn, Stamford, CT (the “**Residence Inn Property**”). Construction is approximately 50% complete. Construction ceased in early December 2015 and the Debtors will seek to finance the completion of construction as soon as possible. I believe that construction would be completed approximately 8 months after the re-commencement of construction. The future Marriott Residence Inn will be an 8-story 134,180 SF long term stay hotel comprised of 156 guest rooms in the heart of downtown Stamford. Its amenities will include a business center/library, fitness center, conference rooms, hearth room, parking for 60 cars, hardwired and wireless internet access, shuttle service, and a full service lounge on the ground floor. It will be the first long term stay hotel in downtown Stamford. The hotel will be contiguous to the Courtyard Marriott Property and will share parking and amenities.

12. Commercial Properties (the “**Commercial Properties**”):⁴

- a. *300 Main Street Associates, LLC* (“**300 Main**”) owns 300 Main Street, Stamford, CT (the “**300 Main Property**”). The 300 Main

² Substantially all of the assets of Tag and Newbury Common Associates, LLC were sold prior to the Petition Date.

³ The Debtors owning the Hotel Properties are hereinafter referred to as the “**Hotel Debtors**.”

⁴ The Debtors owning the Commercial Properties are hereinafter referred to as the “**Commercial Property Debtors**.”

Property, also known as the former First Union National Bank building, consists of a eight-story 130,645 SF multi-tenanted building which contains office space with street level retail and a 147 space parking garage. The property, located in the downtown Stamford Historic District, was constructed in 1927 and renovated in 2002 and again in 2010-2011.

- b. *One Atlantic Investor Associates, LLC* (“**1 Atlantic**”) owns 1 Atlantic Street, Stamford, CT (the “**1 Atlantic Property**”). The 1 Atlantic Property consists of a nine-story 81,941 SF multi-tenanted building which contains office space with street level retail. This vintage 1929 landmark downtown office building is located in the heart of Stamford’s central business district. The property appeals to a broad and diverse mix of retail, banking, and office tenants.
- c. *88 Hamilton Avenue Associates, LLC* (“**88 Hamilton**”) owns 88 Hamilton Avenue, Stamford, CT (the “**88 Hamilton Property**”). The 88 Hamilton Property is a 154,533 SF mixed-use office/flex warehouse building. Originally built in 1942, the property was expanded in the 1960s and completely renovated in 2002. The 88 Hamilton Property’s attractive architecture, distinctive mixed-use configuration, and exceptional location make it a unique and desirable facility for tenants seeking “flexible-use” buildings.
- d. *220 Elm Street I, LLC* (“**220 Elm**”) owns 50% of a ground lease for 220 Elm Street, New Caanan, CT (the “**220 Elm Property**”).⁵ The 220 Elm Property is a two story 18,370 SF Class A office building in the heart of New Canaan’s most active commercial corridor. Steps from the front door are downtown New Canaan’s dining, shopping, healthclubs and other amenities, and the train station.

13. Residential Properties (the “**Residential Properties**”):⁶

- a. *Park Square West Associates, LLC* (“**Park Square West**”) owns Park Square West, Stamford, CT (the “**Park Square West Property**”). The Park Square West Property is a 9-story Class A luxury apartment property comprised of 143 apartments and approximately 10,000 SF of ground floor retail space. The property was constructed in 2001 and is located in the heart of the Stamford Downtown Special Services District. The Park Square

⁵ 220 Elm Street II, LLC, a company owned by Mr. DiMenna, owns the other 50% of the ground lease. As such, that entity is not a debtor herein and the Debtors’ reserve all of their rights with respect thereto.

⁶ The Debtors owning the Residential Properties are hereinafter referred to as the “**Residential Property Debtors**.”

West Property is comprised of one, two and three bedroom apartments ranging from 547 SF to 1,250 SF and provides an amenity package including a 2-story granite finished lobby, structured parking, a fitness center, a community room, 24 hour security and a fully equipped business center.

- b. *Century Plaza Investor Associates, LLC* (“**Century Plaza**”) and *Seaboard Residential, LLC* (“**Seaboard Residential**”) own 100 Prospect Street, Stamford, CT (the “**100 Prospect Property**”), 75% and 25% respectively, as tenants in common. The 100 Prospect Property consists of two luxury residential towers comprised of a total of 82 one-bedroom apartments with unique floor to ceiling windows, offering views of downtown Stamford. The apartments range in size from 600 SF to 923 SF based on the location in the building. There is also a vacant former office space of 11,040 SF, which could be converted into 12 additional apartments ranging in size from 644 SF to 833 SF. This 79,722 SF downtown property is situated within walking distance of Stamford’s Bedford Street corridor, home to many of the most popular restaurants, movie theaters and commercial establishments. In addition, the 100 Prospect Property offers amenities and services including a 24-Hour attended front desk with concierge services, 24-Hour emergency maintenance, controlled access garage parking, state of the art fitness center, penthouse level residents’ lounge, granite kitchen countertops with stainless steel Energy Star appliances, full-size stacked washers and dryers, air conditioning, hardwood floors, marble and tile bathrooms, security system in every unit, all pre-wired for internet and cable.
- c. *Clocktower Close Associates, LLC* (“**Clocktower Close**”) owns six units totaling 5,500 SF in the condominium building at 25 Grant Street, Norwalk, CT (the “**Clocktower Property**”). The Clocktower Property of 129 units is a former hat manufacturing facility in Norwalk, Connecticut. The majority of the units at the Clocktower Property are one-bedroom lofts with 20’ to 21’ ceilings, many of which were recently renovated and upgraded. The site features abundant parking, excellent visibility and convenient access to the area’s business centers, retail and nightlife.

14. The following Debtors are holding companies whose assets are substantially comprised of the equity of the Property Owner Debtors: Newbury Common Member Associates, LLC (“**Newbury Member**”); Seaboard Realty; 600 Summer Street

Stamford Associates, LLC (“**600 Summer Street**”); Seaboard Hotel Member Associates, LLC (“**Seaboard Hotel Member**”); Seaboard Hotel LTS Member Associates, LLC (“**Seaboard LTS Member**”); Park Square West Member Associates, LLC (“**PSW Member**”); One Atlantic Member Associates, LLC (“**1 Atlantic Member**”); 88 Hamilton Avenue Member Associates, LLC (“**88 Hamilton Member**”); 316 Courtland Avenue Associates, LLC (“**316 Courtland**”); 300 Main Management, Inc. (“**300 Main Inc.**”); 300 Main Street Member Associates, LLC (“**300 Main Member**”); PSWMA II, LLC and PSWMA I, LLC (collectively, the “**Holding Company Debtors**”). Seaboard Residential’s assets are comprised of the equity of Clocktower Close, 90% of the equity of 300 Main, and a 25%-interest in the 100 Prospect Street Property, described above.

15. Management of the Commercial Properties and the Residential Properties.

Prior to the Petition Date, the Commercial Properties and the Residential Properties were managed by Seaboard Property Management, Inc. (“**Seaboard Property Management**”), a property management company owned by Mr. DiMenna. Through Seaboard Property Management, Mr. DiMenna actively managed, and was responsible for, the day-to-day operations of the Debtors. Seaboard Property Management generally was required to perform or provide for all operational and management functions necessary to operate the Commercial Properties and Residential Properties. Among other things, Seaboard Property Management, on behalf of the Debtors, collected all rents, leased out the properties, paid all operating expenses, filed tax returns, maintained insurance, provided routine maintenance, repairs and minor alterations to the properties, contracted with service providers, and purchased all goods and materials utilized in the operation of the business. Most property expenses were paid directly by

the Debtor entity owning the property, though Seaboard Property Management employees would direct payment on behalf of such entity.

16. Prepetition, Seaboard Property Management funded the operating expenses out of a consolidating bank account owned by Seaboard Consolidated, LLC (a company controlled by Mr. DiMenna). Based on our investigation to date, I believe that if a Debtor needed money, it would receive funds from the Seaboard Consolidated, LLC account and would then make payments related to the properties and distributions to investors. Seaboard Consolidated, LLC disbursed funds without regard to which property originated or otherwise supported the funds.⁷

17. Since the Petition Date, I, on behalf of the Debtors, am actively managing the Commercial Properties and Residential Properties, including the day-to-day operations of each property. Seaboard Property Management is still the manager and employer of the employees providing services to the Debtors. I have, however, begun the process of terminating Seaboard Property Management and transitioning its employees to the Debtors, and in the meantime the Debtors have imposed careful controls to ensure that the Debtors are not funding non-debtor related expenses of Seaboard Property Management. All property-level and other overhead expenses are carefully reviewed and approved by my staff. Additionally, the only persons authorized to sign for checks are myself or my staff. In connection with the Commercial Properties and Residential Properties, the Debtors are reviewing all items that arise on a lease by lease basis and are examining current occupancy rates and property level expenses. Additionally, the Debtors are assessing new leases and extending terms of old leases where

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The consolidating bank account did not collect cash receipts directly from property tenants, but instead received funds from various Debtor bank accounts at the direction of Mr. DiMenna. The funds transferred from the consolidating account to Debtors were disbursed by those entities to equity holders, to pay down loans and to make various other disbursements.

appropriate. The Debtors also are monitoring maintenance issues, including assessing deferred maintenance concerns and the cost of completion of the Residence Inn project. Moreover, the Debtors are reviewing each significant vendor relationship with the properties. Finally, the Debtors have worked with one of the lenders to the Residence Inn project to obtain funding for 24/7 security at the premises.

18. When Seaboard Property Management has to fund expenses directly (such as for payroll directly related to management of the Debtors' properties), the Commercial Property Debtors and Residential Property Debtors advance or reimburse Seaboard Property Management for those expenses.

19. Management of the Hotel Properties. Prior to the Petition Date, the Hotel Properties were and are still managed by Urgo Hotels, LLP ("**Urgo**" or the "**Hotel Manager**"), an unaffiliated third party.⁸ The Hotel Debtors' management is responsible for overseeing the Hotel Manager. The term of the management agreement between Urgo and Seaboard Hotel (the "**Courtyard Management Agreement**") expires on May 3, 2021. The term of the management agreement between Urgo and Seaboard LTS (the "**Residence Inn Management Agreement**") expires ten years following the opening date of the Residence Inn Property.

20. Pursuant to the Courtyard Management Agreement, the Hotel Manager generally is required to perform or provide for all operational and management functions necessary to operate the hotel. Among other things, the Hotel Manager, on behalf of Seaboard Hotel, pays all property level expenses of the hotels, including payroll, contracts with service providers, provides centralized accounting services, keeps books and records, provides routine maintenance, repairs and minor alterations to the property, maintains certain insurance and

⁸ Although Urgo continues to serve as the property manager for the Courtyard hotel, Urgo reports to, and takes direction from, the Debtors, subject to the underlying management agreement between the Debtors and Urgo and the Courtyard Franchise Agreement (as defined below).

purchases all goods and materials utilized in the operation of the business. Generally, the Hotel Manager deposits hotel revenue into one or more bank accounts on which it has signing authority, funds hotel operating expenses out of those accounts and makes periodic cash distributions to Seaboard Hotel. If the Hotel Manager has insufficient funds to cover expenses, the management agreement provides that Seaboard Hotel must provide funding to the Hotel Manager. Management meets with representatives of the Hotel Manager weekly, or more often if needed, to review the performance of the Courtyard Marriott Property. In addition, the Hotel Manager receives management fees prescribed by the hotel management agreements.

21. Pursuant to the Residence Inn Management Agreement, commencing four to six months prior to the opening of the Residence Inn Property, the Hotel Manager generally is required to perform or provide for all operational and management functions necessary to operate the hotel. From and after the time when the Residence Inn Property is preparing to open, the Hotel Manager will provide services generally consistent with those that it provides for the Courtyard Marriott Property, and will receive management fees.

22. The Hotel Debtors affiliate their hotels with the well-recognized Marriott brand. Marriott International, Inc. (including its subsidiaries, the “**Franchisor**”) offers hotel owners robust marketing support and service. Hotels operating under the Franchisor’s brands have demonstrated their ability to command revenue premiums over other brands. The franchise licenses for the Courtyard Marriott Property and the Residence Marriott Property are held by the Hotel Debtors and are governed by franchise agreements between those Hotel Debtors and the Franchisor. The term of the franchise agreement between Franchisor and Seaboard Hotel (the “**Courtyard Franchise Agreement**”) expires on January 25, 2015. The term of the franchise

agreement between Franchisor and Seaboard LTS (the “**Residence Inn Franchise Agreement**”) expires twenty five years following the opening date of the Residence Inn Property.

23. Under the franchise agreements, the Hotel Debtors are required to pay certain fees, including franchise fees based on a percentage of hotel room revenue, and must allow the Franchisor to inspect their licensed hotels periodically to confirm adherence to stated brand operating standards. These inspections can result in additional capital expenditure requirements or additional operational, marketing, or repairs and maintenance expenses. Seaboard Realty and non-debtor Seaboard Properties, Inc. (“**Seaboard Properties**”) have guaranteed the Hotel Debtors’ obligations under the Courtyard Franchise Agreement and the Residence Inn Franchise Agreement.

24. Necessity of Operating as a Consolidated Business. The consolidated ownership and management of their nine properties should allow the Debtors to benefit from certain economies of scale and negotiating leverage with vendors as compared to properties owned and managed on an individual basis. For example, centralized corporate management may allow the Debtors to reduce corporate overhead costs. If each of the Debtors were to have its own management and representation, it is without question that the attendant costs would eradicate significant value.

C. The Debtors’ Employees

25. As of the Petition Date, the employees are employed by Seaboard Property Management. The Debtors anticipate that, subject to this Court’s approval, the employees will officially be employees of Newbury Common Member on or around March 1, 2016. As of the Petition Date, Seaboard Property Management employed on behalf of the Debtors approximately 13 employees (the “**Employees**”), 11 of which are salaried and 2 of which are paid hourly. None of the Employees is unionized.

26. The Employees oversee all leasing activity, operations, and facilities management for the Commercial Properties and the Residential Properties. Additionally, the Employees provide accounting and administrative services for the Debtors. The Employees' skills, relationships with vendors, suppliers, tenants, and other third parties, and their knowledge of the Debtors' operations, are important to the Debtors' ability to continue their operations successfully.

PART II

(Prepetition Capital Structure)⁹

27. As of January 7, 2016, the Debtors had incurred purported aggregate funded secured indebtedness of approximately \$177.2 million in principal, including approximately \$150.4 million of property-level secured debt, approximately \$34.5 million of which was securitized and sold in the commercial mortgage-backed security ("CMBS") market, and approximately \$26.8 million of purported and allegedly unauthorized mezzanine debt. The mortgages are each secured by mortgages on a specific property and the mezzanine loans are secured by pledges of equity interests in certain Property Owner Debtor(s). The Debtors' prepetition financing is separated into eleven general groups, each of which is discussed below.

⁹ Attached hereto as **Exhibit B** is a summary chart of the Debtors' prepetition capital structure. Attached hereto as **Exhibit C** is a summary chart of the purported guarantees provided for thereunder, some of which are disputed. The descriptions of the Debtors' prepetition debt facilities and the collateral securing those facilities provided herein does not constitute, and should not be construed as, an admission by the Debtors regarding the validity, priority, enforceability, perfection, or amount of any obligation, claim, guarantee, lien, mortgage, pledge, or other security interest, or any other fact with respect thereto, and the Debtors reserve all rights to challenge or dispute any of the foregoing on any basis whatsoever except to the extent as set forth in the *Emergency Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Scheduling a Final Hearing* (the "**Cash Collateral Motion**") and in the proposed interim order attached thereto. Specifically, it appears that a number of the loans identified herein were not properly authorized or disclosed and the Debtors reserve their rights with respect thereto.

Additionally, the Debtors appear to have received unsecured debt or equity funding from many individual parties, which also is discussed below.

A. The Courtyard Marriott Property

28. The Commercial Loan Agreement, dated April 29, 2011, for the Courtyard Marriott Property was made between Seaboard Hotel, as borrower, and Webster Bank, National Association (“**Webster Bank**”), as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**Seaboard Hotel Loan Agreement**”). The Seaboard Hotel Loan Agreement provides for a mortgage loan to Seaboard Hotel in the aggregate principal amount of \$18,500,000 (the “**Seaboard Hotel Mortgage Obligation**”), which amount is collateralized by the Courtyard Marriott Property. The Seaboard Hotel Mortgage Obligation matures on May 1, 2016.

29. The collateral securing the Seaboard Hotel Mortgage Obligation includes, among other things: a first leasehold mortgage on Seaboard Hotel’s leasehold interest in the Courtyard Marriott Property, the building and improvements on the Courtyard Marriott Property, personal property, furniture, equipment and fixtures related to the operation of the Courtyard Marriott Property, subleases, rents, income and profits arising from the property, licenses, permits, approvals and contracts (collectively, the “**Seaboard Hotel Collateral**”).

30. Additionally, Seaboard Hotel Member, the 100% owner of Seaboard Hotel, as borrower, and UCF I Trust 1 (“**UCF I**”), as mezzanine lender, are parties to that certain Mezzanine Loan Agreement, dated November 30, 2012 (as amended, the “**Seaboard Hotel Member Mezzanine Loan Agreement**”). The Seaboard Hotel Member Mezzanine Loan Agreement provides for a senior mezzanine loan in the original principal amount of \$3,500,000 (the “**Seaboard Hotel Member Mezzanine Loan Obligation**”), which amount is collateralized

by Seaboard Hotel Member's equity interests in Seaboard Hotel. Additionally, Seaboard LTS Member guaranteed payment of the Seaboard Hotel Member Mezzanine Loan Obligation by pledging its equity interests in Seaboard LTS. The Seaboard Hotel Member Mezzanine Loan Obligation was originally scheduled to mature on December 1, 2013. A letter between Mr. DiMenna and UCF I dated November 13, 2013 indicates that the maturity date was extended to June 1, 2014.

31. Seaboard Hotel is also a grantor under a Leasehold Open-End Mortgage Deed, dated May 14, 2015, in favor of Cedar Hill Capital, LLC ("**Cedar Hill**"), as lender, in connection with a \$1,000,000 Promissory Note, dated May 14, 2015 ("**\$1M Promissory Note**") borrowed by Seaboard Realty. The \$1M Promissory Note does not contain any subordination provisions, however, the Debtors view this obligation as junior to the Seaboard Hotel Mortgage Obligation. It is my understanding that the obligations related to the \$1M Promissory Note were recorded within the preference and/or fraudulent transfer look-back period. The \$1M Promissory Note matures on March 31, 2016.

32. The collateral securing the \$1M Promissory Note includes, among other things: all rights in the Courtyard Marriott Property, together with all other fixtures of the premises, and all building materials, supplies, machinery, furniture, fixtures, rents, equipment and personal property owned by Seaboard Hotel located on the premises (collectively, the "**\$1M Collateral**").

B. The Residence Inn Property

33. The Open-End Mortgage Deed Modification Agreement, dated July 18, 2014, for the Residence Inn Property was made between Seaboard LTS, as borrower, and Israel Discount Bank of New York ("**IDB**"), as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary

documents thereto, the “**Seaboard LTS Mortgage Agreement**”).¹⁰ Seaboard LTS and IDB are also party to a Subordinate Mortgage Deed, dated April 15, 2015 for the Residence Inn Property (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**Seaboard LTS Subordinate Mortgage Agreement**”). The Seaboard LTS Mortgage Agreement provides for a mortgage loan to Seaboard LTS in the aggregate principal amount of \$11,000,000 (the “**Seaboard LTS Mortgage Obligation**”), which amount is collateralized by the Residence Inn Property. The Seaboard LTS Subordinate Mortgage Agreement provides for a subordinate mortgage loan to Seaboard LTS in the aggregate principal amount of \$7,000,000 (the “**Seaboard LTS Subordinate Mortgage Obligation**”), which amount is also collateralized by the Residence Inn Property. The Seaboard LTS Mortgage Obligation and the Seaboard LTS Subordinate Mortgage Obligation each had a maturity date of October 31, 2015.

34. The collateral securing the Seaboard LTS Mortgage Obligation includes, among other things: all rights in the Residence Inn Property, with all structures, buildings, fixtures, personal property, easements, rents and profits of the premises (collectively, the “**Seaboard LTS Collateral**”).

35. The collateral securing the Seaboard LTS Subordinate Mortgage Obligation includes the Seaboard LTS Collateral.

36. Additionally, Seaboard LTS Member, the 100% owner of Seaboard LTS, as borrower, and CPR Money LLC (“**CPR**”), as mezzanine lender, are parties to that certain Mezzanine Loan Agreement, dated September 30, 2014 (as amended, the “**Seaboard LTS**

¹⁰ Seaboard LTS and IDB originally entered into an Open-End Mortgage Deed, dated December 28, 2012, providing for a mortgage loan to Seaboard LTS in the aggregate principal amount of \$6,000,000. This mortgage was modified by the Seaboard LTS Mortgage Agreement increased the loan by \$5,000,000 for a total of \$11,000,000.

Member Mezzanine Loan Agreement”). The Seaboard LTS Member Mezzanine Loan Agreement provides for a junior mezzanine loan in the original principal amount of \$3,000,000 (the “**Seaboard LTS Member Mezzanine Loan Obligation**”), which amount is collateralized by Seaboard LTS Member’s equity interests in Seaboard LTS. Additionally, Seaboard Hotel Member guaranteed payment of the Seaboard LTS Member Mezzanine Loan Obligation by pledging its equity interests in Seaboard Hotel. And, 1 Atlantic Member guaranteed payment of the Seaboard LTS Member Mezzanine Loan Obligation by pledging its equity interests in 1 Atlantic.¹¹ The Seaboard LTS Member Mezzanine Loan Obligation was originally scheduled to mature on March 15, 2015. A modification agreement dated February 2015 indicates that the maturity date may have been extended by six months to September 15, 2015.

C. The 300 Main Property

37. The Loan Agreement, dated January 19, 2007, for the 300 Main Property was made between 300 Main, as borrower, and U.S. Bank, National Association (“**U.S. Bank**”), as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**300 Main Loan Agreement**”).¹² The 300 Main Loan Agreement provides for a mortgage loan to 300 Main in the original aggregate principal amount of \$11,500,000 (the “**300 Main Mortgage Obligation**”), which amount is collateralized by the 300 Main Property. The 300 Main Mortgage Obligation matures on February 6, 2017.

¹¹ The Seaboard LTS Member Mezzanine Loan Obligation is junior to the obligations under the Seaboard Hotel Member Mezzanine Loan Obligation pursuant to that certain Post-Closing and Further Assurances Agreement, dated September 30, 2014, by and between Seaboard LTS, Seaboard Hotel, 1 Atlantic and CPR.

¹² The original borrower under the 300 Main Loan Agreement was 300 Main Owner LLC (which is unrelated to the Debtors) and the original lender was Goldman Sachs Commercial Mortgage Capital, L.P. Pursuant to that certain Note and Mortgage Assumption Agreement, dated September 10, 2013, 300 Main assumed the loan.

38. The 300 Main Loan Agreement mortgage loan was securitized and sold into the CMBS market. The 300 Main Mortgage Obligation is part of a mortgage loan pool known as Greenwich Capital Commercial Funding Corp., Commercial Mortgage Trust 2007-GG9, Commercial Mortgage Pass-Through Certificates, Series 2007-GG9, for which LNR Partners, LLC (“**LNR**”) serves as the special servicer.

39. The collateral securing the 300 Main Mortgage Obligation includes, among other things: all the rights of 300 Main in the 300 Main Property, all easements, all machinery, furniture, furnishings, equipment, computer software and hardware, fixtures, inventory, materials, supplies and other articles of personal property and accessions thereof, all leases, subleases and other agreements or arrangements affecting the use of the 300 Main property, all accounts (including reserve accounts), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the UCC, all franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, surveys, title insurance policies, permits, consents, licenses, management agreements, and all proceeds, products, offspring, rents and profits from any of the foregoing (collectively, the “**300 Main Collateral**”).

40. Additionally, there is another loan secured by the 300 Main Property. 300 Main, as borrower, and First County Bank (“**FCB**”), as lender, are parties to a Mortgage Deed, dated September 9, 2013 (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**300 Main FCB Agreement**”). The 300 Main FCB Agreement provides for a loan to 300 Main in the aggregate principal amount of \$2,000,000 (the “**300 Main FCB Obligation**”), which amount is collateralized by the 300 Main Property. Pursuant to the 300 Main FCB Agreement, the 300

Main FCB Obligation is junior to the 300 Main Mortgage Obligation. The 300 Main FCB Obligation matures on February 15, 2016. It is my understanding that the 300 Main FCB Obligation was recorded within the preference and/or fraudulent transfer look-back period

41. The collateral securing the 300 Main FCB Obligation includes, among other things: the 300 Main Property, with the buildings and improvements thereon, with the appurtenances, all the estate and rights of 300 Main to the premises, and all rents, issues and profits of the premises (collectively, the “**300 Main FCB Collateral**”). Additionally, 300 Main Inc., Seaboard Residential and 300 Main Member each guaranteed payment of the 300 Main FCB Obligation by pledging its equity interests in 300 Main.

D. The 1 Atlantic Property

42. The Open-End Mortgage Deed and Security Agreement, dated October 11, 2013, for the 1 Atlantic Property was made between 1 Atlantic, as borrower, and Citizens Bank, N.A. (“**Citizens Bank**”) f/k/a RBS Citizens, National Association, as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**1 Atlantic Mortgage Agreement**”). The 1 Atlantic Mortgage Agreement provides for a mortgage loan to 1 Atlantic in the aggregate principal amount of \$20,500,000 (the “**1 Atlantic Mortgage Obligation**”), which amount is collateralized by the 1 Atlantic Property. The 1 Atlantic Mortgage Obligation matures on October 11, 2018.

43. The collateral securing the 1 Atlantic Mortgage Obligation includes, among other things: all rights in the 1 Atlantic Property, all rights in all buildings, improvements, fixtures and service equipment, and all unearned premiums, awards or payments, which may be made with respect to the 1 Atlantic Property, all accounts, rents, chattel paper and

instruments, all inventory used or consumed, all securities entitlements, investment property, financial assets and documents evidencing that the persons in possession of them are entitled to dispose of the goods they cover; all equipment, all general intangibles held or granted to 1 Atlantic and all of the rights of 1 Atlantic under all contracts, agreements, or leases to which 1 Atlantic is or may become a party, all monies, securities and other property held or received by or in transit to the bank, and all products and proceeds of the foregoing, including, without limitation, proceeds of any insurance policies insuring any of the foregoing (collectively, the “**1 Atlantic Collateral**”).

44. As discussed *infra*, 1 Atlantic Member guaranteed payment of the Seaboard LTS Member Mezzanine Loan Obligation by pledging its equity interests in 1 Atlantic.

E. The 88 Hamilton Property

45. The Loan Agreement, dated June 8, 2015, for the 88 Hamilton Property was made between 88 Hamilton, as borrower, and Natixis Real Estate Capital, LLC (“**Natixis**”), as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**88 Hamilton Loan Agreement**”). The 88 Hamilton Loan Agreement provides for a mortgage loan to 88 Hamilton in the aggregate principal amount of \$23,000,000 (the “**88 Hamilton Mortgage Obligation**”), which amount is collateralized by the 88 Hamilton Property. The 88 Hamilton Mortgage Obligation matures on July 5, 2025.

46. The 88 Hamilton Loan Agreement mortgage loan was securitized and sold into the CMBS market. The 88 Hamilton Mortgage Obligation is part of a mortgage loan pool known as Wells Fargo Commercial Mortgage Trust 2015-NXS2, Commercial Mortgage Pass-

Through Certificates, Series 2015-NXS2, for which Wilmington Trust, N.A., acts as trustee and for which Rialto Capital Management, LLC (“**Rialto**”) serves as the special servicer.

47. The collateral securing the 88 Hamilton Mortgage Obligation includes, among other things: both real and personal property and all other rights and interests, whether tangible or intangible in nature, of 88 Hamilton in the 88 Hamilton Property, fixtures, all easements, all machinery, furniture, furnishings, equipment, computer software and hardware, fixtures, inventory, materials, supplies and other articles of personal property and accessions thereof, all leases, all rents, all accounts (including reserve accounts), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the UCC, all franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, surveys, title insurance policies, permits, consents, licenses, management agreements, and all proceeds, products, offspring, rents and profits from any of the foregoing (collectively, the “**88 Hamilton Collateral**”).

F. The 220 Elm Property

48. *First Leasehold Mortgage.* The Leasehold Mortgage Deed and Security Agreement, dated October 14, 2008, for the 220 Elm Property was made between 220 Elm and 220 Elm Street II, LLC (a non-debtor), as borrowers, and People’s United Bank (“**People’s United**”), as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**220 Elm Mortgage Agreement**”). The 220 Elm Mortgage Agreement provides for a mortgage loan to 220 Elm in the aggregate principal amount of \$7,000,000 (the “**220 Elm Mortgage Obligation**”), which amount is collateralized by the 220 Elm Property. The 220 Elm Mortgage Agreement is evidenced by a certain Index Term Note. The 220 Elm Mortgage Obligation matures on November 1, 2018.

49. The collateral securing the 220 Elm Mortgage Obligation includes, among other things: all of 220 Elm's and 220 Elm Street II, LLC's leasehold estate and interest under the leases, which cover the 220 Elm Property, improvements, service equipment: including fixtures, appliances, machinery, equipment, goods, accounts, chattel paper, instruments, general intangibles, letter-of-credit rights, documents, and deposit accounts, easements, condemnation proceeds, leases, property income, tax refunds, inventory and proceeds thereof (collectively, the "**220 Elm Collateral**").

50. *Second Leasehold Mortgage.* The Leasehold Mortgage Deed and Security Agreement, dated January 24, 2014, for the 220 Elm Property was made between 220 Elm and 220 Elm Street II, LLC, as borrowers, and People's United, as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the "**Second 220 Elm Mortgage Agreement**"), which amount is also collateralized by the 220 Elm Property. The Second 220 Elm Mortgage Agreement provides for a mortgage loan to 220 Elm in the aggregate principal amount of \$1,200,000 (the "**Second 220 Elm Mortgage Obligation**"). The Second 220 Elm Mortgage Obligation matures on November 1, 2018.

51. The collateral securing the Second 220 Elm Mortgage Obligation includes, among other things, the 220 Elm Collateral.

G. The Park Square West Property

52. The Building Loan Agreement, dated November 19, 1998, for the Park Square West Property was made between Park Square West, as borrower, and Connecticut Housing Finance Authority ("**Connecticut HFA**"), as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and

ancillary documents thereto, the “**PSW Building Loan Agreement**”).¹³ The PSW Building Loan Agreement provides for a mortgage loan to Park Square West in the aggregate principal amount of \$26,000,000 (the “**PSW Mortgage Obligation**”), which amount is collateralized by the Park Square West Property. The PSW Mortgage Obligation matures on January 1, 2036.

53. The collateral securing the PSW Mortgage Obligation includes, among other things: the Park Square West Property, with all buildings, structures and improvements, all rights to the streets abutting to the land, all equipment in which Park Square West has a title interest, all equipment, fittings, furniture, furnishings, appliances, apparatus, and machinery, all accounts, chattel paper, general intangibles, all contract rights, franchises, books, records, permits, licenses, all leases, all rents, income to which Park Square West may be entitled from property, and all proceeds received in connection with the premises (collectively, the “**Park Square West Collateral**”).

54. PSW Member, the 100% owner of Park Square West, is the borrower, and IDB, is the lender, under a \$5,000,000 Promissory Note, dated September 24, 2013 (“**PSW IDB Promissory Note**”). The PSW IDB Promissory Note matures on March 24, 2016. PSW Member guaranteed payment under the PSW IDB Promissory Note by pledging its equity interests in Park Square West.

55. Additionally, PSW Member, as mezzanine borrower, and UCF I, as mezzanine lender, are parties to that certain Mezzanine Loan Agreement, dated November 1, 2012 (as amended, the “**PSW Member Mezzanine Loan Agreement**”). The PSW Member Mezzanine Loan Agreement provides for a mezzanine loan in the principal amount of \$15,300,000 (the “**PSW Member Mezzanine Loan Obligation**”), which amount is

¹³ The original borrower under the Park Square West Building Loan Agreement was Park Square West I Limited Partnership (unrelated to the Debtors). It was assumed by Park Square West in 2011.

collateralized by PSW Member's equity interests in Park Square West. Additionally, PSWMA I, LLC guaranteed payment of the PSW Member Mezzanine Loan Obligation by pledging equity interests in PSW Member. The PSW Member Mezzanine Loan Obligation matured on November 1, 2014.

H. The 100 Prospect Property

56. The Open-End Mortgage Deed and Security Agreement, dated December 4, 2013, for the 100 Prospect Property was made between Century Plaza and Seaboard Residential, as borrowers, and Citizens Bank, f/k/a RBS Citizens, National Association, as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the "**100 Prospect Mortgage Agreement**"). The 100 Prospect Mortgage Agreement provides for a mortgage loan to Century Plaza and Seaboard Residential in the aggregate principal amount of \$21,090,000 (the "**100 Prospect Mortgage Obligation**"), which amount is collateralized by the 100 Prospect Property. The 100 Prospect Mortgage Obligation matures in December 4, 2018.

57. The collateral securing the 100 Prospect Mortgage Obligation includes, among other things: certain pieces or parcels of land, with any buildings and improvements at the 100 Prospect Property, all the right, title and interest of Century Plaza and Seaboard Residential in any way appertaining to the premises, all right in all buildings, improvements, structures, equipment, machinery, apparatus, appliances, fittings, fixtures attached to the premises, rents, all unearned premiums, all awards made with respect to the premises, all account, chattel paper and instruments, all inventory used or consumed, all securities entitlements, investment property, financial assets and documents evidencing that the persons in possession of them are entitled to dispose of the goods they cover; all equipment, all general

intangibles held or granted to Century Plaza or Seaboard Residential and all of the rights under all contracts, agreements, or leases to which the Century Plaza or Seaboard Residential are or may become a party, all monies, securities and other property held or received by or in transit to the bank, and all products and proceeds of the foregoing, including, without limitation, proceeds of any insurance policies insuring any of the foregoing (collectively, the “**100 Prospect Collateral**”).

I. The Clocktower Property

58. The Mortgage Deed, dated November 13, 2008, for the Clocktower Property was made between Clocktower Close, as borrower, and FCB as lender (as amended, restated, supplemented, or otherwise modified from time to time, and together with such supporting and ancillary documents thereto, the “**Clocktower Mortgage Agreement**”). The Clocktower Mortgage Agreement provides for a loan to Clocktower Close in the aggregate principal amount of \$1,125,000 (the “**Clocktower Mortgage Obligation**”), which is collateralized by the Clocktower Property. The Clocktower Mortgage Obligation matures on December 1, 2033.

59. The collateral securing the Clocktower Mortgage Obligation includes, among other things: certain pieces or parcels of land, with any buildings and improvements at the Clocktower Property with the appurtenances, and all the estate and rights of Clocktower Close to the Clocktower Property, together with the buildings, improvements, appertaining to the premises, and all rents, issues and profits of the premises (collectively, the “**Clocktower Collateral**”).

J. The Cedar Hill \$4M Promissory Note

60. Additionally, Seaboard Realty, as borrower, and Cedar Hill, as lender, are parties to that certain \$4,000,000 Promissory Note, dated March 25, 2015 (“**\$4M Promissory**

Note”). In order to secure the Promissory Note, Cedar Hill required 88 Hamilton, Century Plaza, Seaboard Residential, and 1 Atlantic each enter into a Leasehold Open-End Mortgage Deed. The \$4M Promissory Note does not contain any subordination provisions and matures on March 31, 2016. It is my understanding that the obligations related to the \$4M Promissory Note were recorded within the preference and/or fraudulent transfer look-back period.

61. The collateral securing the \$4M Promissory Note includes, among other things:

- a. Century Plaza and Seaboard Residential grant all rights in the 100 Prospect Property together with all other fixtures of the premises, and all building materials, supplies, machinery, furniture, fixtures, rents, equipment and personal property owned by them located on the premises;
- b. 1 Atlantic grants all rights in the 1 Atlantic Property together with all other fixtures of the premises, and all building materials, supplies, machinery, furniture, fixtures, rents, equipment and personal property owned by 1 Atlantic located on the premises; and
- c. 88 Hamilton grants all rights in the 88 Hamilton Property together with all other fixtures of the premises, and all building materials, supplies, machinery, furniture, fixtures, rents, equipment and personal property owned by 88 Hamilton located on the premises (collectively, (a)-(c), the “**\$4M Collateral**”).¹⁴

K. Other Prepetition Indebtedness

62. Seaboard Realty is a party to a certain Commercial Revolving Line of Credit Promissory Note between Seaboard Realty and non-debtor Seaboard Property Management, as borrowers, and Patriot National Bank, as lender, dated December 29, 2014, for \$3,000,000 as evidenced by a certain Amended and Restated Commercial Revolving Note (the

¹⁴ It appears based on lien search results that the \$4M Promissory Note, to the extent allowed, may be senior to the 88 Hamilton Mortgage Obligation.

“**\$3M Seaboard Realty Revolving Note**”). The Seaboard Realty Revolving Note matured on November 1, 2015.

63. The collateral securing the Seaboard Realty Revolving Note includes, among other things:

- a. A first lien on all assets of Seaboard Realty and Seaboard Property Management;
- b. A pledge of Seaboard Realty’s membership interests in 88 Hamilton Avenue Member and Seaboard Hotel Member; and
- c. A mortgage on 25 Bank Street, Stamford, Connecticut.

L. Members of the Debtors

64. As disclosed in the *Notes Regarding Lists of Debtors’ Equity Security Holders in Accordance with Bankruptcy Rule 1007* [Docket No. 26] (the “**Lists of Equity Holders**”), the Original Debtors have members that are not Debtor entities. See the List of Equity Holders for a list of members of the Original Debtors, subject to the caveats contained therein. As disclosed in each of the petitions of the Additional Debtors, all of the Additional Debtors’ membership interests are solely held by other Debtors, except for Newbury Common Member, whose membership interests are disclosed with its chapter 11 petition. However, at this time, the rights among the different investors are not clear. For example, it is apparent that Mr. DiMenna obtained investments for properties that were already fully subscribed. In addition, Mr. DiMenna obtained significant investment through his controlled entity Seaboard Stamford Investment Group, LLC. It is yet to be determined what claims, if any, those investors have with respect to the Debtors.

PART III

(Events Leading to Chapter 11 Cases)

65. On or about November 20, 2015, Messrs. Kelly and Merritt became concerned that the operations and finances of the Debtors were not as they had been represented to them by Mr. DiMenna. Specifically, Messrs. Kelly and Merritt became aware that certain of the Debtors were having substantial difficulty meeting their financial obligations.

66. In light of this concern, Messrs. Kelly and Merritt immediately began a process to protect the Debtors' enterprise. *First*, they undertook a deeper analysis and investigation into the accounting and finances of the Debtors. *Second*, they caused Mr. DiMenna to resign his active management of the Debtors and to relinquish his control of the Debtors to Messrs. Kelly and Merritt effective as of December 2, 2015. *Third*, they caused the Debtors to retain Dechert LLP ("**Dechert**") as restructuring counsel and Anchin Block & Anchin, LLP ("**Anchin**") as forensic accountants. *Fourth*, they caused the Debtors to retain myself as Chief Restructuring Officer for each of the Debtors to lead an independent investigation of the Debtors' assets and liabilities together with Dechert and Anchin and to develop a plan to maximize the value of the Debtors' enterprise for all stakeholders.

67. On December 17, 2015, Seaboard Realty appointed Waterbridge Advisors LLC, acting through its President and member Howard Altschul, to serve as an independent Managing Member of Seaboard Realty.

68. As the investigation into the Debtors' finances continued, it became readily apparent that there were significant questions related to the Debtors' assets and liabilities and that the protection afforded by the Bankruptcy Code was essential to preserve the value of the Debtors' enterprise and to permit the Debtors to continue their independent investigation. It

also became evident to the Debtors that Mr. DiMenna may have obtained mezzanine financing for certain of the Debtors without corporate authorization – namely majority member approval, which would have required the affirmative vote of either or both of Messrs. Kelly and Merritt – and may have obtained certain mezzanine and other loans for certain of the Debtors by purporting to provide personal guarantees from Messrs. Kelly and Merritt.¹⁵ The validity of the corporate authorization for the mezzanine financing is anticipated to be an issue in these chapter 11 cases.

69. Moreover, it appears that Mr. DiMenna may have induced new investments in certain Debtor entities whose membership was already fully subscribed. The Debtors are currently investigating these allegations.

70. As disclosed in my initial *Declaration of Marc Beilinson in Support of Chapter 11 Petitions*, [Docket No. 5] (the “**First Day Declaration**”), the Debtors are in discussions with their lenders in an attempt to reach consensus on a path which will maximize value for all stakeholders. It became apparent, based on the positions of certain lenders, the number of parties involved, and the uncertainties surrounding cash flows, that the Debtors would be unable to reach interim agreements with each of the mortgage lenders, and thus, it became necessary for the Additional Debtors to commence chapter 11 cases.

71. Additionally, as outlined in the *Verified Complaint of the Debtors* [Docket Nos. 81 & 82] (the “**Verified Complaints**”), it was clear that certain of the purported prepetition

¹⁵ Messrs. Kelly and Merritt have denied knowledge, much less authorization, of the mezzanine loans and have denied providing any of the purported personal guarantees of loans for the Debtors. *See Declarations of Messrs. Kelly and Merritt*, Case Nos. 16-50003 (LSS) an 16-15004 (LSS), [Docket No. 3, Ex. A & B].

lenders were in the process of taking action and/or prejudgment self-help remedies against certain of the Debtors with respect to the Debtors' assets.¹⁶

72. I believe that the Debtors' properties are well located and fundamentally sound and that significant opportunities remain for the business in the future. However, the proceeds of the prepetition financing were applied in a fungible manner through the Debtors' enterprise without any concern for separate entities. Because certain proceeds of the prepetition financing were not utilized by the Debtors for operations or necessary capital expenditures of the properties, the Debtors have an unmanageable debt load and are unable to service funded debt obligations as they become due. As of the Petition Date, the Debtors were in payment default under all of the loan agreements, except for the Seaboard Hotel Loan Agreement.

73. Moreover, the Debtors filed these chapter 11 cases in order to use certain provisions of the Bankruptcy Code to further their ongoing investigation into the Debtors' finances in order to maximize value for all stakeholders.

74. The Debtors are currently engaging in a physical, legal, operational and financial review of the Debtors' assets and liabilities, including reviewing legal and other documents relevant to the nature of, ownership of and encumbrances on their assets.

¹⁶ As more fully described in the Verified Complaints, the following legal action has already been taken against the Debtors:

- a. On December 18, 2015, MCK 15, LLC and Samuel B. Fuller brought suit against Park Square, Seaboard Hotel and Messrs. DiMenna, Kelly and Merritt in Connecticut Superior Court.
- b. On December 28, 2015, FCB brought suit against 300 Main and Messrs. DiMenna, Kelly and Merritt. Additionally FCB took certain self-help remedies, including serving writs of attachment, freezing certain of the Debtors' bank accounts.
- c. On January 5, 2016, Cedar Hill sent a letter notifying certain Debtors that the \$4M Promissory Note was now fully due and payable and if payment was not received in fully by January 15, 2016, Cedar Hill would take legal action.

75. The Debtors have discovered that prior to the Petition Date there was limited internal and external financial and accounting reporting. There were insufficient internal controls, financial reporting to management, and accounting process in place, and the Debtors had minimal formal or systematic processes for maintaining the accounting books and records. The Debtors have been working to impose normal discipline into the accounting process and timeline. Additionally, the Debtors have begun the difficult task of closing the Debtors' accounting records for September, October, November and December of 2015.

76. The Debtors have been utilizing legal, accounting, auditing, computer, and investigative skills to conduct a two phase forensic investigation, currently looking back over 2015, 2014, and 2013. The first phase of the investigation involves a comprehensive review of the available general ledgers from non-debtor Seaboard Property Management (and to a lesser extent account payable ledgers and bank statements) to determine the cash flows for the Debtors on an entity by entity basis. During this phase of the investigation, the Debtors intend to determine (a) the scope and magnitude of cash flows from each entity's operations and financing activities and (b) where each entity disbursed funds, be it to pay for operational expenses, construction and capital improvements, pay distributions to equity holders, to pay down debt, or to pay off intercompany loans.

77. The second phase of the investigation will involve a detailed examination of the sources and uses of cash based on a forensic analysis of the Companies' bank statements, copies of cancelled checks, deposit records, and to the extent there is missing information, from the general ledger or a similar type of internal record. Upon completion of the second phase of the investigation, the Debtors anticipate that they will have ascertained the ultimate payors and payees of the Companies' funds.

78. Although the Debtors' internal investigation is ongoing, it is apparent that the Debtors' enterprise was run as one consolidated entity without any regard for the corporate separateness of each legal entity. It appears that Mr. DiMenna caused proceeds from certain financings, investor contributions, and rents, to be commingled and used to fund expenses across the enterprise and to make distributions to investors regardless of the entity in which the investors purportedly invested. Moreover, as a result of Mr. DiMenna's use of Seaboard Consolidated, LLC (a DiMenna controlled non-debtor entity) as the consolidation vehicle for the Debtors' enterprise, it also is becoming apparent that it will be extremely difficult if not impossible for the Debtors to identify whether a particular property debtor was a net borrower or net lender to another debtor prior to the Petition Date.

79. Prepetition, the properties were not operated as they should have been, on a silo basis. However, since Beilinson Advisory Group has been involved, the Debtors' funds have been used for property-level operating costs including security, utilities, insurance, repairs and other necessary operating costs of each property. In addition, the Debtors have funded the payroll and necessary office-related expenses of the property management through Seaboard Property Management. Moreover, as outlined in the Cash Collateral Motion, the Debtors are implementing multiple safeguards to ensure that all parties in interest are able to trace the funds on a property-by-property basis. Among other things, the Debtors will provide the Prepetition Secured Parties (as defined in the Cash Collateral Motion) with (i) forecasts of cash receipts and disbursements, (ii) month-end profit and loss statements for each individual property and key operating metrics, and (iii) reporting as to the application of cash receipts in accordance with proposed waterfall (the "**Application Report**"). Furthermore, the Prepetition Secured Parties will be able to audit and challenge the Application Report via a Challenge Notice. These

safeguards are a significant improvement from what was previously provided to the Prepetition Secured Parties. Indeed, it appears that most of the Prepetition Secured Parties did not receive any reporting from the Debtors prior to the Petition Date.

80. The appraisals in the Debtors' books and records demonstrate that there is substantial equity value in the Debtors.

PART IV

(Summary of First Day Pleadings)

81. To minimize the adverse effects of the commencement of their chapter 11 cases on their business and Employees, the Debtors have requested various types of relief in their First Day Pleadings, all of which are being filed concurrently with this Declaration. I believe that the relief requested in each of the First Day Pleadings is necessary, appropriate, and is in the best interest of the Debtors' estates, creditors and other parties in interest.

82. I have reviewed each of the First Day Pleadings (including the exhibits and schedules attached thereto), and, to the best of my knowledge, I believe that the facts set forth in the First Day Pleadings are true and correct. If I were called upon to testify, I could and would, based on the foregoing, testify competently to the facts set forth in each of the First Day Pleadings.

83. Moreover, as a result of my personal knowledge, information supplied to me by other members of the Debtors' management and from my colleagues that perform services for the Debtors, from my review of relevant documents, or upon my opinion based upon my experience, discussions with the Debtors' advisors and knowledge of the Debtors' operations and financial condition, I have formed opinions as to (i) the necessity of obtaining the relief sought by the Debtors in the First Day Pleadings, (ii) the need for the Debtors to continue to effectuate a

smooth transition into chapter 11, and (iii) the deleterious effects upon the Debtors of not obtaining such relief.

84. Accordingly, for the reasons stated herein and in each of the First Day Pleadings filed concurrently or in connection with the commencement of this case, I respectfully request that each of the First Day Pleadings be granted in its entirety, together with such other and further relief as this Court deems just and proper.

A. Debtors' Supplemental Motion for Joint Administration and Application of Certain Previously Entered Orders

85. I submit that many of the motions, applications, hearings and orders that will arise in these chapter 11 cases will jointly affect all of the Debtors. For this reason, I believe that the interests of the Debtors, their creditors and other parties in interest would be best served by the joint administration of these chapter 11 cases. I further believe that in order to optimally and economically administer the Debtors' pending chapter 11 cases, such cases should be jointly administered with the Original Debtors, for procedural purposes only, under the case number assigned to Newbury Common Associates, LLC. I believe that joint administration will also significantly reduce the volume of paper that otherwise would be filed with the Clerk of this Court, render the completion of various administrative tasks less costly and minimize the number of unnecessary delays. Moreover, I believe that the relief requested by this motion will also simplify supervision of the administrative aspects of these cases by the United States Trustee (the "U.S. Trustee"). For these reasons, I submit that the relief requested in this motion is in the best interests of the Debtors, their estates and their creditors and should therefore be approved.

B. Application of Debtors for Order Authorizing Appointment of Donlin, Recano & Company, Inc. as Claims and Noticing Agent, Nunc Pro Tunc to the Petition Date

86. The Debtors request entry of an order appointing Donlin, Recano & Company, Inc. (“**Donlin Recano**”) as the Claims and Noticing Agent for the Debtors and their chapter 11 cases, including assuming full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in the Debtors’ chapter 11 cases. It is my understanding that the Debtors’ selection of Donlin Recano to act as the Claims and Noticing Agent has satisfied the Court’s *Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)*, in that the Debtors have obtained and reviewed engagement proposals from at least two other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, I submit, based on all engagement proposals obtained and reviewed, that Donlin Recano’s rates are competitive and reasonable given Donlin Recano’s quality of services and expertise.

87. In view of the number of anticipated claimants and the complexity of the Debtors’ businesses, I submit that the appointment of a claims and noticing agent is required by Local Rule 2002-1(f) and is otherwise in the best interests of both the Debtors’ estates, their creditors and members.

C. Motion of Debtors for Entry of an Order Approving (I) The Debtors’ Continued Maintenance of Their Existing Bank Accounts and Use of Their Cash Management System, (II) The Payment of Certain Obligations Related Thereto, (III) the Continuation of Intercompany Transactions, (IV) Administrative Expense Status for Intercompany Claims, (V) the Debtors’ Continued Use of Existing Checks and Business Forms, and (VI) Granting the Debtors a Waiver of the Bond Requirement Contained in Bankruptcy Code Section 345(b) of the Bankruptcy Code

i. The Cash Management System

88. The Debtors are seeking to employ a new cash management system (the “**Cash Management System**”). As set forth herein, the Debtors filed these chapter 11 cases

given the concern surrounding the finances of the Debtors. Upon a review of the Debtors' books and records, the Debtors have determined that prior to the Petition Date, the Debtors extensively commingled their cash receipts by utilizing a consolidating bank account owned by Seaboard Consolidated, LLC (a company controlled by Mr. DiMenna) and making payments related to the properties and distributions to investors without regard to which property originated or otherwise supported the funds. I believe that certain non-debtor entities under the control of Mr. DiMenna may have received funds of the Debtors from Seaboard Consolidated, LLC. Lack of prior controls to keep the funds solely within the Debtors' corporate structures required the Debtors to implement immediate changes on a go-forward basis so that the Debtors have a closed Cash Management System for only the Debtors and transactions that benefit their estates. The Debtors determined in their business judgment that it is prudent to utilize a new Cash Management System to obtain control over the Debtors' cash.

89. The new Cash Management System will operate as follows:

- a. The Debtors intend to utilize the current Property Owner Debtors' bank accounts maintained at TD Bank, N.A. ("**TD Bank**") to collect, deposit, and process all tenant and other incoming remittances specific to each underlying property of those respective Property Owner Debtors.
- b. All balances in excess of the then amount of outstanding checks and wires previously issued plus any anticipated bank fees in the Property Owner Debtors' bank accounts will be transferred daily into a Newbury Common Member Associates, LLC ("**Newbury Common Member**") bank account at TD Bank (the "**Newbury Account**"). Strict management and internal controls will be in place to ensure the proper level of authorization and standardized accounting of all such deposit and transfer activity. Namely,
 - (i) Only selected accounting department personnel and senior level management including myself and my staff (the "**CRO Staff**") will be granted authorization to access the in-place online banking system at TD Bank. Certain other personal will be given "view-only" access without ability to initiate and/or approve any online bank transaction.

- (ii) Authorized staff will log daily into the TD Bank application to ascertain the prior day's banking activity and note the current balances in each of the Debtors' bank accounts. After determining the level of funds to be transferred, that staff member will obtain prior approval from CRO Staff to initiate the required transfers.
 - (iii) Once the transfer has been completed, the transactions initiated will be recorded in the appropriate books and records of the Debtor transferor and at Newbury Common Member. Records will be maintained to ascertain the exact amount of all funds transferred to Newbury Common Member and from what Debtor the funds originated.
 - (iv) As part of the month-end closing process, accounting staff will reconcile the fund transfers by and between Newbury Common Member and the Debtor transferor. Such reconciliations will be reviewed by CRO Staff.
 - (v) An entity level report of that month's transfer activity will be generated and included in that Debtor's monthly operating report.
- c. At such time that properly documented and approved disbursements are required by a Property Owner Debtor, checks and/or wires for that underlying property expense will be initiated from the Newbury Account. Strict management and internal controls will be in place to ensure proper accounting of all such disbursement and transfer activity. Namely:
- (i) All such disbursements will be approved by senior management before the check is written or wire is initiated.
 - (ii) The only persons authorized to sign for checks will be myself and the CRO Staff. Once the checks have been written and attached to the underlying invoices, myself or the CRO Staff will review the expense documentation attached thereto and sign such checks.
 - (iii) Any disbursement sent by wire requires the approval of myself or the CRO Staff before the wire can be sent. Only authorized staff will have access to the wire functions of the online system.

- (iv) All such disbursement activity by check or wire will be issued from Newbury Common Member and allocated to the applicable property to which the expense relates.¹⁷
 - (v) All such disbursements will be reported monthly on the monthly operating report of each property debtor and Newbury Common Member.
- d. Newbury Common Member will also initiate disbursements for all non-property specific expenses of the Debtors, including restructuring expenses, as well as payroll and related expenses. All of these Debtors' expenses paid directly by Newbury Common Member will be allocated to the underlying properties.¹⁸
 - e. The bank deposit and disbursement activity for the Courtyard Marriott Property will continue to be handled by Urgo on behalf of Seaboard Hotel. Periodically, Seaboard Hotel will transfer (or cause Urgo to transfer) cash from its TD Bank account maintained by Urgo to the Newbury Account.
 - f. The Debtors do not anticipate having to generally fund the Debtors that are not Property Owner Debtors, except for the payment of any taxes, fees and/or restructuring expenses.
 - g. Each Debtor is subject to a net \$200,000 limit for intercompany loans to Newbury Common, excluding any fees and expenses incurred by professionals, to the extent permitted by the Court to be paid (the "**Intercompany Loan Limit**").

90. The Cash Management System constitutes an essential business practice and the use of existing Bank Accounts will allow for the Debtors to have an adequate cash

¹⁷ As described in Cash Collateral Motion, the Debtors intend to apply the consolidated cash in the Newbury Account in a manner consistent with the waterfall set forth in Cash Collateral Motion and interim order with respect thereto (the "**Waterfall**"). At the same time, the Debtors will be able to track revenue and expenses from the prior month on a property-by-property, as well as on a tranche of debt-by-tranche of debt basis, and effect any reconciliation of prior month expenses allocated to specific entities, as necessary. Further, on a monthly basis, the Debtors intend to provide each Prepetition Secured Party with an Application Report that details, among other things, the Cash Collateral generated by the applicable Debtors within a Property Level Tranche and the amount of cash deemed to have been applied under the Waterfall to pay the costs and expenses of those same Debtors (each term as defined in the Cash Collateral Motion).

¹⁸ The Debtors intend to apply all cash in a manner consistent with the Waterfall set forth in the Cash Collateral Motion and interim order granting the relief requested in the Cash Collateral Motion.

concentration and disbursement system. The Debtors are seeking to deposit funds and manage their cash in accordance with the Cash Management System.

91. I submit that the Debtors' Cash Management System is an essential business practice. It is my belief that the use of this new system provides numerous benefits to the Debtors, including the ability to ensure cash availability and to reduce administrative expenses by facilitating the movement of funds. The successful transition into chapter 11, as well as the preservation and enhancement of the Debtors' values as going concerns, would be markedly more difficult if the Debtors' cash management procedures are not approved.

92. Moreover, the Cash Management System will facilitate the Debtors' stabilization of their postpetition business operations. A transition to new debtor in possession bank accounts could disrupt the Debtors' efforts to collect funds at this crucial juncture. Therefore, the Debtors should be permitted to manage their cash and transfer monies among the existing Bank Accounts as needed in accordance with the Cash Management System. The Debtors will continue to maintain detailed records of all transfers of cash.

93. I believe that the Cash Management System is exactly the type of centralized cash management system that has been employed in other real estate conglomerate chapter 11 cases. A centralized system reduces the costs and expenses involved in operating and managing properties, including costs associated with bank accounts, personnel, bookkeeping, treasury and related expenses. Furthermore, the efficiencies of having one centralized paying system not only reduces costs, but also alleviates cash flow concerns by providing regular access to capital, rather than leaving each property dependent on each month's rental income for that particular property.

ii. The Bank Accounts

94. A list of the Debtors' bank accounts (the "**Bank Accounts**") and the banking institutions that maintain the Bank Accounts (collectively, the "**Banks**") is attached as **Exhibit A** to the motion. Before the Petition Date, the Debtors used the Bank Accounts to fund certain expenses of the Debtors, including payments on the Debtors' prepetition financing, funding operations of the Debtors and to make distributions to members of the Debtors.

95. Most of the Bank Accounts are with TD Bank (the "**TD Bank Accounts**"). Additionally, the Debtors have Bank Accounts with Citizens Bank, N.A., People's United Bank, N.A., Webster Bank, First County Bank, First Niagara Bank, N.A., and Israel Discount Bank of New York (the "**Non TD Accounts**"). The Non TD Accounts are Bank Accounts that the Debtors were required to open as part of their prepetition financing. The Debtors anticipate only using the TD Bank Accounts as part of their Cash Management System.

96. All of the Bank Accounts are insured by the Federal Deposit Insurance Corporation (the "**FDIC**").

97. The Debtors seek to utilize the Bank Accounts postpetition as needed and as such accounts are contemplated to be used as discussed above, in the ordinary course of the Debtors' businesses.

iii. Intercompany Transactions

98. Through the operation of the Cash Management System, the Debtors move funds (the "**Intercompany Transactions**") that result in intercompany receivables and payables (the "**Intercompany Claims**"). The Intercompany Transactions are made through ACH transfer to transfer funds up to the Newbury Account as part of the daily transfer.

99. As discussed above, the Newbury Account serves as the Debtors' main operating account. The Newbury Account receives funds from the Property Owner Debtors and

disburses funds, as necessary, throughout the Cash Management System. Strict management and internal controls will be in place to ensure proper accounting of all such disbursement and transfer activity through the procedures set forth herein.

100. Each of the transfers discussed above including the daily transfer into the Newbury Account is at the Debtors' sole discretion. In connection with the daily operation of the Cash Management System, as funds are disbursed throughout the Cash Management System, at any given time there may be Intercompany Claims owing by one Debtor to another Debtor. As previously indicated, certain Intercompany Claims are reflected as journal entry receivables and payables, as applicable, in the respective Debtors' accounting systems.

101. The Debtors track all fund transfers in their Cash Management System and can ascertain, trace, and account for all Intercompany Transactions. If the Intercompany Transactions were to be discontinued, the Cash Management System and the Debtors' operations would be disrupted unnecessarily to the detriment of the Debtors, their creditors, and other stakeholders.

102. The Debtors track all fund transfers in their accounting system and can ascertain, trace, and account for all Intercompany Transactions previously described. The Debtors, moreover, will continue to maintain records of such Intercompany Transactions. If the Intercompany Transactions were to be discontinued, I believe that the Cash Management System and related administrative controls would be disrupted to the Debtors' and their estates' detriment. Accordingly, I submit that the continued performance of the Intercompany Transactions is in the best interest of the Debtors' estates and creditors.

103. The superpriority nature of the Intercompany Claim is merely precautionary as the Debtors expect that each of their properties will typically generate enough

revenue to pay all of its own operating expenses, except that the timing of payments may require the Intercompany Transactions. Each borrower Debtor should be able to repay any Intercompany Claim to the corresponding lender Debtor immediately upon having a cash-positive month and Intercompany Claims are capped at \$200,000 per lender Debtor, excluding allowed professional fees.

iv. The Business Forms

104. In the ordinary course of business, the Debtors use a number of business forms, including checks, letterhead, purchase orders, and invoices. If the Debtors were required to obtain new business forms as a result of the filing of these chapter 11 cases, the Debtors would incur significant expense and attendant delay in effectuating their ordinary course, prepetition business transactions.

105. I believe that the Debtors should be permitted to continue to use their existing business forms, including their checks. The amount of time and expense that would be required to print new business forms and stationery (and to dispose of existing forms and stationery) can be put towards more critical tasks with respect to these chapter 11 cases. The Debtors will use the “Debtor in Possession” designation and corresponding bankruptcy case numbers on any checks printed after their current stock is exhausted. Also, the Debtors have already taken other measures to address the policies underlying the U.S. Trustee’s cash management-related operating guidelines (including alerting parties-in-interest that they are in bankruptcy and seeking to utilize a Cash Management System that protects the Debtors’ cash).

106. I submit that cause exists for allowing the Debtors to maintain their cash within the Cash Management System without meeting the bond requirements of Bankruptcy Code section 345(b). The Debtors are sophisticated entities. The Bank Accounts are with

financially stable banking institutions and the Bank Accounts have FDIC insurance up to the applicable limit per account. The only Bank Account that is expected to hold, from time to time, more than \$250,000 is the Newbury Account. To the extent the funds in the Newbury Account exceed the FDIC insured limit, I believe that the safety presented by TD Bank, listed as an “Authorized Depository” by the U.S. Trustee for Region 3, serving the District of Delaware, constitutes sufficient cause pursuant to section 345(b) of the Bankruptcy Code to allow the Debtors to deviate from approved investment and deposit practices established by the Bankruptcy Code.

107. Additionally, I believe it would be overly burdensome and impractical for the Debtors to direct their limited financial personnel to open and manage multiple operating accounts to keep funds in each account under the insured limits. To force the Debtors to do so would harm the Debtors’ ability to maintain its business operations, as the Debtors would have to access several operating accounts to pay payroll and accounts payable invoices that may aggregate over \$250,000 at any given time. The Bank Accounts are safe, prudent, commercially reasonable and satisfy the goal of protecting principal, and it is my belief that forcing strict compliance with section 345 of the Bankruptcy Code would be unduly burdensome and distracting to the Debtors.

D. Motion of Debtors for Orders Authorizing the Payment of Prepetition Wages and Salaries and the Payment and Honoring of Prepetition Employee Policies and Benefits

108. Currently, all employees are employed by Seaboard Property Management.¹⁹ Under the Debtors’ management agreements with Seaboard Property

¹⁹ I anticipate that as of March 1, 2016, Newbury Common Member will be the direct employer of the Employees and Contractors (as defined below), will be responsible for the Payroll Taxes (as defined below), and will be the obligor under certain the Health and Welfare Programs and the sponsor of the 401(k) Plan (as defined below).

Management (the “**Management Agreements**”), Seaboard Property Management is authorized to pay or reimburse itself for all expenses and costs for operating the Debtors’ properties, including employees, from operating accounts with the Debtors. Under the Management Agreements, Seaboard Property Management is authorized to hire, supervise, and pay all employees to be employed in connection with the management, maintenance, and operation of the Debtors’ premises.

109. All of the employees are paid through Seaboard Property Management and the Debtors fund the accounts with Seaboard Property Management as agent for the employee payments approximately two to three days before Seaboard Property Management funds those obligations, including the amounts owed for Payroll Service Fees, Payroll Taxes, and amounts due under the Health and Welfare Plans (each as defined below). The Debtors are in the process of transferring these employees to be official employees of Newbury Common Member. I anticipate, subject to this Court’s approval, that the employees will officially be employees of Newbury Common Member on or around March 1, 2016. In the meantime, the Debtors are seeking authority to honor their Employee Compensation and Benefits as if such employees were employees of Newbury Common Member, including paying all prepetition Wage Obligations, Contractor Payments and Expense Reimbursements (each as defined below), and to continue such Employee Compensation and Benefits going forward regardless of whether the employee is officially an employee of Seaboard Property Management or Newbury Common Member.

110. As of the Petition Date, Seaboard Property Management employed on behalf of the Debtors approximately 13 employees (the “**Employees**”), 11 of which are salaried and 2 of which are paid hourly. None of the Employees is unionized.

111. The Debtors depend on the Employees to assist the Debtors’ chief restructuring officer in managing the Debtors’ businesses. I believe that the Employees’ skills, their relationships with vendors, suppliers, tenants, and other third parties, and their specialized knowledge and understanding of the Debtors’ operations, are all essential to the Debtors’ ability to continue their operations and reorganize successfully.

112. Seaboard Property Management participates in, or is obligated under, on behalf of the Debtors, a number of different salary and benefit structures and employee programs and plans. In addition to their standard salary and wage compensation programs, Seaboard Property Management is obligated to pay and to provide certain medical, dental, vision, and other related benefits to the Employees, and they reimburse employees for ordinary business expenses incurred on the Debtors’ behalf.

113. Under these various structures, programs, and plans, the Employees are owed various payments and benefits that have not yet been paid or otherwise realized prior to and as of the Petition Date.

i. Salaries and Withholdings

114. Salaries and Wages. Seaboard Property Management, on behalf of the Debtors, typically pays obligations relating to salaries and wages for the Employees (collectively, the “**Wage Obligations**”) on a bi-weekly basis (every other week), through direct deposits into the Employees’ accounts. The Employees are paid every other Tuesday, for two weeks of work up until the Friday before payday. For example, the salaries and wages paid on January 26, 2016 cover work done from January 9, 2016 through January 22, 2016.

115. The Debtors make payment for payroll to Seaboard Property Management from two to three business days before the employees are paid and payroll is typically funded by Seaboard Property Management one day before the Employees are paid. Seaboard Property Management's current estimated payroll on behalf of the Debtors is approximately \$50,000 per month on an aggregate basis, which amount includes Seaboard Property Management's share of Payroll Taxes and obligations under the Health and Welfare Plans with respect to the Employees.

116. Contractor Payments. In the ordinary course of business, Seaboard Property Management, on behalf of the Debtors, occasionally utilize independent contractors (collectively, the "**Contractors**") to assist in work at the property level Debtors. As of the Petition Date, the Debtors utilize approximately 5 Contractors. The Contractors are typically compensated at an hourly, daily, plus normal expense reimbursement (collectively, the "**Contractor Payments**"), which is paid directly to the Contractors. Contractor Payments are generally made within 30 days after Seaboard Property Management receives an invoice, depending on when Seaboard Property Management is billed. On average, Seaboard Property management typically pays approximately less than \$1,000 in Contractor Payments each month for work performed for the Debtors. The Debtors estimate that less than \$1,000 in Contractor Payments is accrued and unpaid as of the Petition Date.

117. The Debtors owe Seaboard Property Management Wage Obligations and Contractor Payments for work performed before the Petition Date. As of the Petition Date, 12 days of salary and wages have accrued for prepetition services provided by the Employees.

118. I believe that the aggregate amount of all such accrued but unpaid salaries, wages, and Contractor Payments is approximately \$35,000.

ii. Payroll Disbursement and Withholdings

119. The payroll for the Employees is distributed through direct deposit. Seaboard Property Management pays the Employees through a third-party payroll processing company, Paychex, Inc. (“**Paychex**”). Paychex (i) accesses their bank accounts to fund the checks or direct deposit to employees, (ii) makes certain withholdings - including the Seaboard Property Management’s share of Payroll Taxes and obligations under the Health and Welfare Plans (which the Debtors are obligated to pay Seaboard Property Management for), and (iii) funds payroll to and on behalf of the Employees.²⁰ Included in Paychex’s cost for payroll processing are quarterly fees for processing garnishments, quarterly tax filings, and the cost for Paychex software to track hours worked with respect to hourly employees. The Debtors pay an average of \$1,000 per month in fees for the payroll services provided by Paychex via Seaboard Property Management (the “**Payroll Service Fees**”). I believe that payment of these modest fees is crucial for the Debtors’ seamless entry into chapter 11 and to ensure that all employees are paid timely and accurately postpetition. Because Payroll Service Fees are paid to Seaboard Property Management before Paychex funds payroll, I believe that the Debtors do not owe any amounts to Seaboard Property Management or Paychex for the Payroll Service Fees as of the Petition Date.

120. In addition, Seaboard Property Management, on behalf of the Debtors, is required by law to withhold certain amounts from the Wage Obligations (the “**Withholding Taxes**”) and to remit the same to the appropriate taxing authorities (collectively, the “**Taxing Authorities**”).²¹ These withholding amounts relate to federal, state, and local income taxes, as

²⁰ Paychex currently make draws from Seaboard Property Management (to be made from the account at Newbury Common Member as of March 1, 2016), as described in the cash management motion.

²¹ Under the Management Agreements, the Debtors are responsible for reimbursing Seaboard Property Management for Payroll Taxes, as they are operating expenses of the Debtors.

well as social security and Medicare taxes. Seaboard Property Management, on behalf of the Debtors, may also be required to withhold amounts from the Wage Obligations for such items as court ordered child support payments, other attachments to, and/or garnishments of, wages, and government mandated savings plans. In addition, Seaboard Property Management, on behalf of the Debtors, is required to make contributions of their own funds to the Taxing Authorities. For instance, Seaboard Property Management is required to make matching payments for the Employees on account of social security and Medicare taxes and to pay, based on a percentage of gross payroll and subject to state-imposed limits, additional amounts to the Taxing Authorities for, among other things, state and federal unemployment insurance (collectively, the “**Employer Payroll Taxes**,” and together with the Withholding Taxes, the “**Payroll Taxes**”).

121. Because Paychex withholds and remits to the appropriate Taxing Authorities the Payroll Taxes and funds garnished or otherwise withheld and not yet remitted to the appropriate Taxing Authorities in connection with each payroll period, I do not believe that Seaboard Property Management, on the Debtors’ behalf, has withheld and not yet remitted to the appropriate Taxing Authorities any Payroll Taxes as of the Petition Date.

iii. Reimbursement of Expenses

122. In the ordinary course of business and subject to established guidelines, Seaboard Property Management, on behalf of the Debtors, reimburse various Employees and Contractors for business expenses incurred in connection with services rendered for the benefit of the Debtors, including transportation, meals, office supplies, and other general expenses (the “**Expense Reimbursements**”). Because these expenses are incurred as part of their official duties and in furtherance of the Debtors’ businesses, the Employees and Contractors are reimbursed in full after submission of appropriate documentation to Seaboard Property Management’s accounting department. Expenses are reimbursed on a rolling basis, with a

general lag time of approximately two weeks between submission and reimbursement. The Expense Reimbursements average approximately \$2,000 per month.

123. As of the Petition Date, certain Employees and Contractors may be entitled to an expense reimbursement but have not yet submitted a request or such requests may have been made but not yet processed. Although it is difficult for the Debtors to determine the amount of Expense Reimbursements outstanding at any particular time, based upon the outstanding expenses currently known to the Debtors and historical figures, the Debtors estimate that there may be as much as \$2,000 of Expense Reimbursements outstanding as of the Petition Date.

iv. Vacation, Sick Days, and Holidays

124. The salaried Employees are eligible, in certain circumstances, to receive their full wages for, among other things, vacation, sick/emergency days, and holidays (collectively, the “**PTO Benefits**”). Eligible employees accrue vacation benefits on a vesting schedule based on years of service. Full-time salaried Employees receive three weeks of vacation per calendar year upon working for the Debtors (or Seaboard Property Management) for five years. All other full-time salaried Employees receive two weeks of vacation per calendar year. Unused vacation time cannot be carried over into the subsequent year. The Debtors anticipate that the Employees will utilize any accrued vacation time in the ordinary course of business, which will not create any material cash flow requirements beyond the Debtors’ normal payroll obligations to Seaboard Property Management.

125. The Debtors/Seaboard Property Management provide sick days to their Employees, on an as needed basis.

126. The Debtors/Seaboard Property Management also administer other paid time off programs for holidays, bereavement, and jury duty.

127. The Debtors estimate that after giving employees credit for accrued and unpaid PTO Benefits, when coupled with outstanding compensation accrued prior to the Petition Date, it is my understanding that none of the Employees will exceed the \$12,475 statutory cap.

128. The Debtors estimate that the Employees are owed, in the aggregate, approximately \$7,000 in PTO Benefits as of the Petition Date. Because the PTO Benefits are essential features of the employment benefits and failure to provide these benefits could harm employee morale and encourage the premature departure of employees, the Debtors request authority to honor all of their obligations relating to the PTO Benefits as and when they come due, regardless of when such PTO Benefits accrued, subject to the \$12,475 cap in the Order approving the motion.

v. Health and Welfare Plans

129. Seaboard Property Management, on the Debtors' behalf, sponsors several health care packages for the Employees, including, medical insurance, dental insurance, and vision care (collectively, the "**Health and Welfare Plans**").²² The salaried Employees that work 37 or more hours per week are eligible for the benefits offered under the Health and Welfare Plans. Additionally, Employees have the option of enrolling eligible dependents in the Health and Welfare Plans. New Employees become eligible for benefits offered under the Health and Welfare Plans on the first day of their employment.

130. The Health and Welfare Plans for the employees are administered by Aetna. In 2015, the Debtors paid Seaboard Property Management approximately \$230,000 to

²² Seaboard Property Management offers the Employees the option of purchasing life, accidental death and dismemberment and critical illness insurance. These insurance programs are not administered by the Seaboard Property Management. Should an Employee elect coverage under such insurance program, Paychex deducts funds from the Employee's paycheck, and remits to the appropriate insurance company. Additionally, Employees are offered a flexible spending plan. It is my understanding that none of the Employees are enrolled in the flexible spending plan.

pay to Aetna in order to provide the Health and Welfare Plans to the Employees, offset by approximately \$46,000 in Employee-funded payroll contributions.

131. Medical Plans. The medical insurance packages for the salaried Employees are provided through a fully-insured medical plan administered by Aetna (the “**Medical Plans**”). Through Aetna, the Employees are offered two comprehensive, high-quality plans, which include prescription drug coverage. The Medical Plans differ based on deductible amounts and the eligibility to see out of network providers. Approximately 11 Employees participate in the Medical Plans.

132. Dental Plans. Dental coverage is provided to salaried Employees through a fully-insured plan administered by Aetna (the “**Dental Plans**”). Through Aetna, the Employees are offered one dental coverage option. Approximately 11 Employees participate in the Dental Plans.

133. Vision Plan. Salaried Employees are provided a fully insured vision plan (the “**Vision Plan**”) through Aetna. Approximately 10 Employees participate in the Vision Plan.

134. Health and Welfare Plan Premiums. The Debtors pay approximately \$17,000 per month to Seaboard Property Management for the premiums under the Health and Welfare Plans. Aetna receives payment from Seaboard Property Management twice a month (at the time of the first two payroll cycle payments, as some months there are three payroll cycle payments) from Paychex. As of the Petition Date, it is my understanding that Aetna is owed approximately \$6,000 for premiums owed under Health and Welfare Plans.

135. The costs incurred for the funding of the monthly premiums under the Health and Welfare Plans are reduced through Employee contributions. The contributions are withheld by payroll deductions twice a month (at the time of the first two payroll cycle

payments, as some months there are three payroll cycle payments). The amount of Employee contributions averages approximately \$5,100 per month for the Health and Welfare Plans. Because Employee contributions are withheld by Paychex at payroll and directly remitted to Aetna, I believe that no funds will have been withheld from the salaries or wages of Employees before the Petition Date but not yet transferred and applied to the Health and Welfare Plans.

vi. The 401(k) Plan

136. For the Employees, Seaboard Property Management sponsors a 401(k) retirement investment plan (the “**401(k) Plan**”) and withholds from the wages of participating employees contributions towards the 401(k) Plan (the “**Withholding Contributions**”). Eight of the Employees participate in the 401(k) Plan, administered by Merrill Lynch. All of Merrill Lynch’s fees are covered by revenue sharing agreements with the fund companies that operate the investment funds that hold the investments of the 401(k) Plan. The 401(k) Plan participants pay the expense ratio for each investment fund. Seaboard Property Management does not provide any matching contributions. As of the Petition Date, Seaboard Property Management has not deducted any employees’ payroll contributions with respect to the 401(k) Plan.

137. The Debtors do not have any pension plans.

138. Based upon the foregoing, it is my understanding that the aggregate amount of the employee obligations, including, but not limited to, the benefits described herein (collectively, the “**Employee Compensation and Benefits**”) accrued and unpaid as of the Petition Date does not exceed \$50,000.

vii. The Need to Honor Workforce Obligations

139. I believe that the Debtors need the support of the Employees to continue their business operations. It is my belief that any delay or disruption in the Employee Compensation and Benefits will impair employee morale at the very time when the Debtors have

a need for dedication, confidence, and cooperation from the Employees to ensure as smooth a transition as possible into operating under chapter 11.

140. I believe that if these obligations are not satisfied, the Debtors' risk that the Employees might seek other employment immediately, which would cause a disruption in the Debtors' business operations and staffing during this sensitive time of transition.

141. In addition, the Debtors would incur out-of-pocket and intangible costs to recruit and train new employees if existing Employees seek other employment. If the Debtors are unable to pay the Employees and the Employees consequently seek other employment, the Debtors' relationships with vendors, customers, suppliers, and other parties may be compromised. Moreover, it should not be overlooked that Employees would suffer financial and personal hardship, and perhaps lose access to critical services or be unable to meet their own personal obligations through no fault of their own, if the Debtors are unable to satisfy the obligations described herein.

142. For all of these reasons, the Debtors have determined that payment of the amounts described in the motion is necessary to maintain the morale and continued dedication of the Debtors' workforce. As such, I believe that the requested authority to satisfy prepetition obligations to their employees will help preserve the going concern value of the Debtors' businesses.

E. Motion of the Debtors for Entry of an Order Authorizing the Debtors to (I) Continue and Renew Their Property, Commercial Liability, and Other Insurance Policies and Agreements, (II) Honor All Obligations in Respect Thereof, (III) Honor Their Prepetition Insurance Premium Financing Arrangements, and (IV) Renew Their Premium Financing Arrangements in the Ordinary Course

143. In the ordinary course of their businesses, the Debtors maintain numerous insurance policies and an insurance bond (collectively, the "**Insurance Policies**"), as summarized in the insurance motion. The Insurance Policies are administered by multiple third-

party insurance carriers (collectively, the “**Insurance Carriers**”) that provide coverage for, among other things, the Debtors’ property, commercial liability, umbrella coverage, excess liability, employee dishonesty, a 401(k) Plan bond, environmental liability, director and officer liability, and workers’ compensation (collectively, the “**Insurance Programs**”). On average, the total of the annual premiums due under the Insurance Policies is approximately \$280,000.

i. Financed Insurance Policies

144. The Debtors finance the premiums for all of their existing Insurance Policies, other than the Commercial Package Policy, the Employee Dishonesty Policy, the 401(k) Insurance Bond, the D&O Policy, and the Workers’ Compensation Plan (each as defined below), because it is not economically advantageous for the Debtors to pay those premiums in full on a lump-sum basis. For their existing Umbrella Package Policies, Seaboard LTS Risk Policy, Seaboard LTS Excess Umbrella Policy, and Environmental Policy (each as defined below and collectively, the “**Financed Policies**”), the Debtors have financed their premiums pursuant to three Commercial Premium Finance Agreements (the “**Financing Agreements**”) with First Insurance Funding Corporation (“**First Insurance**”), except for the Environmental Policy which is no longer subject to a Financing Agreement.

145. The first Financing Agreement provides the Debtors with umbrella liability and excess umbrella liability coverage through four insurance policies (the “**Umbrella Package Policies**”) with Commerce and Industry Insurance Company, the Ohio Casualty Insurance Company, and Allied World National Assurance Company (the “**Umbrella Financing Agreement**”). Three of the Umbrella Package Policies expire on November 1, 2016, with the other Umbrella Package Policy expiring on October 13, 2016. Under the Umbrella Financing Agreement, the Debtors made a \$10,039.87 down payment and received a loan in the amount of

\$12,241.13 at an annual percentage interest rate of 6.75% for the balance. The Debtors are obligated to make monthly payments of \$1,262.30 on the 13th of each month in advance for that month. The Debtors have made 3 of 10 monthly payments under the Umbrella Financing Agreement, and it is my understanding that the Debtors are current on their obligations thereunder. The Debtors will be obligated to make a payment of \$1,262.30 on February 13, 2016.

146. The second Financing Agreement allows Seaboard Hotel LTS Associates, LLC to maintain a builders risk Insurance Policy (the “**Seaboard LTS Risk Policy**”) with Liberty Mutual Fire Insurance Company (the “**Builders Risk Financing Agreement**”). The Seaboard LTS Risk Policy expires on March 31, 2016. Under the Builders Risk Financing Agreement, the Debtors made a \$3,086.04 down payment and received a loan in the amount of \$22,630.96 at an annual percentage interest rate of 6.75% for the balance. The Debtors are obligated to make monthly payments of \$2,900.04 on the 19th of each month in advance for that month. The Debtors have made all monthly payments under the Builders Risk Financing Agreement, and it is my understanding that the Debtors are current on their obligations thereunder.

147. The third Financing Agreement is for Seaboard Hotel LTS Associates, LLC and Seaboard Hotel LTS Member Associates, LLC to maintain a separate construction Insurance Policy (the “**Seaboard LTS Excess Umbrella Policy**”) with Travelers Property Casualty Company of America (the “**Excess Umbrella Financing Agreement**”). The Seaboard LTS Excess Umbrella Policy expires on April 14, 2016. Under the Excess Umbrella Financing Agreement, the Debtors made a \$2,797.80 down payment and received a loan in the amount of \$25,180.20 at an annual percentage interest rate of 6.00% for the balance. The Debtors are

obligated to make monthly payments of \$2,587.78 on the 14th of each month in advance for that month. The Debtors have made 9 of 10 monthly payments under the Excess Umbrella Financing Agreement, and it is my understanding that the Debtors are current on their obligations thereunder. The Debtors will be obligated to make a payment of \$2,587.78 on February 14, 2016.

148. Additionally, 88 Hamilton Avenue Associates, LLC maintains an environmental Insurance Policy with Chartis Specialty Insurance Company (the “**Environmental Policy**”). The Environmental Policy expires on March 5, 2016. The Environmental Policy had a premium of \$22,486.00 for the three-year term of the policy, which the Debtors financed and then made monthly installments over the first 15 months of the policy. As of the Petition Date, it is my understanding that the Debtors have paid all installments of the Environmental Policy’s premium in full.

149. Out of an abundance of caution, the Debtors seek authority to honor all amounts on account of the Financed Policies, in the ordinary course of business to ensure uninterrupted coverage under the Financed Policies.

150. Further, the Debtors request the ability to continue honoring their obligations under the Financing Agreements. The Debtors’ obligations under the Financing Agreements are secured by all of the Debtors’ right, title, and interest to the Financed Policies and all amounts which are or may become payable to the Debtors under or with reference to those policies including, among other things, any gross unearned premiums, dividend payments, and all payments on account of loss which results in reduction of any unearned premiums in accordance with those policies. If the Debtors were unable to continue honoring their obligations under the Financing Agreements, it is my understanding that First Insurance may

seek relief from the automatic stay to terminate the Financed Policies which, if granted, would require the Debtors to obtain replacement insurance on an expedited basis. If the Debtors were to do so, and pay a lump-sum premium for the replacement policies in advance, I believe that this payment would likely result in greater costs for the Debtors.

151. Even if the Financed Policies were not terminated, any interruption in the Debtors' payments could adversely affect the Debtors' ability to finance premiums for future policies. Considering the importance of maintaining insurance coverage with respect to their business activities and the preservation of the Debtors' cash flow by financing the premiums under the Financed Policies, I believe it is in the best interests of the Debtors' estates to honor their obligations under the Financing Agreements. Accordingly, the Debtors seek authority to continue honoring their obligations under the Financing Agreements.

ii. The Non-Financed Insurance Policies

152. The Debtors maintain a commercial package Insurance Policy for property insurance, general liability coverage, and business automobile insurance (the "**Commercial Package Policy**") with Zurich American Insurance Company. The Commercial Package Policy expires on October 13, 2016. The Commercial Package Policy has an annual premium of \$253,799.00, with 25% paid up front and followed by nine monthly installments paid to the insurance carrier via Smith Brothers Insurance, LLC ("**Smith Brothers**") on the 13th of each month. It is my understanding that as of the Petition Date, the Debtors have paid all owed monthly installments of the Commercial Package Policy's premium in full.

153. Seaboard Property Management, Inc. ("**Seaboard Property Management**") maintains an employee dishonesty Insurance Policy with Travelers Property Casualty Company of America (the "**Employee Dishonesty Policy**"). The Employee

Dishonesty Policy expires on April 10, 2018. The Employee Dishonesty Policy has an annual premium of \$2,279.00 paid annually in advance to the insurance carrier via Smith Brothers. The next payment under the Employee Dishonesty Policy is due on April 10, 2016. It is my understanding that as of the Petition Date, the Debtors do not owe any premiums under the Employee Dishonesty Policy.²³

154. Seaboard Property Management maintains an insurance bond with respect to its 401(k) Plan (described in the wages and benefits motion) with Hartford Fire Insurance Company (the “**401(k) Insurance Bond**”). The 401(k) Insurance Bond provides continuous coverage until cancelled and is billed by the insurance carrier via Smith Brothers every three years in advance. The premium for three years of coverage is \$370.00, which was paid in full. The next payment due for coverage under the 401(k) Insurance Bond is not until October 15, 2017. It is my understanding that as of the Petition Date, the Debtors have paid the 401(k) Insurance Bond’s premium in full.

155. Prior to the Petition Date, the Debtors obtained a director and officer liability Insurance Policy (the “**D&O Policy**”) with XL Specialty Insurance Company, which covers certain acts of Howard Altschul, Waterbridge Advisors LLC and myself after December 13, 2015. The D&O Policy expires on February 3, 2017. The D&O Policy has an annual premium of \$60,000 paid in advance to the insurance carrier. It is my understanding that as of the Petition Date, the Debtors do not owe any premiums under the D&O Policy.

156. As of the Petition Date, I believe that the Debtors have fully paid all premiums under the Insurance Policies. Out of an abundance of caution, however, the Debtors

²³ As discussed in further detail in the Supplemental First Day Declaration, given the circumstances surrounding these chapter 11 filings with respect to potential “employee dishonesty,” I believe it is of great importance to the Debtors that this policy remain enforceable.

seek authority to honor all amounts on account of the Insurance Policies, including any outstanding prepetition premiums, in the ordinary course of business to ensure uninterrupted coverage.

iii. The Workers' Compensation Plan

157. As required by the law, the Debtors provide their employees with workers' compensation benefits for claims arising from and related to their employment. As a result, the Debtors maintain workers' compensation coverage for their employees in Connecticut. The Debtors' workers' compensation obligations are covered by a policy offered through their payroll processor, Paychex Insurance Agency Inc. ("**Paychex**"), as agent, and New Hampshire Insurance Company ("**New Hampshire Insurance**") as insurer (the "**Workers' Compensation Plan**"). There is no deductible under the Workers' Compensation Plan, and New Hampshire Insurance is liable to the employees for workers' compensation claims with a cap of \$1,000,000 per claim. In 2016, the Debtors expect to pay a total of approximately \$20,000 in Workers' Compensation Plan premiums. Because Paychex remits to New Hampshire Insurance the Workers' Compensation Plan premiums in advance in connection with each payroll period, I do not believe that the Debtors owe any Workers' Compensation Plan premiums as of the Petition Date.

iv. Insurance Brokers

158. The Debtors utilize several insurance brokers, including Smith Brothers, Paramount Real Estate Group, Paychex, and The Spofford Group (collectively, the "**Brokers**") to assist them with the procurement and negotiation of their Insurance Programs. These Brokers provide services to and receive compensation (the "**Broker Fees**") from the Debtors pursuant to certain contracts with the Debtors. The Debtors pay an annual fee of \$2,500 to Smith Brothers

as Brokers Fees for such services. All other Broker Fees are paid by the Insurance Carriers, and I believe that all other Broker Fees have been paid in full as of the Petition Date. The Debtors seek authority to honor all amounts owed to the Brokers in the ordinary course of business to ensure uninterrupted insurance coverage.

159. I submit that continuation of the Insurance Policies in all categories of insurance is essential to the ongoing operation of the Debtors' businesses and preserving the value of the Debtors' assets. It is my understanding that in many cases, coverage is required by various laws and contracts that govern the Debtors' business conduct. Thus, absent the relief requested, the Debtors would be required to obtain replacement insurance on an expedited basis and at significant cost to the Debtors' estates.

160. I also believe that any delay in the timely payment of workers' compensation benefits under the Workers' Compensation Plan would have a negative effect on the morale of the employees. Without the support of their workforce, the Debtors' operations would be impaired. On the other hand, continuation of the Workers' Compensation Plan will facilitate the Debtors' reorganization efforts by helping to foster a sense of "business as usual."

161. Any prepetition amounts that the Debtors may pay in respect of the Insurance Obligations are extremely small in light of the size of the Debtors' estates and the benefits to be derived therefrom. Thus, I submit that the continuation of the Insurance Policies and the payment of all prepetition and postpetition Insurance Obligations arising thereunder are essential to preservation of the Debtors' assets and protect against unexpected losses. Further, it is essential that the relief requested herein be granted expeditiously considering the necessity of keeping appropriate insurance coverage in place and the potential adverse consequences to the Debtors.

162. As set forth in detail above, I believe that continuing the Workers' Compensation Plan and honoring the Debtors' obligations under those programs in a timely manner is important to the ongoing operation of their businesses. To summarize, if the Debtors cannot continue those programs and ensure that any Insurance Obligations in respect of those programs will be paid in the ordinary course of business, the Debtors could face severe consequences for failure to comply with applicable state law. In addition, the Debtors would risk a loss of value in their business operations, including, among other things, potentially significant litigation exposure and increased costs for alternative arrangements for workers' compensation coverage.

163. I submit that, for the reasons discussed herein, it would be a sound and prudent exercise of their business judgment to honor the Insurance Obligations.

F. Motion of Debtors for Entry of An Order Authorizing Payment of Certain Prepetition Taxes

i. Franchise Taxes

164. For the privilege of conducting business in certain jurisdictions, certain state governments require the Debtors to pay business entity taxes by the taxing jurisdiction (collectively, the "**Franchise Taxes**").

165. The Debtors historically have paid approximately \$5,000.00 per year on account of the Franchise Taxes. As of the Petition Date, I believe that the Debtors' aggregate accrued and unpaid obligations in respect of the Franchise Taxes are approximately \$5,000.00.

ii. Sales Taxes

166. In the ordinary course and in connection with operating their business, the Debtors collect, on behalf of state and local taxing authorities sales and use taxes in connection with the operation of their businesses. The Debtors pay:

- a. sales and use tax to the City of Stamford (“**Stamford Sales Tax**”);
- b. sales tax related to the operation of the Courtyard Marriott Property;
- c. bed tax related to the operation of the Courtyard Marriott Property (collectively (b) and (c), the “**Courtyard Property Sales Tax**”); and
- d. sales tax on parking fees for various buildings of the Debtors (the “**Parking Sales Tax**,” and together with the Stamford Sales Tax and the Courtyard Property Sales Tax, the “**Sales Taxes**”).

167. The Debtors historically have paid approximately \$7,000 per year on account of the Stamford Sales Tax. As of the Petition Date, I believe that approximately \$1,000 in Stamford Sales Tax has accrued but has not yet been paid.

168. Urgo collects and remits on behalf of the Debtors all Courtyard Property Sales Tax. At the end of each month Urgo calculates the Courtyard Property Sales Tax due for the previous month, prepares the appropriate remittance forms and forwards the funds directly to the governmental agencies. The Debtors historically have paid to Urgo approximately \$1.2 million per year on account of Courtyard Property Sales Tax. Urgo has made, and the Debtors have reimbursed Urgo, the Courtyard Property Sales Tax due for December 2015. As of the Petition Date, I believe that the Debtors owe Urgo approximately \$100,000 in accrued but unpaid Courtyard Property Sales Tax.

169. The Parking Sales Tax is paid quarterly, and is due on the last day of the month after the quarter-end. The Debtors historically have paid approximately \$1,088 per year on account of Parking Sales Tax. For the last quarter of 2015, the Debtors paid \$272 in Parking Sales Tax. As of the Petition Date, it is my understanding that approximately \$100 in Parking Sales Tax has accrued prepetition but has not yet been paid.

170. As of the Petition Date, I believe that approximately \$101,100 for all Sales Tax has accrued prepetition but has not yet been paid.

iii. City of Stamford Multi-Family Dwelling License

171. In the ordinary course and in connection with operating their business, the Debtors pay for a City of Stamford multi-family dwelling license (the “**License Fee**,” and together with the Franchise Taxes and Sales Taxes, the “**Prepetition Taxes**”) in order to operate certain of their residential properties. As of the Petition Date, I believe that approximately \$29,895.33 in License Fees for the properties at 101 Summer Street and 100 Prospect Street has accrued prepetition but has not yet been paid.

172. I believe that, if the Prepetition Taxes are not paid, many of the taxing authorities to which these taxes are owed may audit the Debtors, file liens, submit motions for relief from the automatic stay, or take other aggressive action against the Debtors during these chapter 11 cases. If that were to occur, it would divert the Debtors’ attention from their business operations and reorganization efforts and could cause the Debtors’ estates to incur interest expenses, penalties, fees, and/or litigation costs, all to the detriment of the Debtors’ creditors and other parties-in-interest.

173. Moreover, payment of certain of the Prepetition Taxes, such as the Franchise Taxes, is necessary for the Debtors to maintain their good standing to operate in the jurisdictions in which they do business. Any dispute with taxing authorities over the payment of these taxes could impair the Debtors’ ability to conduct business in a particular jurisdiction and could negatively affect the Debtors’ businesses as a whole by creating a risk that the regulatory authorities will cancel or fail to renew necessary permits or authorizations.²⁴

²⁴ While the Debtors owe certain property taxes, they are not seeking relief to pay such taxes through the tax motion.

G. Motion of Debtors for Entry of Interim and Final Orders (I) Determining that Utility Providers Have Been Provided with Adequate Assurance of Payment, (II) Prohibiting Utility Providers from Altering, Refusing or Discontinuing Service on Account of Prepetition Invoices, (III) Approving Deposit as Adequate Assurance of Payment, and (IV) Establishing Procedures for Resolving Requests by Utility Providers for Additional Adequate Assurance of Payment

174. In the ordinary course of business and in connection with the management of their properties and operation of their businesses, the Additional Debtors obtain electricity, gas, water, and/or other similar services (collectively, the “**Utility Services**”) from a number of utility companies (collectively, the “**Utility Providers**”).

175. The Additional Debtors estimate that, in 2015, they have paid approximately \$128,494.00, on average, in aggregate monthly payments to the Utility Providers for Utility Services rendered before the Petition Date. As of the Petition Date, to the best of the my knowledge, there are no deposits already held by the Utility Providers.

176. I believe that the Debtors’ access to uninterrupted Utility Services is essential to their ongoing operations and to their reorganization efforts. The Additional Debtors own and maintain commercial, hospitality, and residential properties. These properties are being either being leased to tenants or service guests at the Courtyard Marriott Property. These real properties are occupied every day, and these tenants and guests can only occupy the properties if Utility Services are provided. Should any Utility Provider refuse or discontinue service, even for a brief period, the operations of the Debtors could be severely disrupted, and such disruption would jeopardize the Debtors’ ability to manage their reorganization efforts. Accordingly, I believe that it is essential that the Utility Services continue uninterrupted during these chapter 11 cases.

177. I anticipate that the Debtors will have sufficient availability of funds with which to pay all postpetition charges for Utility Services. Notwithstanding such anticipated

availability of funds, the Debtors propose to deposit \$64,247.00, into a newly-created and segregated interest-bearing account maintained by the Additional Debtors (the “**Utility Deposit Account**”) to provide the Utility Providers with adequate assurance of payment for future services (the “**Proposed Adequate Assurance**”). The Debtors recognize, however, that certain Utility Providers may not be satisfied that the Proposed Adequate Assurance provides them with adequate assurance of payment. The Adequate Assurance Procedures (as defined in the motion) provide a fair, reasonable, and orderly mechanism for the Utility Providers to seek additional adequate assurance, while temporarily maintaining the status quo for the benefit of all stakeholders.

178. Notwithstanding my belief that the Proposed Adequate Assurance will provide the Utility Providers with adequate assurance of future payment in these chapter 11 cases, the Debtors have proposed the Adequate Assurance Procedures as a reasonable procedure for the Utility Providers to request additional adequate assurance under any unique facts and circumstances that may exist. I believe that separate negotiations with each of the Utility Providers with respect to adequate assurance would be time-consuming and unnecessarily divert the Debtors’ personnel from other critical tasks related to the operation of their business and the restructuring. This is especially true during the first days of these chapter 11 cases. If the Debtors fail to reach early agreement with each Utility Provider, they would have to file motions seeking expedited determinations as to adequate assurance or risk service termination.

179. I submit that the Debtors have sufficient availability of funds to pay the amounts requested in the First Day Pleadings in the ordinary course of business by virtue of cash reserves, expected cash flows from ongoing business operations and anticipated access to cash collateral. Also, under the Debtors’ proposed cash management system, checks or wire transfer

requests can be readily identified as relating to authorized payments. Accordingly, I believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable banks, other financial institutions and third party payroll processing agents should be authorized and directed, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests.

180. I declare under penalty of perjury that, based upon my knowledge, information and belief as set forth in this Declaration, the foregoing is true and correct.

Dated: February 3, 2016
Wilmington, Delaware

/s/ Marc Beilinson
Name: Marc Beilinson
Title: Chief Restructuring Officer

EXHIBIT A

Organizational Chart

Original Debtors
Additional Debtors

John DiMenna ("JD") – 50% (resigned 12/2/15)
Thomas Kelly, Jr. ("TK") – 25%
William A. Merritt, Jr. ("WM") – 25%
Waterbridge Advisors appointed as ID (12/17/15)

Seaboard Realty, LLC (CT)

Seaboard Master Chart*
Lienholder: Patriot Nat'l Bank (UCC filed 7/21/14; 12/29/14); Cedar Hill (UCC filed 3/24/15; 5/14/15)
Loans:
\$3M Patriot Nat'l Bank revolving credit facility (7/18/14, 12/29/14) (Mat. Date 11/1/15)
\$4M: Cedar Hill (3/25/15; matures 3/31/16);
\$1M: Cedar Hill (5/14/15; matures 3/31/16).

PSWMA II, LLC (CT): (12/23/2011)
Manager: Seaboard Realty, LLC
Member: Seaboard Realty, LLC (100%)

PSWMA I, LLC (CT): (12/23/2011)
Manager: Seaboard Realty, LLC
Member: PSWMA II, LLC (100%)
Lienholder: UCF 1 Trust 1 (filed 11/8/12)
Pledge: membership interests in Park Square Member Associates, LLC to UCF I Trust 1 – TBD

316 Courtland Avenue Associates, LLC (CT) (2004)

Manager: Seaboard Realty, LLC

Members: Seaboard (25%), TK et al

Owned 316 Courtland Ave – Sold 4/20/05

600 Summer Street Stamford Associates, LLC (CT) (1/20/06)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%), TK et al.

One Atlantic Member Associates, LLC (CT) (8/16/07)

Manager: Seaboard Realty, LLC

Members: JD (33%); WM (33%); TK Trust (28%); TLK LLC (5%)

Lienholder
CPR Money Loan, LLC (\$3M) (pledge of all membership interests in One Atlantic Investor Associates, LLC) (UCC filed 10/10/14)

88 Hamilton Avenue Member Associates, LLC (CT) (5/14/08)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%), TK et al.

Newbury Common Member Associates, LLC (CT) (3/1/09)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%), TK et al.

Seaboard Hotel Member Associates, LLC (CT) (1/31/11)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%), TK et al.

Lienholders
UCF I Trust 1 (\$3.5M Sr Mezz) (UCC filed 12/3/12)
CPR Money, LLC (\$3M Jr Mezz) (UCC filed 10/10/14)
Loans
\$3.5M UCF I Trust 1 (dated 11/30/12; matures 6/1/14). Collateral includes (1) borrower's pledge of 100% interest in Seaboard Hotel Associates, LLC (2) Seaboard Hotel LTS Member Associates' pledge of 100% interest in Seaboard Hotel Associates, LLC

Park Square West Member Associates, LLC (CT) (3/4/11)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%)

Lienholder
IDBNY (UCC filed 9/26/13)

Loans
A. \$12M Mezz now \$15.3M UCF I Trust 1 Di Menna, Kelly and Merritt grant and pledge the membership interests of Seaboard Hotel LTS Associates, LLC. [PSWMA I, LLC assigns its 100% membership interest in Park Square West Members Associates, LLC.] Mezz Loan Agreement dated 11/1/12. (matures 11/1/14)
B. \$5M IDBNY. Note, Pledge & Security Agreement dated 9/24/13 (pledge 100% equity and membership interest in Park Square West Associates, LLC) (new maturity date is 3/24/16)

Seaboard Hotel LTS Member Associates, LLC (CT) (2/24/12)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%), TK et al.

Lienholders
UCF I Trust 1 (\$3.5M Sr Mezz) (UCC filed 12/3/12)
CPR Money, LLC (\$3M Jr Mezz) (UCC filed 10/10/14)

Loans
\$3M CPR Money LLC (dated 9/30/14). Lender controls funds in \$1.7M Construction Reserve. Collateral includes (1) borrower's pledge of 100% interest in Seaboard Hotel LTS Associates, LLC (2) Seaboard Hotel Member Associates' pledge of 100% interest in Seaboard Hotel Associates, LLC; (3) pledge by One Atlantic Member Associates, LLC's pledge of 100% interest in One Atlantic Investor Associates, LLC, Seaboard Hotel Associates, LLC.

Seaboard Residential, LLC (CT) (11/19/12)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%), TK et al.

Lienholders
First County Bank (pledge membership interest in 300 Main St. Associates) (UCC filed 9/20/13)
Citizens Bank, N.A. (UCC filed 2/4/14)
Cedar Hill Capital (UCC filed 3/24/15)

Mortgage Loans:
\$20.5M Citizens Bank, N.A. Open End Mortgage Deed and Security Agreement (recorded 12/5/13).
\$4M Cedar Hill Guaranty Agreement, Security Agreement (dated 3/25/15), Open End Mortgage Deed and UCC Statement to Secure Guaranty (recorded 3/26/15)

300 Main Street Member Associates, LLC (CT) (4/4/13)

Manager: Seaboard Realty, LLC

Members: Seaboard Realty (25%)

Lienholders
First City Bank (UCC filed 9/20/13 pledge all membership interests in 300 Main St. Associates, LLC)

220 Elm Street I, LLC (DE)

50% of 220 Elm St., New Canaan, CT (Office BLDG) \$10.1M; \$10.2M stabilized

Manager: Board designated by Member (TK, WM, WB)

Members: 316 Courtland Avenue Associates, LLC (100%)

Loans: (mature 11/1/18)
People's United Bank:
A. \$5.89M Leaseholder Mortgage Deed and Security Agreement (recorded 10/14/08). Coll. Assignment of Subleases, Rentals, and Property Income (recorded 10/14/08). Depositor Account Security Pledge Agreement (dated 10/14/08; \$200k w/ People's United Bank).
B. \$1.154M Leaseholder Mortgage Deed and Security Agreement (recorded 10/14/08). Coll. Assignment of Subleases, Rentals, and Property Income (recorded 10/14/08).

Century Plaza Investor Associates, LLC (DE)

75% of 100 Prospect St., Stamford, CT (aka Century Plaza) \$29M

Members: 600 Summer Street Stamford Associates, LLC (100%)

Lienholder:
Citizens Bank, NA (UCC filed 1/29/14)
Cedar Hill Capital, LLC (UCC filed 3/24/15)

Loan
A. \$20.5M Citizens Bank (matures 12/4/18). Open End Mortgage Deed and Security Agreement (recorded 12/5/13). Coll. Assignment of Leases and Rentals (recorded 12/5/13). Depository Account Security Pledge Agreement (12/4/13 \$250k w/ Citizens Bank)

\$4M Cedar Hill: Open-End Mortgage Deed, Security Agreement, and UCC – 1 Financing Statement (Fixture Filing) to secure Guaranty (recorded 3/26/15). Guaranty Agreement, Security Agreement (dated 3/25/15).

One Atlantic Investor Associates, LLC (DE)

1 Atlantic St. Stamford CT (Office BLDG) \$25,650,000

Manager: Board (TK, WM, WB) designated by Member

Members: One Atlantic Investor Associates, LLC (100%)

Lienholders:
Citizens Bank, N.A. (UCC filed 3/13/14)
Cedar Hill Capital, LLC (UCC filed 3/24/15)

Loan
\$19.87M Citizens Bank (matures 10/11/18). Open-End Mortgage Deed and Security Agreement (recorded 10/15/13). Coll. Assignment of Leases and Rentals (recorded 10/15/13). Subordination and Non-Disturbance Agreement (recorded 10/16/13). Subordination (recorded 12/9/16). Depository Account Security Pledge Agreement (dated 10/11/13; \$200k with Citizens Bank).

\$4M Cedar Hill: Open-End Mortgage Deed, Security Agreement, and UCC – 1 Financing Statement (Fixture Filing) to secure Guaranty (recorded 3/26/15). Guaranty Agreement (dated 3/25/15)

88 Hamilton Avenue Associates, LLC (DE)**

88 Hamilton Ave., Stamford, CT. (Mixed use BLDG) \$32,500,000

Members: 88 Hamilton Member Avenue Associates (100%)

Lienholders
Nativix Real Estate Capital, LLC (and Wilmington Trust, N.A. as Trustee) (UCC Filed 6/9/15)
Cedar Hill Capital, LLC (UCC filed 3/24/15)
Citizens Bank, N.A. (UCC filed 3/13/14 corresponding loan paid off)

Loan:
\$23M Nativix Real Estate Capital LLC (matures 7/5/25). Wilmington Trust, N.A., acts as Trustee for the registered holders of Deutsche Mortgage & Asset Receiving Corporation, Multifamily Mortgage Pass-Through Certificates, Series 2015-NXS2. The UCC \$23M mortgage loan lent by Nativix Real Estate Capital Loan was placed in this Trust.
Open-End Mortgage, Assignment of Leases and Rents and Security Agreement (recorded 6/16/15); Assignment of Leases and Rents (recorded 6/16/15). Assignment and Subordination of Management Agreement. Assignment of Agreements, Licenses, Permits and Contracts. Deposit Account Agreement (all dated 6/8/15). DACA \$5k account.

\$4M Cedar Hill: Open-End Mortgage Deed, Security Agreement, and UCC – 1 Financing Statement (Fixture Filing) to secure Guaranty (recorded 3/26/15). Guaranty Agreement (dated 3/25/15)

****88 Hamilton Avenue Associates, LLC is not a debtor in these chapter 11 cases.**

Newbury Common Associates, LLC (DE)

Owned Newbury Common Apartments, 1450 Washington Blvd., Stamford, CT (Sold 12/20/10)

Members: Newbury Common Member Associates, LLC (100%)

Lienholders
Federal Home Loan Mortgage Corp. (and BANA, as Trustee).

Loans:
\$33.2M Federal Home Loan Mtg. Corp. Bank of America, N.A., acts as Trustee for the Registered Holders of Deutsche Mortgage & Asset Receiving Corporation, Multifamily Mortgage Pass-Through Certificates, Series 2009-K3. The \$33.2M loan was placed into this Trust.
\$5M Federal Home Loan Mtg.

Tag Forest, LLC (CT): (10/12/06)

Owned 11 Forest St., Stamford, CT. Property Sold
Manager: Seaboard Realty
Members: JD, TK, WM, TLK Seaboard Investments, LLC
Lienholder: Cedar Hill Capital, LLC (UCC filed 3/24/15)
Loans:
Guaranty: \$4M Cedar Hill. Guaranty Agreement, Security Agreement, Open End Mortgage Deed and UCC Statement to Secure Guaranty (dated 3/25/15)

Seaboard Hotel Associates, LLC (DE)

Courtyard Marriott, 275 Summer St., Stamford (aka 71 - 79 Broad St.) \$29M

Manager/Member: Seaboard Hotel Member Associates, LLC (100%)

Lienholders
Webster Bank, N.A.
Cedar Hill Capital, LLC

Loan:
\$17.464M Webster Bank, N.A. (matures 5/1/16) Commercial Leasehold Mortgage Deed, Security Agreement, Fixture Filing and Assignment of Subleases and Rents, including Ex. Assignment of Subleases and Rents (recorded 5/4/11)

\$1M Cedar Hill: Guaranty Agreement (dated 5/14/15); Leaseholder Open-End Mortgage Deed, Security Agreement, and UCC-1 Financing Statement (recorded 5/14/15)

Park Square West Associates, LLC (DE)

Park Square West, 101 Summer St., Stamford CT (143 apartments) \$54,350,000

Manager/Member: Park Square West Member Associates, LLC (100%)

Lienholders:
CT Housing Finance Authority

Loans:
A. \$22.5M CT Housing Finance Authority (matures 1/1/36). Mortgage Deed. Building Loan Agreement. Security Agreement. Coll. Assignment of Leases and Rentals (all - 11/19/98). Assumption Agreement (recorded 1/3/12).

\$4M Cedar Hill: Guaranty Agreement (dated 3/25/15). Corporate resolution indicating the guaranty is secured by a mortgage (dated 3/20/15), but mortgage results = clear.

Seaboard Hotel LTS Associates, LLC (DE)

Marriott Residence Inn Parcel I - 23 aka 23-25 Atlantic St. Parcel II - 37 Atlantic St. Parcel III - 35 Atlantic St.

Manager/Member: Seaboard Hotel LTS Member Associates, LLC (100%)

Lienholder
IDBNY (UCC filed 12/28/12)

Mechanic's Lien:
A. Gerdau Ameristeel US, Inc. \$31,345.72 (Recorded 3/27/15)
B. Baker Concrete \$620,713.65 (Recorded 12/11/15)
C. Pappalohn Company \$5,622,367.91 (Recorded 12/21/15)
D. FGB Construction Company \$95,524.74 (recorded 1/15/16)
E. Allstate Fire Systems, LLC \$75,525.35 (executed 1/5/16)

Loans (mature 10/31/15)
A. \$11.045M IDBNY. Open End Mortgage Deed (\$6M recorded 12/28/12; + \$5M Modification Mortgage recorded 7/18/14). Assignment of Rents and Leases (recorded 12/28/12).
B. \$7M IDBNY. Subordinate Open End Mortgage Deed (recorded 4/15/15).

Clocktower Close Associates, LLC (DE)

Owns/Selling 129 Condo units at Clocktower Close Condominium, Norwalk, CT \$900k

Manager: Board (TK, WM, WB) designated by Member

Member: Seaboard Residential, LLC (100%)

Loans (mature 12/1/33)
A. \$504k First City Bank. Mortgage Deed (recorded 11/14/08). Assignment of Leases and Rentals (recorded 11/14/08). Partial Release of Mortgage, Assignment of Rents and Leases and UCC-1 Financing Statement x2 (Unit 247 recorded 10/29/09; Unit 258 6/1/10).

300 Main Management, Inc.

1% Managing Member 300 Main St. Associates, LLC
Manager: Seaboard Realty, LLC (25%), TK et al.

300 Main Street Associates, LLC (DE)

300 Main St. Stamford, CT Office BLDG, offices, retail, parking garage

Manager: 300 Main Mgmt., Inc.

Members: Seaboard Residential, LLC (90%); 300 Main St. Member Associates, LLC (9%); 300 Main Management, Inc. (1%).

Lienholder
U.S. Bank, N.A. (UCC filed 9/11/13)

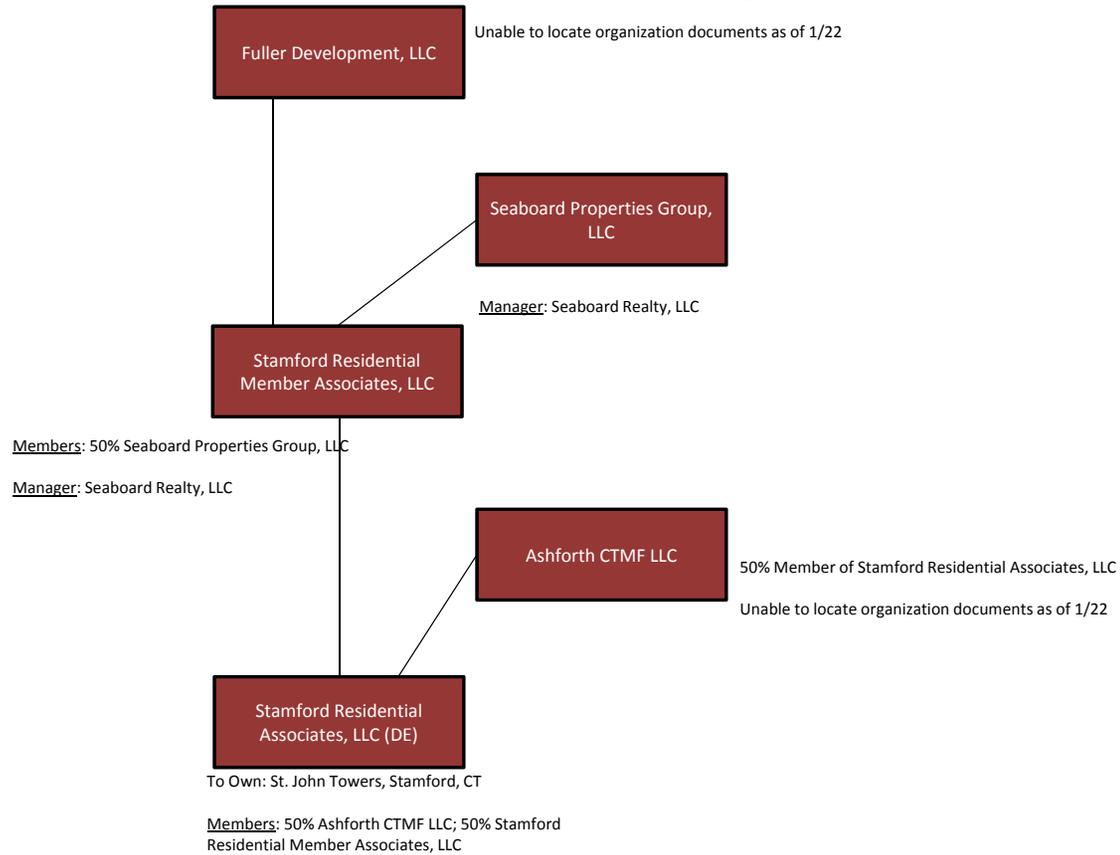
Mortgage Loan
\$11.5M U.S. Bank, N.A., as Trustee for the Registered Holders of Greenwich Capital Commercial Funding Corp. Commercial Mortgage Pass-Through Certificates, Series 2007-GG9. Originally lent by Goldman Sachs Comm'l Mortgage Account. (matures 2/6/17). Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (dated 1/19/07). Note and Mortgage Assumption Agreement (recorded 9/11/13). Master Servicer: Wells Fargo Special Servicer: LNR Partners

First City Bank Loan:
A. \$2M First City Bank (dated 9/9/13; matures 2/15/16)
Members of 300 Main pledged membership interests in 300 Main as collateral. Secured by unrecorded mortgage against 300 Main. Covenant not to Mortgage, Encumber, Transfer, or Sell (recorded 9/18/13).

*The information set forth herein is based upon currently available information. The Debtors are continuing to review their assets, liabilities and ownership interests and the descriptions of the Debtors' prepetition debt facilities and the collateral securing those facilities provided herein does not constitute, and should not be construed as, an admission by the Debtors regarding the validity, priority, enforceability, perfection, or amount of any obligation, claim, guarantee, lien, mortgage, pledge, or other security interest, or any other fact with respect thereto, and the Debtors reserve all rights to challenge or dispute any of the foregoing on any basis whatsoever except to the extent as set forth in the Emergency Motion of the Debtors for Entry of Interim and Final Orders (i) Authorizing the Use of Cash Collateral; (ii) Granting Adequate Protection to Prepetition Secured Parties; and (iii) Scheduling a Final Hearing and in the proposed interim order attached thereto.

Non-Debtors

Known DiMenna Properties: St. John's Project*



*The information set forth herein is based upon currently available information. The Debtors are continuing to review their assets, liabilities and ownership interests and the descriptions of the Debtors' prepetition debt facilities and the collateral securing those facilities provided herein does not constitute, and should not be construed as, an admission by the Debtors regarding the validity, priority, enforceability, perfection, or amount of any obligation, claim, guarantee, lien, mortgage, pledge, or other security interest, or any other fact with respect thereto, and the Debtors reserve all rights to challenge or dispute any of the foregoing on any basis whatsoever except to the extent as set forth in the Emergency Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Scheduling a Final Hearing and in the proposed interim order attached thereto.

EXHIBIT B

Prepetition Capital Structure Chart

Prepetition Capital Structure*						
	Lender	1st Mortgage	2nd Mortgage	Mezzanine Loans	Revolving Credit Facility	Total
220 Elm Property	People's United	\$5,890,000	\$1,154,000			\$7,044,000
100 Prospect Property	Citizens Bank	\$20,500,000				\$20,500,000
1 Atlantic Property	Citizens Bank	\$19,870,000				\$19,870,000
88 Hamilton Property**	Natixis	\$23,000,000				\$23,000,000
Courtyard Marriott Property	Webster Bank	\$17,464,000				
	UCF I ¹			\$3,500,000		\$20,964,000
Park Square West Property	Connecticut HFA	\$22,502,000				
	UCF I ²			\$15,300,000		
	IDB			\$5,000,000		\$42,802,000
Residence Inn Property	IDB	\$11,045,000	\$7,000,000			
	CPR ³			\$3,000,000		\$21,045,000
Clocktower Property	FCB	\$504,000				\$504,000
300 Main Property	U.S. Bank	\$11,500,000				
	FCB		\$2,000,000			\$13,500,000
Seaboard Realty	Cedar Hill ⁴			\$4,000,000		
				\$1,000,000		
	Patriot National Bank ⁵				\$3,000,000	\$8,000,000
Total		\$132,275,000	\$10,154,000	\$31,800,000	\$3,000,000	\$177,229,000

*The information set forth herein is based upon currently available information. The Debtors are continuing to review their assets, liabilities and ownership interests and the descriptions of the Debtors' prepetition debt facilities and the collateral securing those facilities provided herein does not constitute, and should not be construed as, an admission by the Debtors regarding the validity, priority, enforceability, perfection, or amount of any obligation, claim, guarantee, lien, mortgage, pledge, or other security interest, or any other fact with respect thereto, and the Debtors reserve all rights to challenge or dispute any of the foregoing on any basis whatsoever except to the extent as set forth in the Emergency Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Scheduling a Final Hearing and in the proposed interim order attached thereto.

**88 Hamilton Avenue Associates, LLC is not a debtor in these chapter 11 cases.

¹The \$3.5M UCF 1 mezzanine loan is cross collateralized with the Residence Inn Property.

²As security for this mezzanine loan, John J. DiMenna, Jr., Thomas L. Kelly, Jr., and William A. Merritt, Jr. granted and pledged their membership interests in Seaboard Realty, LLC.

³The \$3M CPR mezzanine loan is cross collateralized with the Courtyard Marriott Property, and the 1 Atlantic Property.

⁴The \$4M Cedar Hill loan is secured by purported guarantees set forth in Exhibit C, and a security agreement granting Cedar Hill a second lien on all of Seaboard Realty's property. The \$4M Cedar Hill loan is also secured by a security interest in Seaboard Realty's membership interests in Original Debtors Seaboard Residential, LLC, 600 Summer Street Stamford Associates, LLC, 88 Hamilton Avenue Member Associates, LLC, and Park Square West Member Associates, LLC. The \$4M loan is further secured by recorded *Open-End Mortgage Deeds* encumbering the 100 Prospect Property, 1 Atlantic Property, and 88 Hamilton Property.

The \$1M Cedar Hill loan is secured by purported guarantees set forth in Exhibit C, a security agreement granting Cedar Hill a second lien on all of Seaboard Realty's property, and a recorded *Leaseholder Open-End Mortgage Deed* encumbering the Courtyard Marriott Property.

⁵Seaboard Property Management, Inc. is a co-borrower for this credit facility.

EXHIBIT C

List of Purported Guarantees

List of Purported Guarantees*

		<u>PSWMA I, LLC</u>	<u>One Atlantic Member Associates, LLC</u>	<u>Seaboard Hotel Member Associates, LLC</u>	<u>Seaboard Residential, LLC</u>	<u>Century Plaza Investor Associates, LLC</u>	<u>One Atlantic Investor Associates, LLC</u>	<u>88 Hamilton Ave. Associates, LLC¹</u>	<u>Seaboard Hotel Associates, LLC</u>	<u>Park Square West Associates, LLC</u>	<u>Tag Forest, LLC</u>	<u>John J. DiMenna, Jr.</u>	<u>Thomas L. Kelly, Jr.**</u>	<u>William A. Merritt, Jr.**</u>	<u>TLK Partners, LLC**</u>	<u>TLK Seaboard Investments, LLC**</u>	<u>Kelly 2007 Family Trust**</u>
Mortgage Loans																	
220 Elm	220 Elm Mortgage Obligation											✓	✓	✓			
	Second 220 Elm Mortgage Obligation											✓	✓	✓			
100 Prospect	100 Prospect Mortgage Obligation											✓	✓	✓			
1 Atlantic	1 Atlantic Mortgage Obligation											✓	✓	✓			
88 Hamilton ¹	88 Hamilton Mortgage Obligation											✓					
Courtyard	Seaboard Hotel Mortgage Obligation											✓	✓	✓			
Residence Inn	Seaboard LTS Mortgage Obligation											✓	✓	✓			
	Seaboard LTS Subordinate Mortgage Obligation											✓	✓	✓			
300 Main	300 Main Mortgage Obligation											✓	✓	✓			
Mezzanine Loans	Seaboard Hotel Member Mezzanine Loan Obligation											✓	✓	✓			
	PSW Member Mezzanine Loan Obligation	✓								✓		✓	✓	✓			
	Seaboard LTS Member Mezzanine Loan Obligation		✓	✓								✓					
Cedar Hill	\$4M Promissory Note				✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
	\$1M Promissory Note (guarantees are limited)								✓			✓	✓	✓	✓		
<p>*The information set forth herein is based upon currently available information. The Debtors are continuing to review their assets, liabilities and ownership interests and the descriptions of the guarantees herein does not constitute, and should not be construed as, an admission by the Debtors regarding the validity, priority, enforceability, perfection, or amount of any obligation, claim, guarantee, lien, mortgage, pledge, or other security interest, or any other fact with respect thereto, and the Debtors reserve all rights to challenge or dispute any of the foregoing on any basis whatsoever except to the extent as set forth in the Emergency Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; and (III) Scheduling a Final Hearing and in the proposed interim order attached thereto.</p>																	
<p>**The purported guarantees are disputed by Thomas L. Kelly, Jr., William A. Merritt, Jr., TLK Partners, LLC, TLK Seaboard Investments, LLC, and the Kelly 2007 Family Trust.</p>																	
<p>¹88 Hamilton Avenue Associates, LLC is not a debtor in these chapter 11 cases.</p>																	