Hearing Date and Time: July 28, 2009 at 11:00 a.m. (prevailing Eastern time)

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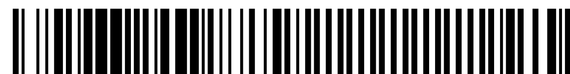
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**Chapter 11 Case No.**
GENERAL GROWTH PROPERTIES, INC., et al.,	**09–11977 (ALG)**
Debtors.	**(Jointly Administered)**

SUPPLEMENTAL SUBMISSION AS TO PROPOSED
TRANSACTION-BASED FEES OF MILLER BUCKFIRE & CO., LLC

TO THE HONORABLE ALLAN L. GROPPER,
UNITED STATES BANKRUPTCY JUDGE:

Debtor and debtor in possession General Growth Properties, Inc. ("**GGP**"), together with its affiliated debtors and debtors in possession (collectively, "**General Growth**" or the "**Debtors**"), and Miller Buckfire & Co., LLC ("**Miller Buckfire**") hereby make this supplemental submission regarding the pending request for approval by the Court pursuant to Section 328(a) of the Bankruptcy Code, 11 U.S.C. § 328(a), of the Completion Fee, the Initial DIP Financing Fee and the other Financing Fees (all as defined below) to be payable to Miller Buckfire in connection with its work as investment banker and financial advisor to the Debtors.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I. Preliminary Statement

1. The Debtors, Miller Buckfire and the Official Committee of Unsecured Creditors (the "**Committee**") have engaged in lengthy discussions regarding the proposed transaction-based fees and the circumstances under which they are payable and have reached agreement on a number of changes to the terms of the Debtors' December 10, 2008 engagement letter with Miller Buckfire (the "**Engagement Letter**"). More particularly:

(a) **Reduction of Completion Fee.** The proposed Completion Fee will be reduced by $3 million, from $22.5 million to $19.5 million. As specified in the Engagement Letter and as previously disclosed, the Completion Fee will also be further reduced by (a) one-half of all Monthly Fees paid for periods after January 1, 2010, and (b) one-half of all Financing Fees that are paid.

(b) **Overall Cap.** The Engagement Letter provides for Financing Fees that are equal to specified percentages of any Financing that is obtained, with the percentages varying depending on the type of Financing that is provided. The parties have limited the Financing Fees that may be paid by agreeing that the total fees actually paid to Miller Buckfire for all services in these cases will not exceed $33 million.

(c) **Circumstances Under Which Financing Fees Are Payable.** The parties have also negotiated a number of limits on the circumstances under which Financing Fees would be payable, as described more fully below.

(d) **Change to Monthly Fees.** In consideration of the reductions agreed to above, and to reduce the extent to which Miller Buckfire's compensation is deferred, Monthly Fees will be increased from $300,000 to $350,000 beginning August 1, 2009.

The Debtors and the Committee support the approval of these modified terms pursuant to Section 328(a) of the Bankruptcy Code.

2. Part II of this submission describes the relevant procedural background, and Part III explains the modified terms and conditions of the Engagement Letter in more detail. The Debtors and Miller Buckfire submit that the modified terms and conditions are reasonable and consistent with market practices and that they should be approved under Section 328(a) of the Bankruptcy Code, as described in Parts IV and V, and that any objections should be overruled.

II. Background and Procedural History

3. The Debtors seek permission to retain Miller Buckfire as their financial advisor and investment banker. *See* Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a) and 2016 for Authorization to Employ and Retain Miller Buckfire & Co., LLC as Financial Advisor and Investment Banker for the Debtors *Nunc Pro Tunc* to the Commencement Date, filed April 16, 2009 (the "**Application**")[1] [Docket No. 30]. The proposed terms are set forth in the Engagement Letter, a copy of which was submitted as Exhibit B to the Application.

4. This Court entered an Order on May 26, 2009 [Docket No. 602] which approved the Debtors' retention of Miller Buckfire, but which deferred consideration of the proposed Completion Fee, Initial DIP Financing Fee, and other Financing Fees until July 22, 2009. The Court entered an Amended Order on July 13, 2009 [Docket No. 981] that clarified certain terms, including objection rights of the Office of the United States Trustee.

[1] Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Application.

5. The Debtors served notice of the July 22 hearing, and of the amounts and terms of the proposed Completion Fee, Initial DIP Financing Fee and other Financing Fees, by a notice dated May 29, 2009 [Docket No. 646] (the "**Notice**"). A copy of the Notice is attached as **Exhibit A**. The Notice set an objection deadline of July 16, 2009 and informed recipients that if the fees were approved they could not subsequently be challenged except upon a showing that the terms were improvident in light of developments that were not capable of being anticipated at the time the terms were approved. *Id*. at 2. The Notice was sent to a list of creditors and parties in interest agreed upon by the parties after the May 26, 2009 hearing. [Docket No. 693].

6. General Trust Company, a holder of equity interests, has filed a limited objection to the proposed approval of Miller Buckfire's Completion Fee pursuant to Section 328(a) of the Bankruptcy Code. General Trust Company did not refer to the proposed Initial DIP Financing Fee or other Financing Fees in its objection. As of this date no other party in interest has filed any objection to the proposed terms and conditions of Miller Buckfire's retention.

III. Agreed Modifications

7. Miller Buckfire has discussed the proposed retention terms with the Official Committee of Unsecured Creditors (the "**Committee**") and has provided certain information to the Committee about fees paid in comparable cases. After considering the Committee discussions with the Debtors, Miller Buckfire proposed certain modifications to the terms and conditions of the Engagement Letter to address questions that the Committee had raised. After further negotiations with the Debtors and the Committee, Miller Buckfire agreed upon significant modifications to the Engagement Letter.

8. The Engagement Letter provided for the payment of monthly fees of $300,000 per month plus the following other fees on the following terms:

(a) A "**Completion Fee**" of $22,500,000 (subject to reduction for certain credits as explained below), payable upon the consummation of a Restructuring (such as the consummation of a plan of reorganization) or the consummation of a Sale of all or substantially all of the equity, assets or businesses of the Debtors;

(b) An "**Initial DIP Financing Fee**" equal to 1% of the aggregate committed amount of a debtor-in-possession credit facility, payable upon the closing of such a facility (which equates to a fee of $4 million based in the DIP facility in these cases); and

(c) A "**Financing Fee**" in respect of any Financing (other than the Initial DIP Financing and debt issued at existing special purpose vehicles to refinance existing debt at such special purpose vehicles), payable at closing and equal to:

(i) 1% of the gross proceeds of any first lien indebtedness;

(ii) 3% of the gross proceeds of any indebtedness that is secured by a second or more junior lien, or that is unsecured, or that is subordinated; and

(iii) 5% of the gross proceeds of any equity or equity-linked securities or obligations.

Miller Buckfire and GGP also agreed that the Completion Fee would be reduced by (x) one-half of all Monthly Fees paid after January 1, 2010, (y) one-half of any Initial DIP Financing Fee, and (z) one-half of any other Financing Fee paid under the Engagement Letter.

9. During discussions involving the Committee, the Debtors, and Miller Buckfire, concern was expressed that Financing Fees could be extremely large if, for example, the Debtors were to pursue a very large equity offering. Concern was also expressed about the so-called "tail" provisions of the Engagement Letter, which provides for the payment of fees in connection

with transactions that are consummated within certain periods after a termination of the Engagement Letter. Finally, it was determined that additional clarification is needed as to whether Financing Fees would be payable in certain circumstances.

10. The Debtors and Miller Buckfire have agreed to address the concerns expressed by the Committee by imposing a "cap" on the total fees that actually could be paid to Miller Buckfire and by agreeing to other modifications and limitations on the circumstances under which Financing Fees would be payable. In addition, the Debtors and Miller Buckfire have discussed the other fees specified in the Engagement Letter and have agreed to reduce the Completion Fee, while adjusting the ongoing Monthly Fees that are payable after August 1, 2009. More particularly:

(a) **Modifications to Completion Fee and Monthly Fees.** The Completion Fee will be reduced from $22.5 million to $19.5 million. The Monthly Fees will be increased from $300,000 to $350,000 per month, commencing on August 1, 2009.

(b) **Cap.** The total amount of all fees actually paid to Miller Buckfire by the Debtors (but excluding expense reimbursements) will be capped at $33 million. For the avoidance of doubt: the amounts of the various fees first will be calculated in accordance with the terms of the Engagement Letter (including the application of the credits specified in the Engagement Letter) as modified by subparagraphs (b) through (f), below; the cap will then limit the cumulative total amount of such fees that are actually paid to Miller Buckfire.

(c) **Modification of "Tail" Provisions.** The "tail" provisions of the Engagement Letter will not apply to any Financing that is consummated after the consummation of a plan of reorganization, except that Financing Fees shall be payable to

Miller Buckfire in respect of any Financing that is contemplated by a confirmed plan of reorganization and consummated in connection therewith, or that is consummated pursuant to a definitive agreement or any written commitment accepted by the Company on or prior to the effective date of the plan of reorganization.

(d) **Exclusion of Certain Underwritten Offerings.** Miller Buckfire will not receive a Financing Fee in respect of any registered public offering or 144A Financing that is underwritten by one or more parties, provided that for the avoidance of doubt the foregoing exclusion shall not apply to any Financing that is an offering of rights to one or more persons to subscribe for debt or equity securities of one or more of the Debtors (a "**Rights Offering**") and that includes a so-called "backstop" Financing commitment from a financing source to purchase all or a portion of the securities so offered that are not taken up in the Rights Offering, provided further, however, that such a Financing fee be calculated solely based upon the maximum amount of the applicable "backstop" commitment.

(e) **Further DIP Financing Fee.** To the extent that additional DIP Financing is required by the Debtors, Miller Buckfire will only receive a fee with respect to the incremental amount of liquidity provided by such Financing over and above the Debtors' current DIP Financing facility.

(f) **Conversion of DIP Facility.** Miller Buckfire will not receive any Financing Fee in connection with any conversion or roll-over of the existing DIP facility.

IV. Market Practices

11. The factual matters set forth in this section constitute a proffer of testimony of the witnesses and evidence that the Debtors will present to the Court. Mr. Kenneth Buckfire of

Miller Buckfire, who is in charge of Miller Buckfire's work on this engagement, will attend the hearing and is prepared to testify if the Court so desires, as well as to answer any other questions that the Court might have. Mr. Thomas H. Nolan Jr., President and Chief Operating Officer of GGP, is also prepared to testify on behalf of the Debtors regarding the Debtors' need for Miller Buckfire's services and the Debtors' support of the application to approve Miller Buckfire's compensation pursuant to Section 328(a).

A. Customary Fee Structures

12. Miller Buckfire, like other investment bankers, does not charge for its services on an hourly basis. The customary practice of Miller Buckfire and other investment bankers when they represent debtors is to charge fixed monthly fees plus additional fees (which can be fixed or percentage-based fees) that are payable upon the occurrence of certain transactions or events. The events that typically are consummated with the assistance of investment bankers and that give rise to transaction-based fees are:

(a) a restructuring or recapitalization of a debtor's liabilities (including through the consummation of a plan of reorganization);

(b) a sale of assets or businesses; and

(c) a financing.

13. "Restructuring" fees are payable when an investment banker has been retained to assist a debtor in negotiating and arranging a restructuring or recapitalization, which is often accomplished through a plan of reorganization in a Chapter 11 case but which can also be accomplished through an out-of-court restructuring. Investment bankers typically charge fixed monthly fees plus additional restructuring transaction fees that are contingent upon the actual consummation of a restructuring. Normally, the amount of the restructuring transaction fee is

based on the face amount of the debt and preferred stock that is to be restructured. A normal rule of thumb is that a restructuring transaction fee will equal approximately one percent (1%) of the total debt and preferred stock of companies with several hundred million dollars of debt, though the percentage typically declines for companies with significantly larger total debts, and the percentage can be significantly lower for very large companies.

14. Investment bankers also are retained to assist with sales of businesses or assets, both within and outside of bankruptcy. In cases where the consummation of a sale is the primary or the sole aim of the assignment, the customary practice in such cases is for investment bankers to charge monthly fees and additional "sale" fees that are contingent upon the actual consummation of a sale. A rule of thumb is that sale fees equal approximately 1% or more of the aggregate consideration paid in connection with a sale (including assumptions of liabilities and sums that are "credit" bid). As in the case of restructurings, however, the percentage declines for very large sales.

15. Frequently, however (particularly in bankruptcy cases) investment bankers are hired to assist either in a sale or in a restructuring, depending the direction that the companies' directors elect to pursue. In this case, Miller Buckfire has proposed a single "Completion Fee" that would be payable regardless of whether the Debtors elect to pursue a Restructuring or a Sale. This structure ensures that an investment banker has no financial incentive to prefer one form of transaction over another, and it is a structure that has been adopted in many cases.

16. Investment bankers may be retained (both in bankruptcy and out of bankruptcy) to assist in raising financing, although there are many cases in which specific financing services are not contemplated. Investment bankers who are retained to raise financing usually charge "financing" fees that are contingent upon the consummation of a financing and that vary

depending on the type of financing that is arranged. The typical practice is for payment of a fee of approximately 1% in connection with secured financings, 3% in connection with unsecured or subordinated financings, and 5% in connection with equity financings.

B. Completion Fees in Comparable Cases

17. The Debtors interviewed a number of investment banking firms before deciding to retain Miller Buckfire, including Lazard Ltd., Houlihan Lokey Howard & Zukin Capital, Inc., Macquarie Group and Chilmark Partners. In negotiating Miller Buckfire's compensation, the Debtors also checked references and reviewed fee comparisons provided by Miller Buckfire as well as those supplied by outside sources.

18. Following the receipt of Miller Buckfire's initial fee proposals, the Debtors also negotiated modifications to the proposal to require "credits" against the Completion Fee (and therefore significant reductions in that fee). The agreed credits are equal to (a) one-half of all monthly fees payable after January 1, 2010, plus (b) one-half of the Initial DIP Financing Fee, plus (c) one-half of any and all Financing Fees. The Debtors and Miller Buckfire also have agreed to an additional $3 million reduction to the Completion Fee, as described above.

19. Attached hereto as **Exhibit B** is a table that summarizes the restructuring fees/completion fees approved in other cases involving more than $5 billion of outstanding debts and preferred stock. The table also compares those fees to the fees set forth in the Engagement Letter (as modified by the agreements described above).

20. Calculating the effective fees payable to an investment banker (as a percentage of debts) requires adjustments for the fact that different engagements call for different "crediting" practices. For example, as shown on Exhibit B, some engagements provide that a completion fee shall be reduced by some percentage of monthly fees; in other cases there is no such crediting.

The degree of credits that are reflected in each engagement usually is the product of negotiation. In order to provide a standard basis of comparison, Exhibit B calculates the "net" completion fees payable in the cases shown, assuming an eighteen-month time period and taking account of credits that provided in each engagement letter. Exhibit B then shows the fees approved in other cases as a percentage of outstanding debts.

21. Exhibit B demonstrates that in comparable large cases the approved restructuring/completion fees (after taking monthly fee credits into account in the manner described above) have averaged 0.152% of total debts, with a median of 0.120% and a high of 0.363%. In the Debtors' cases, the proposed Completion Fee represents 0.087% of total debts after consideration of monthly fee credits. The actual Completion Fee will be smaller because of the crediting of one-half of the Initial DIP Financing Fee, and it will be further reduced if another Financing occurs (because one-half of the other Financing Fees would also be credited against the Completion Fee).

22. The Debtors and Miller Buckfire believe the Completion Fee is consistent with the fee proposals received from comparable firms, the fees approved in comparable cases, and with market practices. The Debtors submit that the proposed fees are particularly appropriate in light of the size of these cases and the challenges posed by the manner in which the Debtors have been organized and financed. The Debtors' cases are among the largest cases ever filed. Indeed, GGP, along with its approximately 750 wholly owned Debtor and non-Debtor subsidiaries and affiliates,[2] comprise one of the largest shopping center real estate investment trusts in the United States, measured by the number of shopping centers it owns and manages.

[2] GGP owns 96% of GGP LP, and outside parties hold the remaining 4%. Consequently, while the Debtors refer to subsidiaries owned directly or indirectly by GGP and GGP LP as "wholly owned," a small percentage of GGP LP actually is held by outside parties.

As of December 31, 2008, the GGP Group as a whole reported approximately $29.6 billion in total assets and approximately $27.3 billion in total liabilities (including the GGP Group's proportionate share of joint venture indebtedness). For 2008, the GGP Group reported consolidated revenue of approximately $3.4 billion and net cash from operating activities of $555.6 million. Further, there are 388 Debtors in these procedurally consolidated cases, and financing has been provided through more than 150 separate mortgage loans. There are therefore scores of obligations to be restructured, and there are scores of financial plans, capital structures and business prospects to be evaluated.

C. Financing Fees In Comparable Cases.

23. Financing services are not always contemplated in restructuring engagements. In addition, engagement letters often include a commitment to provide financing services, but postpone agreement on the scope of such services and the fees to be paid. In other situations the parties know in advance that only limited financing services will be needed and structure their arrangements accordingly.

24. However, there are many cases in which courts have approved financing fees similar to those set forth in the Engagement Letter. **Exhibit C** lists a number of such cases. As demonstrated in Exhibit C, the proposed Initial DIP Financing Fee and the other proposed Financing Fees are typical in structure and amount to practices in other cases and are consistent with market practices.

25. It is not clear at this time whether a further Financing will be required or the type (and amount) of financing that the Debtors might seek. If a Financing is required, Miller Buckfire would assist the Debtors in designing the optimal capital structure and would then run a competitive process to discover the lowest capital cost in both the private and public markets.

No Financing Fees would be paid to Miller Buckfire for public offerings that are fully underwritten by other parties (unless, in connection with such a financing, Miller Buckfire were to arrange "backstop" financing from another source). The fact that one-half of most Financing Fees are to be credited against any Completion Fee, together with the agreed imposition of an overall "cap" on Miller Buckfire's fees and the other modifications described above to the circumstances under which Financing Fees would be payable, further demonstrate the reasonableness of the proposed fees in light of practices that prevail in the market and fees that have been approved in other cases.

V. Section 328(a) Approval

26. General Trust has objected to the proposed approval of Miller Buckfire's retention under Section 328(a) and has asked that the retention be approved only pursuant to Section 330. However, Section 328(a), not Section 330, is the section of the Bankruptcy Code that addresses non-hourly fee arrangements such as Miller Buckfire's.

27. Section 328(a) permits a debtor to retain a professional so long as the terms and conditions of such retention are "reasonable." *See* 11 U.S.C. § 328(a). "In sharp contrast to the old Bankruptcy Act, [this section] now authorizes the court to preapprove a wide variety of employment arrangements between [professionals] and the trustee [or debtor in possession]." *See In re Benassi,* 72 B.R. 44, 47 (Bankr. D. Minn. 1987). In fact, Section 328(a) was modified as recently as 2005 to make it explicitly clear that the section governs "fixed fee" and "percentage fee" arrangements as well as other forms of compensation. *See* H. Rep. No. 109-31, Pt. 1, 109th Cong., 1st Sess. 142 (2005) (explaining the "technical modification" to Section 328(a) to make explicit the fact that the section includes compensation "on a fixed or percentage fee basis").

28. Section 328(a) also provides that, once a professional's compensation terms have been approved, those terms cannot subsequently be altered unless "such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions." 11 U.S.C. § 328(a). This language reflects the Congressional judgment that professionals who work on fixed-fee or percentage-fee terms are entitled to reasonable certainty that they will be paid the fees that they have negotiated in advance for their services. *See In re National Gypsum Co.,* 123 F.3d 861 862-63 (5th Cir. 1997) ("if the most competent professionals are to be available for complicated capital restructuring and the development of successful corporate reorganization, they must know what they will receive for their expertise and commitment"); *In re Barron*, 225 F.3d 583 (5th Cir. 200); *In re Reimers*, 972 F.2d 1127 (9th Cir. 1992); *In re Tundra Corp.*, 243 B.R. 575 (Bankr. D. Mass 2000). The whole purpose of the statute is to provide professionals with reasonable assurance that they will receive the percentage-based or flat fees they have bargained for, and it reflects a Congressional judgment that professionals should be protected against an unfair "retrading" of fees that occurs only after their work has been done.

29. General Trust has objected to the approval of Miller Buckfire's retention under Section 328(a) because General Trust objects to the "improvident" standard that is incorporated into Section 328(a). In essence, General Trust argues that flat fees and percentage-based fees should not be pre-approved and should instead be evaluated in hindsight. However, that is not the judgment that Congress has made. By its terms, Section 328(a) contemplates an advance approval of fees in situations where professionals seek compensation on a fixed-fee and/or percentage-fee basis. *See In re Dividend Development Corp.*, 145 B.R. 651 (Bankr. C.D. Cal. 1992)(noting that Section 328 "clearly anticipates that the court will make a determination as to

the reasonableness of a fee arrangement at the beginning of a case"); *In re Benassi,* 72 B.R. 44, 47 (Bankr. D. Minn. 1987) (Section 328 provides for pre-approval of fees).

30. General Trust has not cited any provision of the Bankruptcy Code, other than Section 328(a), that governs the Court's consideration of the particular type of fixed fee and percentage fee arrangements that are included in the Engagement Letter. Nor has General Trust cited any reason why Section 328(a) should not be available in this case. There is nothing in the language or history of Section 328(a) that suggests that its terms are discretionary, or that they should only be applied sparingly, or that special circumstances must be demonstrated in order to invoke them. Section 328(a) requires only that the proposed terms and conditions of employment be "reasonable."

31. Courts consistently have held that professional compensation under the Bankruptcy Code is to be market-driven, with the expectation that professionals in bankruptcy cases will receive compensation that is equivalent – in both structure and amount – to the compensation they would receive for similar services outside of bankruptcy. *See In re United Artists Theatre Co.*, 315 F.3d 217, 229 (3d Cir. 2003) (noting that the Bankruptcy Code takes a "market-driven" approach to the compensation of professionals); *see also In re Ames Dep't Stores, Inc.*, 76 F.3d 66, 71 (2d Cir. 1996). Every Court of Appeals that has addressed this issue has reached the same conclusion. *See In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); *Zolfo, Cooper & Co. v. Sunbeam-Oster Co., Inc.*, 50 F.3d 253, 258 (3d Cir. 1995); *In re Busy Beaver Bldg. Ctrs., Inc.*, 19 F.3d 833, 849, (3d Cir. 1994); *see also In re Hillsborough Holdings Corp.,* 127 F.3d 1398, 1404 (11th Cir. 1997); *In re Ames Department Stores, Inc.*, 76 F.3d 66, 71 (2d Cir. 1996); *In re UNR Indus., Inc.*, 986 F.2d 207, 209 (7th Cir. 1993); *In re Continental Illinois Security Litigation*, 962 F.2d 566, 568 (7th Cir. 1992).

32. Where, as here, a professional seeks a flat transaction-based fee or percentage fee, the Court therefore should focus on evidence as to the reasonableness of the proposed fee in light of fees charged in similar cases. *See In re Continental Illinois Security Litigation*, 962 F.2d 566, 568 (7th Cir. 1992) ("It is not the function of judges in fee litigation to determine the equivalent of the medieval just price. It is to determine what the [professional] would receive if he were selling his services in the market rather than being paid by court order"); *In re Joan and David Halpern Inc.*, 248 B.R. 43, 44 (Bankr. S.D.N.Y. 2000) (approving as "reasonable terms" the debtor's payment of a monthly advisory fee, a success fee based upon a percentage of the refinancing of existing debt, and an indemnity agreement on behalf of investment advisor); *aff'd* 2000 WL 1800690 (S.D.N.Y.). That is the practice that the Courts in this district have followed for many years.

33. As summarized above, the proposed fees in these cases are consistent with market practices, both in structure and in amount, and with the proposals that the Debtors received from other investment banking firms. The Debtors and Miller Buckfire respectfully submit that the proposed fees are reasonable, and request approval of those fees under Section 328(a).

VI. Conclusion

For the foregoing reasons and those set forth in the Application, the Debtors and Miller Buckfire respectfully request that the Court grant the relief sought in the Application (subject to the modifications described above).

Dated: July 27, 2009

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By: */s/ Gary T. Holtzer*

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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**Chapter 11 Case No.**
GENERAL GROWTH PROPERTIES, INC., et al.,	**09 – 11977 (ALG)**
Debtors.	**(Jointly Administered)**

NOTICE OF HEARING REGARDING THE COMPLETION FEE, INITIAL DIP FINANCING FEE, AND OTHER FINANCING FEE PORTIONS OF THE APPLICATION PURSUANT TO SECTIONS 327(a) AND 328(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 2014(a) AND 2016 FOR AUTHORIZATION TO EMPLOY AND RETAIN MILLER BUCKFIRE & CO., LLC AS FINANCIAL ADVISOR AND INVESTMENT BANKER FOR THE DEBTORS *NUNC PRO TUNC* TO THE COMMENCEMENT DATE

PLEASE TAKE NOTICE that General Growth Properties, Inc. and its affiliated debtors in the above-referenced chapter 11 cases (together, the "**Debtors**"), seek entry of an order approving the completion fee, initial dip financing fee, and other financing fee (collectively, the "**Success Fees**") portions of the application (the "**Application**") for authorization to employ and retain Miller Buckfire & Co., LLC ("**Miller Buckfire**") as financial advisor and investment banker to the Debtors pursuant to section 327(a) and 328(a) of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 2014 (a) and 2016 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") *nunc pro tunc* to April 16, 2009 (the "**Commencement Date**"), all as more fully described in the Application.

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PLEASE TAKE FURTHER NOTICE that the hearing on the Success Fees will be held before the Honorable Allan L. Gropper, United States Bankruptcy Judge, at the United States Bankruptcy Court, Alexander Hamilton Customs House, Courtroom 617, One Bowling Green, New York, New York 10004 (the "**Bankruptcy Court**") on **July 22, 2009 at 11:00 a.m. (Prevailing Eastern Time)** (the "**Hearing**").

PLEASE TAKE FURTHER NOTICE that, on May 20, 2009 the Bankruptcy Court ordered that the Debtors are authorized to retain and employ Miller Buckfire as their financial advisor and investment banker, *nunc pro tunc* to the Commencement Date, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, provided, however that the Court hold a hearing subsequent hearing to consider approval of the Success Fees (Docket No. 602).

PLEASE TAKE FURTHER NOTICE that, if the Bankruptcy Court enters an order approving the Success Fees then Miller Buckfire will, unless such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the hearing, be entitled to receive the following:

(a) Completion Fee: A completion fee, contingent upon the consummation of a Transaction[1] and payable at the closing thereof, equal to $22,500,000.

(b) Initial DIP Financing Fee: A Financing fee of 1.0% of the aggregate amount of a commitment for a debtor-in-possession Financing at the commencement of a bankruptcy case, which fee shall be due and payable upon closing of such DIP Financing.

(c) Financing Fee: Financing Fees in respect of any Financing (other than the Initial DIP Financing) payable upon closing equal to:

(i) 1.0% of the gross proceeds of any indebtedness issued that is secured by a first lien;

(ii) 3.0% of the gross proceeds of any indebtedness issued that (x) is secured by a second or more junior lien, (y) is unsecured and/or (z) is subordinated;

(iii) 5.0% of the gross proceeds of any equity or equity-linked securities or obligations issued.

Notwithstanding anything to the contrary contained in the Engagement Letter, no fee shall be payable for a Financing that involves an individual or portfolio based rollover, extension, modification or refinancing of indebtedness at any of the Company's project level direct or indirect subsidiaries.

[1] Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Application.

(d) Fifty percent (50%) of all Financing fees paid pursuant to subparagraphs (e) and (f) shall be credited against the Completion Fee.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Application shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of the objecting party, the basis for the objection and the specific grounds thereof, shall be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's case filing system and by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with two hard copies delivered directly to the chambers of the Honorable Allan L. Gropper), and shall be served upon: (i) Weil Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein, Esq., and Gary Holtzer, Esq., attorneys for the Debtors; (ii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Greg M. Zipes; (iii) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036, Attn: Michael S. Stamer, attorneys for the Official Committee of Unsecured Creditors; (iv) Robert S. Strauss Building, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036-1564, Attn: James Savin, attorneys for the Official Committee of Unsecured Creditors; so as to be filed and received by no later than **July 16, 2009 at 4:00 p.m. (Prevailing Eastern Time)** (the "**Objection Deadline**").

PLEASE TAKE FURTHER NOTICE that if an objection to the Application is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing.

PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Hearing, and failure to appear may result in relief being granted or denied upon default.

PLEASE TAKE FURTHER NOTICE that the foregoing summary of the Application is not complete and that the full terms of the Application and the Engagement Letter have been filed with the Bankruptcy Court at Docket No. 30. The Application is also available free online at www.kccllc.net/GeneralGrowth.

Dated: May 29, 2009
New York, New York

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EXHIBIT B

Chapter 11 Restructuring Fee Arrangements

Company	Chapter 11 Filing Date	Advisor	Total Debt and Preferred ($BN)	Monthly Fee	Monthly Fee Crediting	Restructuring Fee	All-in Fees as % of Debt[1]
General Motors Corp.[2]	6/1/09	Evercore	$54.4 [3]	$400,000 [4]	100.0% [5]	$30,000,000	0.061%
WorldCom, Inc.	7/21/02	Lazard	32.8 [6]	300,000	None	15,000,000	0.062%
Charter Communications, Inc.	3/27/09	Lazard	21.7	250,000	100.0% [7]	16,000,000	0.081%
Lyondell Chemical Company	1/6/09	Evercore	20.2 [8]	350,000	42.9% [9]	18,500,000 [10]	0.109%
Delta Air Lines, Inc.	9/14/05	Blackstone	18.9 [11]	200,000	None	10,500,000	0.075%
Adelphia Communications Corporation	6/25/02	Lazard	17.9	225,000	None	13,000,000	0.095%
Calpine Corporation	12/20/05	Miller Buckfire	17.2 [12]	250,000	None	14,000,000	0.108%
UAL Corporation	12/9/02	Rothschild	16.2 [13]	225,000 [14]	100% [15]	15,000,000	0.101%
Enron Corp.	12/2/01	Blackstone	15.0 [16]	250,000 [17]	None	10,000,000	0.100%
Pacific Gas and Electric Company	4/6/01	Rothschild	13.3 [18]	200,000 [19]	None	13,000,000	0.128%
Tribune Company	12/8/08	Lazard	13.1	200,000	None [20]	14,000,000	0.135%
R.H. Donnelly Corporation[2]	5/28/09	Lazard	10.0	200,000	50%	13,000,000 [21]	0.148%
Idearc Inc.	3/31/09	Moelis	9.3	300,000	100% [22]	9,000,000	0.110%
Mirant Corporation	7/14/03	Blackstone	9.2 [23]	225,000	None	7,000,000	0.120%
US Airways Group, Inc. (I)	8/11/02	Seabury	7.7 [24]	250,000	50%	16,000,000 [25]	0.236%
AbitibiBowater Inc.[2]	4/16/09	Blackstone	6.7	375,000	None	11,000,000	0.265%
Conseco, Inc.	12/17/02	Lazard	6.4 [26]	250,000	100% [27]	16,000,000 [28]	0.295%
Williams Communications Group, Inc.	4/22/02	Blackstone	6.2 [29]	200,000	None	10,000,000	0.221%
US Airways, Inc. (II)	9/12/04	Seabury	6.0 [30]	175,000	50% [31]	6,000,000 [32]	0.126%
Kmart Corporation	1/22/02	Miller Buckfire	5.6 [33]	225,000	75% [34]	12,500,000	0.243%
Delphi Corporation	10/8/05	Rothschild	5.4 [35]	250,000	None	15,000,000	0.363%

Summary Statistics	Monthly Fee	Restructuring Fee	All-in Fees as % of Debt
High	$400,000	$30,000,000	0.363%
Median	250,000	13,000,000	0.120%
Average	252,381	13,547,619	0.152%
Low	175,000	6,000,000	0.061%

Company	Chapter 11 Filing Date	Advisor	Total Debt and Preferred ($BN)	Monthly Fee	Monthly Fee Crediting	Restructuring Fee	All-in Fees as % of Debt
General Growth Properties Inc.	4/16/09	Miller Buckfire	27.3	400,000 [36]	50.0% [37]	20,500,000	0.093%

FOOTNOTES

(1) All-in fees equal to the sum of restructuring fees plus a pro forma calculation of 18 monthly fees, including crediting where applicable.
(2) Pending final retention order.
(3) Total debt per 10-Q dated March 31, 2009.
(4) After 24 months from the date of filing for chapter 11 the monthly fee is reduced to $250,000.
(5) $4.0 million of the Advisory Fees shall be 100% credited against the Restructuring Fee.
(6) Includes $2.0 billion of mandatorily redeemable and other preferred securities per 10-Q dated March 31, 2002.
(7) All monthly fees paid after the 6th month of the engagement are to be credited against the Restructuring Fee.
(8) Total debt per 10-Q dated September 30, 2008.
(9) $150,000 per month of monthly fees is to be credited against the Restructuring Fee for months one through eighteen.
(10) Aggregate fees not to exceed $41 million.
(11) Total debt and preferred stock per 10-Q dated June 30, 2005. Includes capitalized operating leases, estimated as 7.0x annualized aircraft rent expense.
(12) Total debt per 10-Q dated September 30, 2005.
(13) Total debt per 10-Q dated September 30, 2002. Includes capitalized operating leases, estimated as 7.0x annualized aircraft rent expense.
(14) After 12 months from the date of filing for chapter 11 the monthly fee is reduced to $200,000.
(15) Monthly fees will be credited after sixth month following chapter 11. Crediting terms negotiable after eighteenth month of the case.
(16) Total debt and preferred stock per 10-Q dated September 30, 2001. Excludes $18.7 billion of liabilities from price risk management activities and all off balance sheet obligations.
(17) Initial monthly fee of $350,000 for first two months. Interim monthly fee of $300,000 for months three through nine. Ongoing monthly fee of $250,000 thereafter.
(18) Total debt and preferred stock per 10-Q dated March 31, 2001. Excludes $6.8 billion of liabilities related to rate reduction bonds and price risk management.
(19) Monthly fee is $350,000 for first two months, $300,000 for the third month, $250,000 for the fourth month and $200,000 for each month thereafter.
(20) 50% of all monthly fees following the 12th month of the engagement were to be credited against any Restructuring/Disposition Fee, so long as the Restructuring/Disposition Fee was approved in its entirety by the court. However, the Restructuring/Disposition Fee was reduced from $16.0 million to $14.0 million, therefore 0% crediting of monthly fees is implied.
(21) Restructuring Fee for a chapter 11 not completed through a pre-packaged or pre-arranged plan shall be $13.0 million. For a pre-packaged or pre-arranged bankruptcy, the Restructuring Fee shall be $15.0 million. Aggregate fees not to exceed $19.0 million for a pre-packaged or pre-arranged bankruptcy and $17.0 million otherwise.
(22) 100% of monthly fees are credited after first four months.
(23) Includes $345 million of mandatorily redeemable securities per 10-Q dated June 30, 2003.
(24) Total debt per 10-Q dated June 30, 2002. Includes capitalized operating leases, estimated as 7.0x annualized aircraft rent expense.
(25) Includes a Restructuring & Financing Success Fee of up to $10.0 million and a Debt/Lease Restructuring Success Fee based on percentage of NPV for first 7 years of liquidity improvement. Amounts up to $500 million: 0.75%, next $500 million: 0.625%, next $500 million: 0.50%, beyond $1.0 billion: 0.40%; capped at $6.5 million. Does not include aircraft advisory fees. All-in fees incurred during the pendency of the case are capped at $16.0 million.
(26) Total debt and preferred stock per 10-Q dated September 30, 2002.
(27) 100% of monthly fees are credited after first twelve months.
(28) Restructuring Fee is $11.0 million fee plus maximum $5.0 million fee earned in connection with a restructuring of Conseco Finance.
(29) Total debt and preferred stock per 10-Q dated March 31, 2002.
(30) Total debt per 10-Q dated June 30, 2004. Includes capitalized operating leases, estimated as 7.0x annualized aircraft rent expense.
(31) Monthly fee credits shall be capped at 50% of the restructuring fees earned.
(32) Advisor is entitled to $3.5 million fixed fee, plus variable component of 0.375% of the PV Benefit achieved by restructuring financial obligations. The minimum Restructuring Fee is $5.0 million. The maximum Restructuring Fee is $6.0 million.
(33) Total debt and preferred stock per 10-Q dated October 31, 2001. Includes capital lease obligations.
(34) Crediting per engagement letter was 50% and subsequently increased by the court to 75%. Monthly fees to be 75% credited against any Restructuring Fee and Sale Transaction Fee.
(35) Total debt per 10-Q dated September 30, 2005.
(36) Fee is $300,000 through July and $400,000 thereafter.
(37) 50% of monthly fees are credited after January 1, 2010.

EXHIBIT C

Sample of Financing Fee Arrangements Approved in Other Cases

	Chapter 11 Filing Date	Final Order Date	Advisor	DIP Financing	First Lien Secured Debt	Second/Junior Lien Debt	Unsecured Debt	Equity	Flat Fee / Other ($MM)	Crediting
Abitibibowater Inc.	4/16/09	Pending	Blackstone	$2.5MM [1]	<$200MM: 1.00% Thereafter: 0.50%	-	<$200MM: 3.00% Thereafter: 2.00%	<$100MM: 5.00% Thereafter: 3.00%	-	None
Avado Brands, Inc. [2]	2/4/04	5/7/04	Miller Buckfire	None	1.0%	3.0%	3.0%	5.0%	N/A	None [3]
Birch Telecom, Inc.	8/12/05	1/17/06	Miller Buckfire	1.0% [4]	1.0%	2.5%	2.5%	4.0%	N/A	None [5]
Dana Holding Corporation	3/3/06	3/31/06 [6]	Miller Buckfire	$1.0 [7]	1.0%	3.0%	3.0%	5.0%	$1.0 [8]	None
Delphi Corporation [9]	10/8/05	11/30/05	Rothschild	-	1.0%	3.0%	3.0%	5.0%	-	50.0%
FLYi Inc.	11/7/05	1/12/06 [10]	Miller Buckfire	1.0% [4]	1.0%	2.0%	2.5%	4.0%	N/A	None
Greatwide Logistics Services, Inc.	10/20/08	12/5/08	Miller Buckfire	1.0% [11]	1.0%	2.0%	3.0%	4.0%	N/A	None
Horizon Natural Resources Company	11/13/02	8/30/04 [12]	Miller Buckfire	1.0% [4]	1.0%	3.0%	3.0%	5.0%	N/A	None
Lehman Brothers Holding Inc.	9/15/08	12/17/08	Lazard		Senior Sec: 1.50% Senior: 3.00%	N/A	Subordinated: 3.50% Convertible: 3.75%	Conv. Pref.: 5.00% Common: 6.00%	-	None
Lyondell Chemical Company	1/6/09	2/25/09	Evercore	0.3% [13]	1.0% [13]	2.0% [13]	2.0% [13]	5.0% [13]	-	50.0% Fee cap at $41MM
Mervyns LLC	7/29/08	8/26/08	Miller Buckfire	$0.5	0.5%	2.0%	2.0%	3.0%	N/A	25.0% [14]
Oakwood Homes LLC [15]	11/15/02	7/21/03	Miller Buckfire	1.0% [4]	1.0%	3.0%	3.0%	4.0%	N/A	None
Spiegel, Inc. [16]	3/17/03	8/6/03	Miller Buckfire	-	0.5%	3.0%	3.0%	5.0%	N/A	None [17]

	Chapter 11 Filing Date	Final Order Date	Advisor	DIP Financing	First Lien Secured Debt	Second/Junior Lien Debt	Unsecured Debt	Equity	Flat Fee / Other ($MM)	Crediting
General Growth Properties, Inc.	4/16/09	Pending		1.0%	1.0%	3.0%	3.0%	5.0%	None	50.0%

FOOTNOTES

(1) Fee to be lesser of (a) $2.5 million and (b) the sum of (x) 0.5% of the total facility size of any DIP financing arranged from a list of specified parties plus (y) 1.0% of the total arranged from other parties.
(2) All-in fees capped at $1.8 million.
(3) Fees associated with financing raised to repay prepetition claims or any DIP financing shall be 100% credited.
(4) Financing definition includes DIP financing. Fee shown assumes that DIP financing would be secured by a first lien.
(5) For a financing entirely provided by certain Identified Parties, financing fees will be 100% credited. For a financing partially provided by the Identified Parties, financing fees will be 50% credited in respect of the amount funded by the Identified Parties.
(6) Date of amended retention order. Original retention order filed on March 29, 2006.
(7) $1.0 million flat fee for DIP financing provided by Citigroup. $3.0 million flat fee for DIP financing provided by any other financial institution.
(8) Financing fees in respect of an exit financing in which a majority of the existing DIP lenders roll over their DIP commitments into the exit financing shall be $1.0 million, and shall be $3.0 million otherwise.
(9) No fee shall be payable in respect of (a) any new capital raised from an entity not otherwise participating in or having expressed an interest in participating in a Transaction or (b) from an Acquirer or an entity having expressed an interest in becoming an Acquirer in connection with the consummation of a Transaction.
(10) Date of amended retention order. Original retention order was filed on December 5, 2005.
(11) $500K fee if DIP is obtained from existing secured creditors. 1.0% fee otherwise.
(12) Date of second amended retention order. Original retention order filed on March 2, 2004.
(13) Calculated on amounts not provided by Access Industries, LLC or any of its affiliates. DIP Fee is capped at $4.765 million.
(14) 25% crediting of any financing fee above $2.5 million.
(15) DIP and exit financing fees may not be earned if financing is raised from existing DIP lenders.
(16) No fee payable if capital is raised from existing equity sponsor.
(17) Aggregate fee cap of $8.0 million for restructuring, financing and sale fees.