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Counsel for the Debtor and Debtor-in-Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:)	Chapter 11
)	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹)	Case No. 19-34054-sgj11
)	
Debtor.)	
)	

**DEBTOR'S WITNESS AND EXHIBIT LIST WITH RESPECT
TO EVIDENTIARY HEARING TO BE HELD ON JUNE 25, 2021**

Highland Capital Management, L.P. (the "Debtor") submits the following witness and exhibit list with respect to the *Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief*

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



Restructuring Officer [Docket No. 2395], which the Court has set for hearing at 9:30 a.m. (Central Time) on June 25, 2021 (the “Hearing”) in the above-styled bankruptcy case (the “Bankruptcy Case”).

A. Witnesses:

1. John Dubel;
2. Any witness identified by or called by any other party; and
3. Any witness necessary for rebuttal.

B. Exhibits:

Letter	Exhibit	Offered	Admitted
1.	May 13, 2021 Minutes of the Meeting of the Compensation Committee of Strand Advisors, Inc. (REDACTED)		
2.	May 17, 2021 Minutes of the Meeting of the Compensation Committee of Strand Advisors, Inc.		
3.	May 31, 2021 Minutes of the Meeting of the Compensation Committee of Strand Advisors, Inc.		
4.	Any document entered or filed in the Bankruptcy Case, including any exhibits thereto		
5.	All exhibits necessary for impeachment and/or rebuttal purposes		
6.	All exhibits identified by or offered by any other party at the Hearing		

Dated: June 22, 2021.

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Counsel for Highland Capital Management, L.P.

EXHIBIT 1

**Minutes of the Meeting of the
Compensation Committee of Strand Advisors, Inc.**

May 13, 2021

At approximately 12:00 p.m. Central Time, the Compensation Committee (the “Committee”) of the Board of Directors of Strand Advisors, Inc. (“Strand”), called their meeting to order. John Dubel and Russell Nelms were each present telephonically. Also in attendance for the full meeting were Jeff Pomerantz and Greg Demo of Pachulski Stang Ziehl & Jones LLP (“Pachulski”). James P. Seery, Jr., the chief executive officer and chief restructuring officer of Highland Capital Management, L.P. (“HCMLP”), was in attendance for a portion of the meeting at the Committee’s invitation.

Mr. Dubel called the meeting to order and announced that the purpose of the meeting was to discuss the potential payment to Mr. Seery of a restructuring fee as contemplated in Mr. Seery’s June 23, 2020, Employment Agreement (the “Employment Agreement”). Mr. Demo summarized the potential restructuring fees set forth in the Employment Agreement. Mr. Demo informed the Committee that the Employment Agreement contemplated two potential restructuring fees as set forth below:

Case Resolution Restructuring Fee:

Payable upon confirmation of a plan of reorganization or liquidation that resolves a material amount of the outstanding claims as follows:

\$1,000,000.00	On confirmation of a plan
\$500,000.00	On effective date of a plan
\$750,000.00	On completion of cash or property distributions to creditors

Monetization Vehicle Restructuring Fee:

Payable upon confirmation of a plan of reorganization or liquidation that does not include agreement on a material amount of the outstanding claims as follows:

\$500,000.00	On confirmation of a plan
\$250,000.00	On effective date of a plan
Contingent Fee	To be determined by the board or oversight vehicle overseeing implementation of plan

Mr. Dubel then asked Mr. Seery to identify for the Committee which restructuring fee he believed he was entitled to and the basis therefor. Throughout the presentation described below the Committee asked Mr. Seery a series of questions to which he responded.

Mr. Seery indicated he believed he was entitled to receive the Case Resolution Restructuring Fee because the material claims against the estate had been resolved. Specifically, Mr. Seery told the Committee that HCMLP had successfully resolved the claims brought by the Redeemer Committee, Acis Capital Management, the various HarbourVest entities, and Integrated Financial Associates. Mr. Seery also indicated that the Bankruptcy Court had scheduled a hearing for May 17, 2021 to approve HCMLP’s motion seeking approval of the settlement agreement between HCMLP on UBS Securities LLC and UBS AG London Branch (collectively, “UBS”) that was executed on March 30, 2021.

Mr. Seery then informed the Committee that he believed that HCMLP had reached a deal in principle with Patrick Daugherty but that that settlement was still subject to finalization and documentation. Mr. Seery also told the Committee that two other material claims filed by

[REDACTED]
[REDACTED] were also substantially resolved.

Mr. Seery told the Committee that the foregoing represented the resolution of all material claims against HCMLP and that the remaining outstanding claims were generally those filed by Mr. Dondero, his related entities, and former HCMLP employees who were now working for another one of Mr. Dondero's entities.

The Committee asked Mr. Seery a number of questions throughout his presentation, which Mr. Seery answered.

Mr. Seery and the Committee next discussed the timing of the payment of a potential restructuring fee to Mr. Seery. As part of this discussion, Mr. Seery explained that due to HCMLP's liquidity needs he was willing to modify the previously proposed payment terms of the Restructuring Fee as follows (i) \$1 million would be deemed earned by Mr. Seery as of the confirmation date of the plan (i.e., February 22, 2021) and paid to Mr. Seery on September 30, 2021; (ii) \$500,000 would be deemed earned on the effective date of the plan and paid on the later of the effective date or September 30, 2021; and (iii) \$750,000 would be paid on the earlier of (a) the distribution of not less than 75% of the estimated cash available for distribution to Class 8 (General Unsecured Claims) (as discussed in the plan projections) or (b) substantial completion of the monetization of the assets of the Debtor or its successors-in-interest.

Following this discussion, the Committee informed Mr. Seery that they would take the matter under advisement, and Mr. Seery was excused from the meeting. The Committee discussed scheduling a further meeting to consider Mr. Seery's entitlement to the Restructuring Fee.

The Committee discussed with Pachulski the timing of the filing of a motion to approve Mr. Seery's bonus with Pachulski. The Committee determined to defer final consideration of Mr. Seery's entitlement to the Restructuring Fee until after the UBS settlement was approved.

The meeting was adjourned at approximately 1:00 p.m. Central Time until May 17, 2021, at 5:30 Central Time.




John S. Dubel

Russell F. Nelms

EXHIBIT 2

**Minutes of the Meeting of the
Compensation Committee of Strand Advisors, Inc.**

May 17, 2021

At approximately 5:30 p.m. Central Time, the Compensation Committee (the “Committee”) of the Board of Directors of Strand Advisors, Inc. (“Strand”), reconvened and called their meeting to order. John Dubel and Russell Nelms were each present telephonically. Also in attendance for the full meeting were Jeff Pomerantz and Greg Demo of Pachulski Stang Ziehl & Jones LLP (“Pachulski”).

The meeting was called to order by Mr. Dubel and the Committee began the meeting by summarizing the discussion at the May 13 meeting concerning the potential restructuring fee to be paid to James P. Seery, Jr., the chief executive officer and chief restructuring officer of Highland Capital Management, L.P. (“HCMLP”), including the timing and structure of such payment. The Committee determined that Mr. Seery’s success in settling the material claims against the estate met the proposed criteria set forth in Mr. Seery’s June 23, 2020, Employment Agreement (the “Employment Agreement”), which would entitle him to receive a restructuring fee in the aggregate of \$2.25 million (the “Restructuring Fee”). As discussed at the May 13 meeting, based upon HCMLP’s liquidity, Mr. Seery voluntarily agreed to defer receipt of payment of the Restructuring Fee as follows:

\$1,000,000.00	deemed earned on the Confirmation Date (<i>i.e.</i> , February 22, 2021) and paid on September 30, 2021
\$500,000.00	deemed earned on the Effective Date (as such term is defined in the Plan) and paid on the later of the Effective Date or September 30, 2021
\$750,000.00	paid on the earlier of (i) the distribution of not less than 75% of the estimated cash available for distribution to Class 8 (General Unsecured Claims) as set forth in the Amended Liquidation Analysis/Financial Projections [Docket No. 1875-1] or (ii) the substantial completion of the monetization of the assets of the Debtor or its successors-in-interest

Mr. Dubel reported to the Committee that Mr. Seery’s total current compensation, inclusive of the Restructuring Fee, for the period of January 9, 2020 until July 31, 2021, would be approximately \$4.8 million, or approximately \$3.1 million on an annualized basis. Mr. Dubel reported to the Committee that he believed that Mr. Seery was undercompensated compared to chief executives in complex bankruptcies based upon his knowledge, experience and calculation of what Mr. Seery would be entitled to receive if compensated on an hourly basis.

Specifically, Mr. Dubel reported to the Committee that he had reviewed the hourly rates of senior bankruptcy professionals in other complex cases and found that the average rate was approximately \$1700 per hour. Based on this, and assuming that Mr. Seery was an hourly professional, Mr. Dubel believed that an hourly rate of \$1650 per hour for Mr. Seery would be appropriate. Mr. Dubel told the Committee that, assuming a \$1650 hourly rate and that Mr. Seery worked approximately 180 hours per month during the case, if Mr. Seery’s compensation were calculated on an hourly basis that Mr. Seery’s total compensation would be \$1.7 million more than his projected compensation (inclusive of bonus).

Mr. Dubel also performed the same calculation using the blended rate of the senior professionals retained in HCMLP's bankruptcy (approximately \$1268 per hour) and concluded that Mr. Seery's total compensation (inclusive of bonus) would be \$186,000 more than his projected compensation at such blended rate.

Mr. Dubel also noted that Mr. Seery's compensation included a measure of risk, not present if he was compensated on a purely hourly basis, as the Restructuring Fee was contingent on Mr. Seery achieving certain benchmarks. Mr. Dubel stated that, in his experience, contingent bonus possibilities are generally higher because of the potential that the contingency may not occur.

Based upon the foregoing, Mr. Dubel suggested that Mr. Seery had earned the proposed Restructuring Fee under the terms of the Employment Agreement and thus it was fair compensation given the totality of circumstances.

Following Mr. Dubel's presentation, Mr. Dubel and Mr. Nelms engaged in a lengthy discussion about Mr. Dubel's findings, including how he had arrived at his conclusions.

Following that discussion, Mr. Nelms stated his view that Mr. Dubel had approached Mr. Seery's compensation in a very objective and analytical way. Mr. Nelms also stated that he believed that Mr. Seery brought to the engagement significant skills that made him uniquely valuable to HCMLP, including his technical skills and familiarity with the industry and his restructuring experience. Mr. Nelms also emphasized the difficult nature of the engagement because of, among other things, the direct attacks against Mr. Seery perpetrated by James Dondero, HCMLP's founder and former chief executive officer. Mr. Nelms stated that he believed that the estate had received exceptional value from Mr. Seery and that Mr. Seery's compensation was fair and appropriate.

Mr. Dubel and Mr. Nelms then discussed the next steps in the process. The Committee determined that in order to corroborate the Committee's preliminary analysis it should reach out to Mercer – HCMLP's compensation consultant – to update the materials that it had originally provided to the Committee in 2020 in connection with Mr. Seery's retention as chief executive officer and chief restructuring officer.

In order to allow the Committee the time necessary to complete their analysis, the Committee adjourned the meeting at approximately 6:30 p.m. Central Time until May 31, 2021, at 2:30 Central Time.


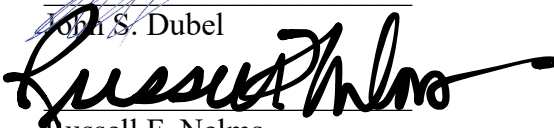

John S. Dubel

Russell F. Nelms

EXHIBIT 3

**Minutes of the Meeting of the
Compensation Committee of Strand Advisors, Inc.**

May 31, 2021

At approximately 2:30 p.m. Central Time, the Compensation Committee (the “Committee”) of the Board of Directors of Strand Advisors, Inc. (“Strand”), convened and called their meeting to order. John Dubel and Russell Nelms were each present telephonically. Also in attendance for the full meeting were Jeff Pomerantz and Greg Demo of Pachulski Stang Ziehl & Jones LLP (“Pachulski”).

Prior to the commencement of the meeting, Pachulski provided the Committee with an updated report prepared by Mercer – the compensation consultant retained by Highland Capital Management, L.P. (“HCMLP”) – which contained an analysis of the proposed compensation for James P. Seery, Jr., the chief executive officer and chief restructuring officer of HCMLP. A copy of the analysis is attached hereto as Appendix A.

Mr. Dubel presented Mercer’s findings to the Committee and a discussion between the Committee and Pachulski ensued.


The Committee and Pachulski also discussed the analysis Mercer had performed in the spring and summer of 2020 in connection with Mr. Seery’s retention as HCMLP’s chief executive officer and chief restructuring officer. Mr. Dubel noted that Mercer’s updated presentation was consistent with that earlier presentation but noted that Mercer incorporated analysis in looking at the retention on an annualized basis since Mr. Seery’s time as CEO and CRO is in excess of the approximately one year originally projected.

Following this discussion, Mr. Dubel and Mr. Nelms concluded that Mr. Seery’s proposed restructuring fee and total compensation was appropriate based on Mercer’s findings; the compensation paid to similarly situated executives; taking into account the specific services that Mr. Seery was providing; the length of time and the complexity of the case.

Mr. Dubel moved to approve the payment of the \$2.25 million restructuring fee to Mr. Seery; Mr. Nelms concurred; and the motion passed unanimously.

The Committee directed Pachulski to file a motion with the Bankruptcy Court seeking approval of Mr. Seery’s restructuring fee in substantially the form presented to the Committee.

The meeting was adjourned at 3:00 EST.



John S. Dubel

Russell F. Nelms

**Minutes of the Meeting of the
Compensation Committee of Strand Advisors, Inc.**

May 31, 2021

At approximately 2:30 p.m. Central Time, the Compensation Committee (the “Committee”) of the Board of Directors of Strand Advisors, Inc. (“Strand”), convened and called their meeting to order. John Dubel and Russell Nelms were each present telephonically. Also in attendance for the full meeting were Jeff Pomerantz and Greg Demo of Pachulski Stang Ziehl & Jones LLP (“Pachulski”).

Prior to the commencement of the meeting, Pachulski provided the Committee with an updated report prepared by Mercer – the compensation consultant retained by Highland Capital Management, L.P. (“HCMLP”) – which contained an analysis of the proposed compensation for James P. Seery, Jr., the chief executive officer and chief restructuring officer of HCMLP. A copy of the analysis is attached hereto as Appendix A.

Mr. Dubel presented Mercer’s findings to the Committee and a discussion between the Committee and Pachulski ensued.

The Committee and Pachulski also discussed the analysis Mercer had performed in the spring and summer of 2020 in connection with Mr. Seery’s retention as HCMLP’s chief executive officer and chief restructuring officer. Mr. Dubel noted that Mercer’s updated presentation was consistent with that earlier presentation but noted that Mercer incorporated analysis in looking at the retention on an annualized basis since Mr. Seery’s time as CEO and CRO is in excess of the approximately one year originally projected.

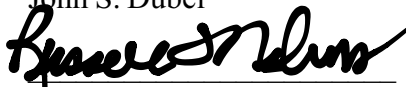
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The Committee directed Pachulski to file a motion with the Bankruptcy Court seeking approval of Mr. Seery’s restructuring fee in substantially the form presented to the Committee.

The meeting was adjourned at 3:00 EST.

John S. Dubel



Russell F. Nelms



Highland Capital Management

Restructuring Leadership Compensation

DRAFT – prepared at the request of counsel

May 28, 2021

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welcome to brighter

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Executive Summary

- Highland Capital Management (“Highland” or the “Company”) has recently engaged Mercer to provide information on Chief Executive Officer (CEO) compensation in restructuring scenarios in connection with the potential appointment of Mr. James P. Seery, Jr. as CEO
- In order to incentivize the CEO to maximize the value of the estate during the reorganization, Mercer worked with Highland to evaluate compensation levels from three sources of data:

Primary Data Reference

1. Compensation of restructuring professionals appointed for a short period to lead the organization through the restructuring on a consulting capacity; these temporary leaders are typically not employees and are either referred to as a CEO or a Chief Restructuring Officer (“CRO”)

Secondary Data References

2. CEO compensation of debtors who participated in Key Employee Incentive Plans (KEIPs)
 3. Normal-course compensation for similarly-sized Alternative Asset Management companies (not financially distressed)
- The table below presents the proposed compensation package:

Requested	Mercer Commentary
<ul style="list-style-type: none"> • Salary of \$150,000 per month (\$1.8M annualized) • Success Bonus of \$2.25M (subject to court approval based on outcome of the case) 	<ul style="list-style-type: none"> • In addition to leading the organization through restructuring, the CEO would be responsible for ~\$6B in Asset Management. It is not common for executives brought on to lead restructuring efforts to also be responsible for Asset Management • The annualized fee (\$1.8M) is near or below the 50th percentile relative to most companies (see following page for detailed information) • The success fee, which is only paid if the court deems Highland to have successfully restructured, is within the range of competitive practice • The majority of pay is provided in the success bonus to incentivize the CEO to effectively lead the organization to a value-maximizing solution • The complexity of the Highland restructuring is reflected by the duration of the cases; then the success bonus is annualized over the duration of the cases, the bonus is below the 50th percentile

- The following report goes into more detail around the market competitiveness of the proposal₂

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Competitive Market Practice

Restructuring Professionals: Length of Case & Fees

- The data shown in the table to the right presents data for CROs
- The 50th percentile retainer ranges from \$1.81M to \$2.18M and thus the proposal is well within the range of market practice
- Mr. James P. Seery, Jr.'s role as CEO is broader than the CRO role reflected in the database; the CEO's responsibilities cover the entire activities of the company and include overseeing investment management activities in addition to the restructuring activities typically covered by a CRO

	Percentile	Length of Case (Months)	Yearly Fee (Top Fee Annualized)	Success Bonus Amount
Highland	Proposal	TBD	\$1,800,000	\$2,250,000

Filings with Assets \$1B-\$10B	90th %ile	18	\$2,504,320	\$3,745,000
	75th %ile	12	\$2,394,080	\$2,906,250
	50th %ile	6	\$1,978,080	\$1,875,000
	25th %ile	4	\$1,544,400	\$1,000,000
N				22

Filings From 2018-2021	90th %ile	14	\$2,683,200	\$2,175,000
	75th %ile	8	\$2,423,200	\$1,000,000
	50th %ile	5	\$2,184,000	\$500,000
	25th %ile	3	\$1,495,000	\$250,000
N				27

All Filings in the Database	90th %ile	20	\$2,490,800	\$6,930,000
	75th %ile	13	\$2,392,000	\$2,000,000
	50th %ile	6	\$1,810,000	\$1,000,000
	25th %ile	4	\$1,344,200	\$500,000
N				53

- The proposed success bonus is between the 75th and 90th percentile of the cuts shown to the right
 - Mr. James P. Seery, Jr. is not benefiting from the billings of associates; he will be utilizing principally the current employees rather than additional associates of his firm. This will result in significant cost savings to the estate

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Competitive Market Practice

Restructuring Professionals: Case Length & Monthly Success Bonus

- The Highland restructuring has lasted at least approximately eighteen months and his term as CEO has lasted at least twelve months
- On a per-month basis, over the eighteen month life of the case, the success bonus is below the 50th percentile compared to all the cases in the database & the cases since 2018
- The success bonus is below the 75th percentile relative to each of the cuts of information whether the success bonus is analyzed over twelve or eighteen months

	Percentile	Length of Case (Months)		Success Bonus Amount / Length of Case (Months)	
		12	18	\$187,500	\$125,000
Highland	Proposal				
Filings with Assets \$1B-\$10B	90th %ile	18		\$534,125	
	75th %ile	12		\$301,136	
	50th %ile	6		\$161,458	
	25th %ile	4		\$83,333	
N				22	
Filings From 2018-2021	90th %ile	14		\$607,500	
	75th %ile	8		\$250,000	
	50th %ile	5		\$137,500	
	25th %ile	3		\$31,250	
N				27	
All Filings in the Database	90th %ile	20		\$584,762	
	75th %ile	13		\$345,238	
	50th %ile	6		\$150,000	
	25th %ile	4		\$48,810	
N				53	

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Competitive Market Practice: For Reference

CEO KEIP Market Data

- For supplemental reference, Mercer also gathered competitive compensation for CEOs that have been with the organization in the months leading up to the restructuring put in a Key Employee Incentive Plan (KEIP)
 - In restructuring scenarios, it is common that ongoing incentive payments are not of value, and the only compensation the executive receives (without implementing a new plan) is base salary
 - Maximum KEIP payout for a CEO as a percent of base salary varies significantly depending on the circumstances, but is ~125% of CEO base at median
- Typically, individual award sizes are filed under seal and are not available in public disclosures. However, ~21% of companies in Mercer’s database have disclosed pay data for the CEO
 - At median, annual total cash compensation for a CEO, assuming the case lasts 1 year and the maximum KEIP is 125% of base salary, would be ~\$1.45M
- The proposed monthly retainer falls between the 75th and 90th percentile and is thus within the competitive range; it should be noted that the role contemplated for Mr. James P. Seery, Jr. is temporary and thus quite different from the more permanent roles represented in the data below
- CEOs typically receive sizable equity grants following emergence which is a different pay practice from the success bonus contemplated here

CEO Maximum KEIP Awards					Median Annual Total Cash Compensation	
All Companies	\$100M-\$1B Assets		Typical Base Salary		C = A + B	
	A		B			
	90 th Percentile	\$4,522,684	\$1,250,000	\$700,000		
	75 th Percentile	\$3,477,718	\$888,125			
	50 th Percentile	\$853,750	\$750,000			
25 th Percentile	\$699,500	\$620,563				

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Competitive Market Practice: For Reference

Alternative Asset Management CEO Data

- In normal course, non-restructuring situations, compensation would be assessed against industry-relevant, and similarly-sized organizations
- Median CEO total compensation for Alternative Asset Management companies is ~\$2.24M
 - Highland's annualized fee proposal of \$1.8M is positioned about 10% above the median in total cash compensation and 20% below the total compensation median
 - Success bonuses do not exist in ordinary course compensation programs; however, it is not unusual for non-founder CEOs to participate in the ownership of the investment firm which is not available to Mr. James P. Seery, Jr.

Position	Peer Group	Competitive Market Data (USD 000s)					
		25th Percentile		50th Percentile		75th Percentile	
		2018	2019	2018	2019	2018	2019
		T. Cash	T. Comp	T. Cash	T. Comp	T. Cash	T. Comp
Head of Alternative Credit Strategy / CIO	All Credit Managers	\$1,318	\$1,598	\$1,744	\$2,350	\$3,170	\$4,084
CEO With/Without CIO Responsibilities	All Traditional Asset Managers	1,657	3,020	3,566	5,431	6,157	9,575
CEO With/Without CIO Responsibilities	Traditional AM <\$15B (AUM)	800	949	1,200	1,200	1,550	1,550
Chief Operating Officer	Alternative AM \$5-15B (AUM)	948	1,000	1,250	1,377	1,592	2,034
		* Select Composite:		\$1,636		\$2,239	
						\$497	

*Select Composite: Average based on recommended quartile positioning highlighted in red

Public Firm Data			
Proxy Firm	Chief Executive Officer	AUM (12/31/18)	2018
Artisan Partners	Eric R. Colson	\$96.2	\$5,438
WisdomTree Investments	Jonathan Steinberg	54.1	\$5,883
Westwood Holdings Group	Brian O. Casey	16.6	\$4,150
Pzena Investment Mgmt	Richard S. Pzena	33.4	\$3,711
			\$3,287
			\$365



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Appendix

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Appendix

Yearly Fee and Success Bonus at Restructuring Firms

- Overall, yearly fees have increased in recent years whereas the success bonus has actually decreased
- The other restructuring firms or singular CEO/CROs tend to take on smaller clients, so their fees are relatively less than those of the larger firms, such as AlixPartners, Alvarez & Marsal, and FTI Consulting

2018-2021

	Percentile	Yearly Fee (Top Fee Annualized)	Success Bonus Amount
AlixPartners / AP Services	90th %ile	\$2,485,600	--
	75th %ile	\$2,485,600	\$4,625,000
	50th %ile	\$2,423,200	\$1,250,000
	25th %ile	\$2,423,200	\$1,000,000
	N	12	5
Alvarez & Marsal	90th %ile	\$2,433,600	--
	75th %ile	\$2,392,000	\$2,531,250
	50th %ile	\$2,392,000	\$875,000
	25th %ile	\$2,392,000	\$137,500
	N	15	4
FTI Consulting	90th %ile	\$3,093,440	--
	75th %ile	\$2,693,600	\$600,000
	50th %ile	\$2,693,600	\$500,000
	25th %ile	\$2,485,600	\$200,000
	N	13	5
Others	90th %ile	\$2,516,800	\$1,600,000
	75th %ile	\$2,207,400	\$875,000
	50th %ile	\$1,664,000	\$500,000
	25th %ile	\$1,287,000	\$275,000
	N	94	13



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Full Database

	Percentile	Yearly Fee (Top Fee Annualized)	Success Bonus Amount
AlixPartners / AP Services	90th %ile	\$2,485,600	\$10,500,000
	75th %ile	\$2,423,200	\$6,868,750
	50th %ile	\$2,412,800	\$1,625,000
	25th %ile	\$1,713,400	\$927,363
	N	22	14
Alvarez & Marsal	90th %ile	\$2,392,000	--
	75th %ile	\$2,392,000	\$2,937,500
	50th %ile	\$2,392,000	\$2,000,000
	25th %ile	\$1,800,000	\$875,000
	N	23	9
FTI Consulting	90th %ile	\$3,026,800	--
	75th %ile	\$2,693,600	\$775,000
	50th %ile	\$2,589,600	\$500,000
	25th %ile	\$2,485,600	\$200,000
	N	14	6
Others	90th %ile	\$2,402,400	\$4,425,000
	75th %ile	\$2,184,000	\$1,875,000
	50th %ile	\$1,653,600	\$875,000
	25th %ile	\$1,144,000	\$425,000
	N	115	24

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Appendix

Success Bonus at Restructuring Firms per month

- When analyzed on a per month basis, the success bonus is below the 50th percentile relative to the success bonuses paid to Alix Partners and Alvarez & Marsal and between the 50th and 75th percentile relative to FTI

	Percentile	Length of Case (Months)	Success Bonus Amount / Length of Case (Months)	
			12	18
Highland	Proposal		\$187,500	\$125,000
AlixPartners / AP Services	90th %ile	21	\$601,905	
	75th %ile	15	\$500,000	
	50th %ile	10	\$318,182	
	25th %ile	3	\$83,333	
N			11	
Alvarez & Marsal ("A&M")	90th %ile	--	--	
	75th %ile	13	\$1,971,003	
	50th %ile	5	\$559,375	
	25th %ile	3	\$212,500	
N			4	
FTI Consulting	90th %ile	--	--	
	75th %ile	14	\$208,333	
	50th %ile	6	\$54,167	
	25th %ile	3	\$14,145	
N			4	
Others	90th %ile	19	\$293,956	
	75th %ile	12	\$166,667	
	50th %ile	6	\$83,333	
	25th %ile	4	\$45,714	
N			34	

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Appendix

Success Fees: Filings from 2018 – 2021

- Examples of companies that have implemented Success Bonuses are disclosed in the table to the right
- Confirmation of the Plan of Reorganization/ closing of the sale is the most common success bonus metric

Filings from 2018-2021							
Company	Length of Case (Months)	Success Bonus Amount / Length of Case (Months)	POR Confirmation/ Sale Close	Time to Confirmation	Sales Proceeds	Discretionary Adjustments (outcome, speed, value add)	
National Rifle Association of America	n/d	n/d	✓			✓	
MTPC, LLC	n/d	\$25,000	✓				
Unipharma, LLC (DBA Tamarac 10200, LLC)	3	\$166,667	✓				
Gulfport Energy Corporation	4	\$718,750	✓				
Henry Ford Village, Inc.	n/d	n/d	✓				
Town Sports International, LLC	2	n/d		✓			
MEA RemainCo Holdings, LLC (f/k/a Energy Alloys Holdings, LLC)	n/d	n/d	✓				
KG Winddown, LLC (f/k/a K.G. Im, LLC)	n/d	n/d	✓				
MUJI U.S.A. Limited	5	\$40,000	✓				
LBD Winddown, LLC (f/k/a Lucky Brand Dungarees, LLC)	4	\$137,500	✓				
Klausner Lumber Two LLC	n/d	n/d	✓		✓		
Klausner Lumber One LLC	n/d	n/d	✓		✓		
Southeast Royalty Company LLC	n/d	n/d	✓				
SFP Franchise Corp. (Schurman Fine Papers, Inc.)	6	\$50,000	✓			✓	
Fairway Group Holdings Corp. (2020)	8	\$31,250	✓				
The Krystal Company (2020)	n/d	n/d	✓				
XS Ranch Fund VI, L.P.	n/d	n/d	✓				
Forever 21, Inc.	n/d	n/d	✓				
GCX Limited	2	\$250,000	✓			✓	
Alta Mesa Resources	8	\$156,250	✓			✓	
Absolut Facilities Management, LLC	6	n/d					
Blackhawk Mining, LLC	1	n/d					
Blackjewel L.L.C.	20	\$25,000	✓				
Cambrian Holding Company, Inc.	19	\$10,526	✓				
Aegerion Pharmaceuticals, Inc.	3	\$333,333	✓			✓	
Sungard Availability Services Capital, Inc.	0	n/d	✓	✓		✓	
KG Wind Down, Inc. (f/n/a Kona Grill, Inc.)	n/d	n/d	✓				
F+W Media, Inc.	n/d	n/d			✓		
Westwind Manor Resort Association, Inc. (Warrior Custom Golf, Inc.)	15	n/d			✓		
PG&E Corporation (Pacific Gas) (2019)	15	\$533,333	✓			✓	
Gymboree Group Inc. (2019)	15	\$66,667	✓				
Bakken Resources, Inc.	n/d	n/d			✓		
Sears Holdings Corporation	12	\$166,667	✓				
n = 33							
90th %ile	19	\$607,500	Prevalence: 76%		6%	15%	21%
75th %ile	15	\$250,000					
50th %ile	6	\$137,500					
25th %ile	3	\$31,250					

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Appendix

Success Fees: Filings from 2001-2017

- Examples of companies that have implemented Success Bonuses are disclosed in the table to the right
- Confirmation of the Plan of Reorganization/ closing of the sale is the most common success bonus metric

Filings from 2001-2017							Discretionary Adjustments (outcome, speed, value add)
Company	Length of Case (Months)	Success Bonus Amount / Length of Case (Months)	POR Confirmation/ Sale Close	Time to Confirmation	Sales Proceeds		
Protea Biosciences, Inc.	22	n/d			✓		✓
SunEdison, Inc.	14	\$357,143	✓				
Patriot Coal Corporation (2015)	5	\$400,000	✓				✓
Caesars Entertainment Operating Company, Inc.	23	\$29,783					
Exide Technologies	n/d	n/d	✓				
ATP Oil & Gas Corporation	n/d	n/d	✓				
Patriot Coal Corporation (2012)	n/d	n/d	✓				
Velo Holdings	n/d	n/d			✓		
Borders Group, Inc.	10	\$200,000	✓	✓			✓
Blockbuster Inc.	n/d	n/d	✓	✓			
Saint Vincents Catholic Medical Centers of NY	n/d	n/d					
Capmark Financial Group Inc.	21	\$47,619	✓				✓
General Motors Corporation	21	\$619,048	✓				✓
Hayes Lemmerz International, Inc. (2009)	6	\$83,333	✓				
AbitibiBowater Inc.	18	\$83,333	✓	✓			
Chemtura Corporation	20	\$150,000	✓				
Magna Entertainment Corp.	12	\$83,333	✓	✓			
Lyondell Chemical Company	14	\$500,000	✓				
Pilgrim's Pride Corporation	12	\$83,333					✓
LandAmerica Financial Group, Inc.	11	\$103,284			✓		
VeraSun Energy Corporation	11	\$318,182	✓				
Lehman Brothers Holdings Inc.	38	\$2,388,421			✓		✓
SemGroup, L.P.	15	\$455,000	✓				✓
Linens 'n Things, Inc.	13	\$230,769	✓				
Sea Containers Ltd.	19	\$37,339	✓		✓		
Interstate Bakeries	n/d	n/d	✓	✓	✓		
Enron	n/d	n/d	✓	✓	✓		

Appendix

Prevalence of Payments: 2018-2021, Assets between \$100M - \$1B

- Several firms charge a flat monthly rate for the CRO/CEO position and then bill at hourly rates for other professionals utilized from the firm throughout the restructuring process

Filings from 2018-2021 & Assets \$100M-\$1B						Filings from 2018-2021 & Assets \$100M-\$1B					
Company	Filing Date	Fee Determination		Success Bonus		Company	Filing Date	Fee Determination		Success Bonus	
		Hourly Fee	Monthly Fee					Hourly Fee	Monthly Fee		
Secure Home Holdings LLC	4/25/2021	✓				Fairway Group Holdings Corp. (2020)	1/23/2020	✓	✓	✓	
CMC II, LLC	3/1/2021	✓				Paddock Enterprises, LLC	1/6/2020	✓	✓		
Castex Energy 2005 Holdco, LLC	2/26/2021	✓				XS Ranch Fund VI, L.P.	1/6/2020	✓	✓	✓	
Country Fresh Holding Company Inc.	2/15/2021	✓				Borden Dairy Company	1/5/2020	✓			
Easterday Ranches, Inc.	2/1/2021	✓				High Ridge Brands Co. (CDR HRB Holdings Inc.)	12/18/2019	✓	✓		
National Rifle Association of America	1/15/2021	✓		✓		Hollister Construction Services, LLC	9/11/2019	✓			
Lighthouse Resources Inc.	12/3/2020	✓				Fred's, Inc.	9/9/2019	✓	✓		
The Roman Catholic Diocese of Rockville Centre, New York	9/30/2020	✓				NORPAC Foods, Inc.	8/22/2019	✓			
Bouchard Transportation Co., Inc.	9/28/2020	✓				Barneys New York, Inc. (2019)	8/6/2019	✓	✓		
Town Sports International, LLC	9/14/2020	✓		✓		Emerge Energy Services	7/15/2019	✓	✓		
KB US Holdings, Inc.	8/23/2020	✓				Blackjewel L.L.C.	7/1/2019	✓	✓	✓	
Chaparral Energy, Inc. (2020)	8/16/2020	✓				Center City Healthcare, LLC	6/30/2019	✓	✓		
Hopedale Mining LLC (Rhino Resource Partners)	7/22/2020	✓		✓		GUE Liquidation Companies, Inc (f/k/a FTD Companies, Inc.)	6/3/2019	✓	✓		
BBGI US, Inc (f/k/a Brooks Brothers Group, Inc.)	7/8/2020	✓				Elk Petroleum, Inc.	5/22/2019	✓		✓	
LBD Winddown, LLC (f/k/a Lucky Brand Dungarees, LLC)	7/3/2020	✓		✓		Aegerion Pharmaceuticals, Inc.	5/20/2019	✓			
Lillis Energy, Inc.	6/28/2020	✓				HSP Liquidation, LLC (f/n/a Hollander Sleep Products, LLC)	5/19/2019	✓	✓		
Proteus Digital Health, Inc.	6/15/2020	✓				Sungard Availability Services Capital, Inc.	5/1/2019	✓		✓	
PQ New York, Inc.	5/27/2020	✓				CTI Foods, LLC	3/11/2019	✓			
TP REMAINCO (f/n/a Techniplas, LLC)	5/6/2020	✓				Z Gallerie, LLC	3/11/2019	✓	✓		
Klausner Lumber One LLC	4/30/2020	✓		✓		Charlotte Russe Holding, Inc.	2/3/2019	✓	✓		
Pace Industries, LLC	4/12/2020	✓				Gymboree Group Inc. (2019)	1/17/2019	✓	✓	✓	
Bluestem Brands, Inc. (2020)	3/9/2020	✓		✓		Senior Care Centers, LLC	12/4/2018	✓	✓		
Randolph Hospital, Inc.	3/6/2020	✓				Hobbico, Inc.	1/10/2018	✓	✓		
Earth Fare Inc.	2/4/2020	✓				Prevalence		100%	40%	23%	
Southland Royalty Company LLC	1/27/2020	✓		✓							



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Appendix

Prevalence of Payments: Filings from 2018 – 2021

- Several firms charge a flat monthly rate for the CRO/CEO position and then bill at hourly rates for other professionals utilized from the firm throughout the restructuring process

Filings from 2018-2021					
Company	Filing Date	Hourly Fee	Monthly Fee	Success Bonus	
Secure Home Holdings LLC	4/25/2021	✓			
Liberty Power Holdings, LLC	4/20/2021	✓			
TECT Aerospace Group Holdings, Inc.	4/5/2021	✓			
California-Nevada Methodist Homes	3/16/2021	✓			
CMC II, LLC	3/1/2021	✓			
Castex Energy 2005 Holdco, LLC	2/26/2021	✓			
Country Fresh Holding Company Inc.	2/15/2021	✓			
Carla's Pasta, Inc.	2/8/2021	✓			
Easterday Ranches, Inc.	2/1/2021	✓			
National Rifle Association of America	1/15/2021	✓			✓
Spherature Investments LLC	12/21/2020	✓			
PBS Brand Co., LLC (Punch Bowl Social)	12/21/2020	✓			
MTPC, LLC	12/15/2020	✓			✓
American Purchasing Services, LLC d/b/a American Medical Depot	12/11/2020	✓			
Superior Energy Services, Inc.	12/7/2020	✓			
Unipharm, LLC (DBA Tammarac 10200, LLC)	12/7/2020	✓			✓
Lighthouse Resources Inc.	12/3/2020	✓			
Seadrill Partners LLC (2020)	12/1/2020	✓			
General Moly, Inc.	11/18/2020	✓			
Gulfport Energy Corporation	11/13/2020	✓			✓
Cred Inc.	11/7/2020	✓			
FIC Restaurants, Inc.	11/1/2020	✓			
Pacific Drilling S.A. (2020)	10/30/2020	✓			
Henry Ford Village, Inc.	10/28/2020	✓			✓
Rubio's Restaurants, Inc.	10/26/2020	✓			
The Roman Catholic Diocese of Rockville Centre, New York	9/30/2020	✓			
Bouchard Transportation Co., Inc.	9/28/2020	✓			
Garrett Motion Inc.	9/20/2020	✓			
Town Sports International, LLC	9/14/2020	✓			✓
MEA RemainCo Holdings, LLC (f/k/a Energy Alloys Holdings, LLC)	9/9/2020	✓			
KB US Holdings, Inc.	8/23/2020	✓			✓
Arena Energy, LP	8/20/2020	✓			
Chaparral Energy, Inc. (2020)	8/16/2020	✓			
Remora Petroleum, L.P.	8/12/2020	✓			
Filings from 2018-2021					
Company	Filing Date	Hourly Fee	Monthly Fee	Success Bonus	
KG Winddown, LLC (f/k/a K.G. Im, LLC)	7/28/2020	✓			✓
Ascena Retail Group, Inc.	7/23/2020	✓			
Hopedale Mining LLC (Rhino Resource Partners)	7/22/2020	✓			✓
Lakeland Tours, LLC (WorldStrides, Inc.)	7/20/2020	✓			
Permian Holdco 1, Inc.	7/19/2020	✓			✓
California Resources Corporation	7/15/2020	✓			
The Paper Store, LLC	7/14/2020	✓			
MUJI U.S.A. Limited	7/10/2020	✓			✓
BBGI US, Inc (f/k/a Brooks Brothers Group, Inc.)	7/8/2020	✓			✓
LBD Winddown, LLC (f/k/a Lucky Brand Dungarees, LLC)	7/3/2020	✓			
Old Time Pottery, LLC (2020)	6/28/2020	✓			
Chesapeake Energy Corporation	6/28/2020	✓			
Lilis Energy, Inc.	6/28/2020	✓			
Sable Permian Resources LLC	6/25/2020	✓			
Proteus Digital Health, Inc.	6/15/2020	✓			
24 Hour Fitness Worldwide, Inc.	6/15/2020	✓			
Extraction Oil & Gas, Inc.	6/14/2020	✓			
Red Rose, Inc. (dba PetersenDean)	6/11/2020	✓			✓
Klausner Lumber Two LLC	6/10/2020	✓			
Vista Proppants and Logistics, LLC	6/9/2020	✓			
PQ New York, Inc.	5/27/2020	✓			
The Hertz Corporation	5/22/2020	✓			
Unit Corporation	5/22/2020	✓			
Hornbeck Offshore Services, Inc.	5/19/2020	✓			
Centric Brands Inc.	5/18/2020	✓			
Gavilan Resources LLC	5/15/2020	✓			
Intelsat S.A.	5/14/2020	✓			
TP REMAINCO (f/n/a Techniplas, LLC)	5/6/2020	✓			✓
Klausner Lumber One LLC	4/30/2020	✓			
Superior Air Charter, LLC	4/28/2020	✓			
Wave Computing, Inc.	4/27/2020	✓			
Pace Industries, LLC	4/17/2020	✓			
TZEW Holdco LLC (Apex Parks)	4/8/2020	✓			
Dean & Deluca New York, Inc.	3/31/2020	✓			

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Appendix

Prevalence of Payments: Filings from 2018 – 2021

- Several firms charge a flat monthly rate for the CRO/CEO position and then bill at hourly rates for other professionals utilized from the firm throughout the restructuring process

Filings from 2018-2021					Filings from 2018-2021				
Company	Filing Date	Fee Determination		Success Bonus	Company	Filing Date	Fee Determination		Success Bonus
		Hourly Fee	Monthly Fee				Hourly Fee	Monthly Fee	
Bluestem Brands, Inc. (2020)	3/9/2020	✓	✓		Center City Healthcare, LLC	6/30/2019	✓	✓	
Randolph Hospital, Inc.	3/6/2020	✓			Cambrian Holding Company, Inc.	6/16/2019	✓	✓	✓
Suitable Technologies, Inc.	2/26/2020	✓			GUE Liquidation Companies, Inc. (f/k/a FTD Companies, Inc.)	6/3/2019	✓		
McClatchy Company, The	2/13/2020	✓			Elk Petroleum, Inc.	5/22/2019	✓	✓	
SD-Charlotte, LLC	2/7/2020	✓			Aegerion Pharmaceuticals, Inc.	5/20/2019	✓		✓
Earth Fare Inc.	2/4/2020	✓			HSP Liquidation, LLC (f/n/a Hollander Sleep Products, LLC)	5/19/2019	✓		
BL Restaurants Holding, LLC	1/27/2020	✓	✓		Sungard Availability Services Capital, Inc.	5/1/2019	✓		✓
Southeast Royalty Company LLC	1/27/2020	✓		✓	KG Wind Down, Inc. (f/n/a Kona Grill, Inc.)	4/30/2019	✓		✓
SFP Franchise Corp. (Schurman Fine Papers, Inc.)	1/23/2020	✓		✓	CTI Foods, LLC	3/11/2019	✓		
Fairway Group Holdings Corp. (2020)	1/23/2020	✓	✓	✓	Z Gallerie, LLC	3/11/2019	✓	✓	
The Krystal Company (2020)	1/19/2020	✓		✓	F+W Media, Inc.	3/10/2019	✓		✓
Paddock Enterprises, LLC	1/6/2020	✓	✓		Diesel USA Inc.	3/5/2019	✓		
XS Ranch Fund VI, L.P.	1/6/2020	✓	✓	✓	Westwind Manor Resort Association, Inc. (Warrior Custom Golf, Inc.)	3/4/2019	✓		✓
Borden Dairy Company	1/5/2020	✓			Immune Pharmaceuticals Inc.	2/17/2019	✓	✓	
High Ridge Brands Co. (CDR HRB Holdings Inc.)	12/18/2019	✓	✓		Decor Holdings, Inc. (The Robert Allen Duralee Group)	2/12/2019	✓		✓
HRI Holding Corp. (Houlihan's Restaurant) (2019)	11/14/2019	✓			Things Remembered, Inc. (TRM Holdings Corp.)	2/6/2019	✓		
Walker County Hospital Corporation	11/11/2019	✓			Novum Pharma LLC	2/3/2019	✓		
MTE Holdings LLC	10/22/2019	✓	✓		Charlotte Russe Holding, Inc.	2/3/2019	✓	✓	
Forever 21, Inc.	9/29/2019	✓	✓	✓	Double Jump, Inc.	1/30/2019	✓	✓	
The College of New Rochelle	9/20/2019	✓			Mayflower Communities, Inc.	1/30/2019	✓	✓	
GCX Limited	9/15/2019	✓	✓	✓	PG&E Corporation (Pacific Gas) (2019)	1/29/2019	✓		✓
Hollister Construction Services, LLC	9/11/2019	✓			IPS Worldwide, LLC	1/25/2019	✓	✓	
Alta Mesa Resources	9/11/2019	✓		✓	Gymboree Group Inc. (2019)	1/17/2019	✓	✓	✓
Absolut Facilities Management, LLC	9/10/2019	✓			Bakken Resources, Inc.	12/7/2018	✓		✓
Fred's, Inc.	9/9/2019	✓	✓		Senior Care Centers, LLC	12/4/2018	✓	✓	
Epic Companies, LLC	8/26/2019	✓			Argos Therapeutics, Inc.	11/30/2018	✓	✓	
NORPAC Foods, Inc.	8/22/2019	✓			Promise Healthcare Group, LLC	11/4/2018	✓	✓	
Mishti Holdings LLC	8/12/2019	✓			Sears Holdings Corporation	10/15/2018	✓	✓	✓
Sanchez Energy Corporation	8/11/2019	✓	✓		Falls Event Center LLC, The	7/11/2018	✓		
Barneys New York, Inc. (2019)	8/6/2019	✓			Elements Behavioral Health, Inc. (EBH Topco, LLC)	5/23/2018	✓		
THG Holdings LLC	7/30/2019	✓	✓		Firestar Diamond, Inc.	2/26/2018	✓		
Blackhawk Mining, LLC	7/19/2019	✓		✓	Lockwood Holdings, Inc., et al.	1/18/2018	✓	✓	
Emerge Energy Services	7/15/2019	✓	✓		Hobbico, Inc.	1/10/2018	✓	✓	
Blackjewel L.L.C.	7/1/2019	✓	✓	✓	Prevalence		97%	34%	24%

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Appendix

Prevalence of Payments: Other Filings in Mercer's Database

- Several firms charge a flat monthly rate for the CRO/CEO position and then bill at hourly rates for other professionals utilized from the firm throughout the restructuring process

Other Filings in Mercer's Database					
Company	Filing Date	Hourly Fee	Fee Determination	Monthly Fee	Success Bonus
Protea Biosciences, Inc.	12/1/2017	✓			✓
Perseon Corporation	5/23/2016			✓	
SunEdison, Inc.	4/21/2016			✓	✓
Patriot Coal Corporation (2015)	5/12/2015	✓			✓
Caesars Entertainment Operating Company, Inc.	1/15/2015	✓			✓
Exide Technologies	6/10/2013	✓			✓
Central European Distribution Corporation	4/7/2013	✓			
Revel AC	3/25/2013	✓			
Overseas Shipholding Group, Inc.	11/14/2012	✓			
ATP Oil & Gas Corporation	8/17/2012	✓			✓
Patriot Coal Corporation (2012)	7/9/2012	✓			✓
Velo Holdings	4/2/2012	✓			✓
Delta Petroleum Corporation	12/15/2011	✓			
Borders Group, Inc.	2/16/2011	✓			✓
Blockbuster Inc.	9/23/2010	✓			✓
Saint Vincents Catholic Medical Centers of NY	4/14/2010	✓			✓
FirstFed Financial Corp.	1/6/2010	✓			
AmTrust Financial Corporation	11/30/2009	✓			
Capmark Financial Group Inc.	10/25/2009	✓			✓
Guaranty Financial Group Inc.	8/27/2009	✓			
General Motors Corporation	6/1/2009	✓			✓
BankUnited Financial Corporation	5/21/2009	✓			✓
Hayes Lemmerz International, Inc. (2009)	5/11/2009	✓			✓
AbitibiBowater Inc.	4/16/2009	✓			✓
Chemtura Corporation	3/18/2009	✓			✓
Magna Entertainment Corp.	3/5/2009	✓			✓
Spanion Inc.	3/1/2009	✓			
Lyondell Chemical Company	1/6/2009	✓			✓
Pilgrim's Pride Corporation	12/1/2008	✓			✓
LandAmerica Financial Group, Inc.	11/26/2008	✓			✓
Circuit City Stores, Inc.	11/10/2008	✓			
VeraSun Energy Corporation	10/31/2008	✓			✓
Washington Mutual, Inc.	9/26/2008	✓			
Lehman Brothers Holdings Inc.	9/15/2008	✓			✓
SemGroup, L.P.	7/22/2008	✓			✓
Linens 'n Things, Inc.	5/2/2008	✓			✓
New Century Financial Corporation	4/2/2007	✓			
Sea Containers Ltd.	10/15/2006	✓			✓
Interstate Bakeries	9/22/2004	✓			✓
Enron	12/2/2001	✓			✓
Prevalence		95%		5%	68%

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