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10 Attorneys for Chapter 11 Trustee

11
 12 IN THE UNITED STATES BANKRUPTCY COURT
 13 FOR THE DISTRICT OF OREGON

14 In re
 15 Summit Accommodators, Inc., dba Summit
 1031 Exchange,
 16 Debtor.

Case No. 08-37031-rld11

**SUPPLEMENTAL RESPONSE TO
 OBJECTION TO ATTORNEY &
 PROFESSIONAL FEES OF
 OBSIDIAN FINANCE GROUP, LLC;
 TRUSTEE, KEVIN PADRICK; AND
 TONKON TORP LLC AND
 WRITTEN REQUEST FOR
 HEARING**

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 20 This memorandum supplements the Response to Objection to Attorney and
 21 Professional Fees of Obsidian Finance Group, LLC, Trustee, Kevin Padrick and Tonkon
 22 Torp LLP ("the Response," Dkt. No. 510).

23 In the Response, the Trustee explained that the three limited liability
 24 companies identified as the objecting parties lack standing under 11 U.S.C. § 330 to object to
 25 the fees. Two of the companies—Klondike Point, LLC and XIGG, LLC—did not file proofs
 26 of claim and are not creditors. The Trustee explained that the third company—Century Drive

1 Mobile Home Park, LLC ("Century Drive")—did file a proof of claim, but that the Trustee
2 has objected to the claim because, on its face, it does not state even a colorable claim against
3 the Debtor.

4 In reviewing this Court's Order Granting Final Approval of Disclosure
5 Statement and Confirming the First Amended Joint Plan of Liquidation ("the Confirmation
6 Order," Dkt No. 389), the Trustee's counsel was reminded that the Confirmation Order (at
7 paragraph 6) specifically provides that Century Drive is not a creditor. As the Court may
8 recall, this language was added at the insistence of Robert Opera, Century Drive's counsel.
9 The language reads as follows:

10 "6. On the Effective Date, as defined in the Plan,
11 the Plan and its provisions shall be binding upon
12 Debtor, its assets, the Chapter 11 Trustee, any holder of
13 a claim against or interest in Debtor, whether or not the
14 claim or interest of such creditor or interest holder is
15 impaired under the Plan and whether or not such
16 creditor or interest holder has or is deemed to have
17 accepted the Plan. *For avoidance of doubt, none of
18 the following entities are Unsecured Creditors of
19 Debtor and are not bound by Section 9.2 of the Plan:*
20 Umpqua Bank, *Klondike Point, LLC*, Stone Mountain,
21 LLC, Corney Invertors, LLC, CFalls Investments, LLC
22 and *Century Drive Mobile Home Park, LLC.*"

17 (emphasis added). Accordingly, Century does not have a claim against the Debtor and lacks
18 standing to pursue the fee objections.

19 The Trustee, through counsel, has advised Ms. Studebaker-DeYoung of
20 paragraph 6 of the Confirmation Order, since the paragraph conclusively shows that Century
21 Drive lacks standing to pursue the fee objections under 11 U.S.C. § 330. The Trustee has
22 further informed Ms. Studebaker through counsel that preparing for the hearing on
23 September 15 will require substantial time and expense for the Trustee, and that the Trustee
24 intends to seek an order from the Court requiring Ms. Studebaker-DeYoung to reimburse the
25 Trustee for all of the attorney fees and costs incurred in connection with the Response and

26 * * *

1 the September 15 hearing. Ms. Studebaker-DeYoung has nevertheless refused to withdraw
2 the fee objection.

3 DATED this 1st day of September 2009.

4 TONKON TORP LLP

5
6 By /s/ David S. Aman

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