

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

IN RE:)	Chapter 11
)	
OAKWOOD HOMES CORPORATION,)	Case No. 02-13396 (PJW)
<u>et al.</u> ,)	
Debtors.)	Jointly Administered
)	
)	Objections Due: May 15, 2003 @ 4:00 p.m.
)	Hearing Date: May 21, 2003 @ 10:30 AM

**DEBTORS' APPLICATION FOR AUTHORIZATION TO RETAIN
 CONSTANGY, BROOKS & SMITH, LLC AS SPECIAL COUNSEL
 PURSUANT TO § 327(e) OF THE BANKRUPTCY CODE
NUNC PRO TUNC TO MARCH 11, 2003**

Oakwood Homes Corporation, together with its affiliated debtors and debtors in possession in the above-referenced bankruptcy cases (collectively, the "Debtors"), by and through their undersigned counsel, hereby apply pursuant to section 327(e) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for authorization to retain and employ the law firm of Constangy, Brooks & Smith, LLC ("Constangy") as special counsel nunc pro tunc to March 11, 2003. In making this Application, the Debtors rely upon the Declaration of William R. Loftis, Jr. on behalf of Constangy (the "Loftis Declaration"), which is annexed hereto as Exhibit A and incorporated herein by reference. In further support of this Application, the Debtors respectfully submit as follows:

Introduction

1. The Debtors, together with their non-debtor affiliates and related parties (collectively, the "Oakwood Companies"), design, manufacture and market manufactured and

modular homes and finance the majority of their retail sales and a portion of the retail sales of their homes by their independent dealer network. The Debtors also provide a variety of insurance products to their customers.

2. For over three years, the Oakwood Companies have undertaken specific, proactive efforts designed to counter their deteriorating financial performance. The Debtors developed a strategy to reduce overhead and create and improve their cash flow. The principal element of these efforts was a contraction of operations from a peak of over 425 sales centers and 34 plants to the current planned 119 sales centers and 14 plants. Additionally, the Debtors aggressively cut costs, tightened underwriting standards, deferred capital spending wherever practicable and embarked on a significant inventory reduction program.

3. Outside of bankruptcy, the Debtors had been unable to accomplish all the restructuring needed due to their current high debt load, poor operating performance in certain geographic markets, and high credit losses coupled with subordination of the loan servicing revenue. The Debtors had been negotiating for an extended period of time with their principal lenders and largest bondholder to develop a consensual, negotiated bankruptcy process designed to allow the Debtors to emerge as a leaner, profitable enterprise.

4. On November 15, 2002 (the "Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the "Court").

5. On December 2, 2002, the United States Trustee appointed an official committee of unsecured creditors (the "Committee") in these cases.

6. This Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. Venue is proper in this district in accordance with 28 U.S.C. §§ 1408 and 1409. No trustee or examiner has been appointed in these cases.

7. The statutory predicate for the relief sought herein is section 327(e) of the Bankruptcy Code.

8. Constangy has over 90 attorneys in ten offices located in Atlanta, Georgia, Arlington, Virginia, Birmingham, Alabama, Columbia, South Carolina, Macon, Georgia, Nashville, Tennessee, Kansas City, Missouri, Jacksonville, Florida, Tampa, Florida and Winston-Salem, North Carolina. Constangy's original and headquarters' office is located in Atlanta, Georgia.

9. Constangy was formed in 1946 and since that time has devoted its practice exclusively to the representation of management in labor and employment matters. Constangy is a well-recognized name in the legal and business community for its expertise in the representation of management in a broad range of labor and employment matters. Constangy's Litigation Practice Group includes more than 50 attorneys, many of whom have significant experience in defending class action cases.

10. Since 1996 Constangy has represented the Debtors in connection with most of their labor and employment matters, the continuation of which is critical to the Debtors' ability to successfully reorganize. Since the Petition Date, Constangy has represented the Debtors as an Ordinary Course Professional under the authority granted by this Court in the Final Order Authorizing The Debtors To Retain and Employ Professionals Utilized In The Ordinary Course Of Business (D.I. 271). Because of this extensive relationship, Constangy is intimately familiar with the Debtors' labor and employment issues and has the necessary background to

deal effectively with the numerous pending matters and with many of the potentially complex legal issues and problems that may arise in connection with the Debtors' Chapter 11 cases. The Debtors believe this experience makes Constangy uniquely qualified to act as the Debtors' special counsel during the pendency of these Chapter 11 cases in a most efficient and timely manner.

11. Accordingly, the Debtors desire to retain and employ Constangy as their special counsel in these cases to continue their ordinary course representation as well as to represent the Debtors as defendants in WARN Act Plaintiffs Justin Abreau et. al. v. Oakwood Homes Corporation et. al., Adversary Proceeding No. 03-52178 (PJW) currently pending before this Court.

12. By this Application, the Debtors request that the Court enter an order authorizing the Debtors to retain Constangy as their attorneys pursuant to section 327(e) of the Bankruptcy Code, nunc pro tunc to March 11, 2003, to represent the Debtors with respect to a number of matters related to these Chapter 11 cases, as more specifically described above.

Basis for Relief

13. Section 327(e) of the Bankruptcy Code authorizes a debtor in possession to employ one or more attorneys to represent the debtor on specified special matters so long as those attorneys do not hold or represent an interest adverse to the estate with respect to the matters on which they are to be retained. See 11 U.S.C. §§ 327(e), 1106 and 1107. The Debtors selected Constangy because of the firm's experience and expertise in labor and employment matters. Furthermore, Constangy's familiarity with the Debtors' labor issues renders it uniquely qualified to deal effectively with the complex legal issues that may arise in the context of these Chapter 11 cases.

Terms of Constangy's Employment

14. Constangy has agreed to act as special counsel to the Debtors in connection with these Chapter 11 cases and to render legal services to the Debtors as set forth above. Subject to Court approval in accordance with sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and orders of this Court, the Debtors have agreed to pay legal fees to Constangy on an hourly basis at Constangy's normal and customary hourly rates for representations of this type, which are based on seniority and expertise of the professionals and paraprofessionals involved in the Debtors' cases. Constangy adjusts their rates annually to reflect economic changes in the legal market, and the Debtors have agreed to pay the adjusted rates as and when they go into effect.

15. The initial hourly rates for the attorneys and paralegals at Constangy who are expected to have primary responsibility for these cases are set forth below:

<u>Attorney</u>	<u>Initial Hourly Rate</u>
William R. Loftis, Jr - Managing Member	\$273
Virginia A. Piekarski - Associate	\$210
Kristine Howard - Associate	\$165
<u>Paralegal</u>	<u>Initial Hourly Rate</u>
Anne Roediger	\$105

16. Other Constangy attorneys that may have responsibility for particular issues arising in these cases bill at hourly rates ranging from \$135 to \$248 per hour. Paralegal rates range from \$85 to \$115 per hour.

17. Constangy does not separately charge for copying expense, postage, long distance or computer research. These items are included in the hourly rates. The Debtors have agreed to reimburse Constangy from their estates for all actual out-of-pocket expenses incurred

by Constangy on the Debtors' behalf, including, but not limited to, travel expenses, court costs, amounts paid to outside vendors and other disbursements related to the representation.

18. During the one year prior to the Petition Date, Constangy has received approximately \$55,015.00 from the Debtors for legal services rendered and \$952.60 for expenses incurred in connection with such representation. Since the Petition Date, as an Ordinary Course Professional, Constangy has received \$1475.16.

19. To the best of the Debtors' knowledge, information and belief, none of Constangy's members, counsel or associates hold or represent any interest adverse to the Debtors' estates with respect to the matters upon which Constangy is to be engaged. The Debtors' knowledge, information and belief regarding the matters set forth herein are based, and made in reliance upon, the Loftis Declaration.

Notice

20. Notice of this Application has been given to the United States Trustee, counsel to the Debtors' principal prepetition secured lenders and counsel to the Committee. The Debtors submit that under the circumstances no further notice is necessary.

No Prior Request

21. No prior application for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request the entry of an order (a) approving the employment of Constangy as special counsel in these cases on the terms and conditions set forth in this application nunc pro tunc to March 11, 2003, and (b) providing the Debtors such other and further relief as the court may deem just and proper.

Dated: Wilmington, Delaware
April 25, 2003

MORRIS, NICHOLS, ARSHT & TUNNELL

/s/ Gilbert R. Saydah, Jr.

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