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Proposed Attorneys for the Debtor

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re

Chapter 11

LAKE DIAMOND ASSOCIATES, LLC,

Case No. 04-11182

Debtor.

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**AFFIDAVIT OF JACOB A. FRYDMAN**  
**PURSUANT TO LOCAL BANKRUPTCY RULE 1007-2**

STATE OF NEW YORK     )  
  ) s.s.:  
COUNTY OF NEW YORK    )

Jacob A. Frydman, being duly sworn, deposes and says:

1.     On February 24, 2004 (the "Petition Date"), Lake Diamond Associates, LLC ("Lake Diamond" or the "Debtor") filed a voluntary petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). I am the President of Savoy Retirement Communities, Inc. ("Savoy"), the managing member of Lake Diamond.<sup>1</sup> In that capacity, I am familiar with the day-to-day operations and business and financial affairs of the Debtor.

2.     I submit this Affidavit in accordance with Rule 1007-2 of the Local Rules for the U.S. Bankruptcy Court for the Southern District of New York (the "Local Rules"). All facts set forth in this Affidavit are based upon my personal knowledge, upon information supplied to me

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<sup>1</sup> Savoy Retirement Communities, Inc. has not filed a bankruptcy petition with this or any other court.

by others within the Lake Diamond's business, upon my review of the relevant documents or upon my opinion based on my experience and knowledge of Lake Diamond's operations and financial condition. I am authorized to submit this Affidavit in support of Lake Diamond's petition for relief under chapter 11 of the Bankruptcy Code.

3. Annexed hereto as Exhibit "1" is written consent of Jacob A. Frydman evidencing the consent given by Savoy to, among other things, commence this Chapter 11 case.

4. Unless otherwise indicated, all financial information submitted with this Affidavit is presented on an unaudited basis and refers to Lake Diamond only.

#### **THE NATURE OF THE DEBTOR'S BUSINESS**

5. Lake Diamond, a limited liability company organized under the laws of the State of New York, maintains its principal place of business in New York and is authorized to conduct business in the State of Florida. Lake Diamond was formed to acquire, own, develop and otherwise manage certain real property located in Marion County, Florida (the "Property"). The Property consists of approximately 762 out of 950 residential home sites (the balance having been sold) to be built around an existing eighteen (18) hole golf course and 43-acre man-made lake (the "Project"). In addition, Lake Diamond, through LD Landholdings, LLC, its 100% owned affiliate, owns certain unencumbered real property adjacent to the Project.

#### **THE CIRCUMSTANCES LEADING TO THE CHAPTER 11 FILING**

6. On or about May 20, 2002, Lake Diamond obtained acquisition and construction financing for the Project from Community National Bank (the "Bank") through a promissory note in the original principal amount of \$6,000,000 (the "Original Note"). In conjunction with the Original Note, Lake Diamond and the Bank entered into a Mortgage and Security Agreement (the "Original Mortgage"), which purported to grant the Bank a security interest in the Property. The lien granted by the Original Mortgage covered most, but not all, of the Property.

7. Upon acquisition of the Project, Lake Diamond commenced construction of model homes and converted an existing model home into a sales center. Sales of residential units were hampered by the lack of a clubhouse and recreational facilities, such as a pool and tennis courts. Such facilities are the focal point of similar communities and are necessary for their success.

8. As a result of slow sales, Lake Diamond had difficulty maintaining the debt service on the Original Note and was operating at a deficit. This resulted in certain mechanic's liens being asserted against the Property. Lake Diamond approached the Bank to increase the amount of the Original Note in order to provide the funds necessary to construct a clubhouse for the Project. Lake Diamond believed that a clubhouse would spur home sales by providing the necessary centerpiece for the Project.

9. On or about June 20, 2003, Lake Diamond and the Bank entered into a financing arrangement whereby the maturity date of the Original Loan was extended and the principal amount was increased by \$3,000,000 to \$9,000,000, with \$2,000,000 earmarked for construction of the clubhouse (collectively, the "Amended Note"). In consideration for the Amended Note, Lake Diamond granted the Bank a security interest in those parcels of the Property that were not encumbered by the Original Mortgage. The Project has been appraised at a value of approximately \$15,500,000, inclusive of the model homes built by the Debtor.

10. While negotiating the terms of the Amended Note with the Bank, Lake Diamond put the Project up for sale and received an acceptable offer in an amount that was a multiple of the Bank's debt. Lake Diamond determined that a sale would be appropriate and therefore accepted the offer. Accordingly, construction of the clubhouse did not commence beyond a

groundbreaking ceremony, thus suspending the need for Lake Diamond to draw down on the Amended Note.

11. The purchaser of the Project was to conclude its due diligence by December 15, 2003. When it could not meet this deadline, the purchaser cancelled the contract. Thereafter, Lake Diamond advised the Bank that it would be drawing down on the line of credit extended under the Amended Note to construct the clubhouse. The Bank refused to honor Lake Diamond's draw requests, called the loan in default, and threatened to commence a foreclosure action against the Property. As a result of the Bank's threatened action, its failure to honor the draw requests, combined with the existing mechanic's liens and other litigation, Lake Diamond filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code before this Court.

#### **OBJECTIVE OF CHAPTER 11 CASE**

12. Lake Diamond believes the Project is valuable and, with the proper financing, it can be completed and the residential units can be sold at a considerable profit. Based on market indications, there is substantial equity in the Property that will be used by Lake Diamond to secure refinancing of its current secured debt. In the alternative, Lake Diamond will use the bankruptcy process to enter into more beneficial financial terms with the Bank pursuant to a confirmed plan of reorganization.

13. Lake Diamond will also utilize those provisions of the Bankruptcy Code, including chapter 5 avoidance actions, as well as applicable non-bankruptcy law, to seek redress for actions taken by certain creditors, including but not limited to fraudulent conveyance actions against the Bank.

#### **INFORMATION REQUIRED BY LOCAL BANKRUPTCY RULE 1007-2**

14. As required by Local Rule 1007-2(a)(3), to the best of my knowledge, information and belief, no committee was formed prior to the Petition Date.

15. As required by Local Rule 1007-2(a)(4), annexed hereto as Exhibit 2 is a list of creditors of the Debtor holding the twenty (20) largest claims, excluding insiders. Such list includes names, addresses and telephone numbers, the amount of the claim and the nature of the claim (i.e. trade debt, bank loan, government contract) subject, however, to certain reservations of rights regarding, among other things, the validity of any such claims.

16. As required by Local Rule 1007-2(a)(5), six (6) creditors of the Debtor assert secured claims: (1) Community National Bank, 13300 Kings Mountain Road Martinsville, Virginia 24114, (Attn: Worth Harris Carter, Jr. President); (2) Ferguson Enterprises, Inc., (Jose Hugo Cortes, Esq.); (3) Manning Building Supplies, Inc., (James Theodore Schatt, Esq.); (4) Aluma Tec of Central Florida; (5) Bailey Industries, Inc.; and (George Michael Mahoney, Esq.).

17. As required by Local Rule 1007-2(a)(6), annexed hereto as Exhibit 3 is a balance sheet setting forth the assets and liabilities of the Debtor as of December 31, 2003.

18. As required by Local Rule 1007-2(a)(7), the Debtor is not a publicly held company.

19. As required by Local Rule 1007-2(a)(8), to the best of my knowledge, no property of the Debtor is in possession or custody of any custodian, public officer, receiver, trustee, assignee for the benefit of creditors, mortgagee, pledgee, assignee of rents, secured creditor or any agent for any of the foregoing.

20. As required by Local Rule 1007-2(a)(9), the Debtor currently leases a trailer from which it operates its golf course facility. The trailer is owned by William Scotsman, Inc.

21. As required by Local Rule 1007-2(a)(10), the Debtor's land holdings and books and records are located at 20 Golf View Drive, Ocala, Florida 34472. Books and records are also located at 111 Fulton Street, New York, NY 10038. The Debtor's bank accounts are located at

(i) Suntrust Bank, Silver Springs Shores Office, 6801 South East Maricamp Road, Ocala, FL 34472 and (ii) North Fork, 175 West 72<sup>nd</sup> Street, New York, New York, 10023. As required by Local Bankruptcy Rule 1007-2(a)(10), the Debtor does not have any assets located outside of the United States.

22. As required by Local Rule 1007-2(a)(11), a list of the actions pending against the Debtor is annexed hereto as Exhibit 4.

23. As required by Local Rule 1007-2(a)(12), the Debtor is managed by Savoy. Mr. Jacob A. Frydman is the President of Savoy and Mr. Richard Montgomery is Savoy's Chief Financial Officer. Messrs. Frydman and Montgomery have managed the Debtor since its inception in April, 2002. A brief biography of Mr. Frydman and Mr. Montgomery is annexed hereto as Exhibit 5.

24. Contemporaneously herewith, the Debtor is filing a motion to extend the time for the Debtor to file a complete list of its Schedules and Statement of Financial Affairs.

25. As required by Local Rule 1007-2(b)(2)(A), no officer or director of the Debtor will be paid.

26. As required by Local Rule 1007-2(a)(b)(1), the Debtor does not have employees. Rather, the Debtor utilizes Gevity HR for its staffing needs. Gevity HR is solely responsible for employee wages. The Debtor pays Gevity HR approximately \$10,000 a week.

27. As required by Local Bankruptcy Rule 1007-2(b)(3), a projected budget showing the estimated expenses and income for the thirty (30) day period following the Petition Date is attached as Exhibit 6.

Dated: New York, New York  
February 24, 2004

LAKE DIAMOND ASSOCIATES, LLC

By: /s/ Jacob A. Frydman  
Jacob A. Frydman  
President of Savoy Retirement  
Communities, Inc., Managing Member  
of Lake Diamond Associates, LLC

Sworn to before me this  
24<sup>th</sup> Day of February, 2004

/s/ Beth N. Green  
Beth N. Green  
Notary Public, State of New York  
No. 02GR5018934  
Qualified in New York County  
Commission Expires October 12, 2005