



**ENTERED**

TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

**The following constitutes the order of the Court.**

**Signed October 21, 2005**

  
**United States Bankruptcy Judge**

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

<b>IN RE:</b>	§	<b>Chapter 11</b>
	§	
<b>FFP OPERATING PARTNERS, LP</b>	§	<b>CASE NO. 03-90171-BJH-11</b>
	§	
<b>Debtor.</b>	§	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF  
CONFIRMATION OF THE PLAN PROPONENTS' SECOND AMENDED AND  
RESTATED JOINT PLAN OF REORGANIZATION**

The Court has considered the *Plan Proponents' First Amended and Restated Joint Plan of Reorganization*, which was filed with the Court on July 5, 2005 (Dkt. No. 1529), as modified by the *Plan Proponents' Second Amended and Restated Joint Plan of Reorganization* filed on October 14, 2005 (Dkt. No. 1842, the "Plan"),<sup>1</sup> filed by the debtor and debtor-in-possession in this case, FFP Operating Partners, L.P. (the "Debtor"); the Official Committee of Unsecured Creditors appointed in the Debtor's Bankruptcy Case (the "Committee"); GMAC Commercial

<sup>1</sup> All capitalized terms, not otherwise defined herein, shall have the meanings ascribed to them in the Plan.

Mortgage Corporation, as servicer for FMAC Loan Receivables Trust 1998-C and FMAC Loan Receivables Trust 2000-1 (“GMAC”); Long Lane Master Trust IV and MTGLQ Investors, L.P. (together “LLMT”) (collectively, the “Plan Proponents”). Having considered the Plan, the evidence presented, proffers of testimony and arguments and representations of counsel, the Bankruptcy Court makes the following findings of fact and conclusions of law pursuant to Fed. R. Bankr. 7052.<sup>2</sup>

**I.**  
**JURISDICTION, VENUE, AND NOTICE**

1. The Bankruptcy Court has jurisdiction over this matter under 28 U.S.C. §157 and 1334. Confirmation of the Plan is a core matter under 28 U.S.C. § 157(b). Venue is proper in the Bankruptcy Court under 28 U.S.C. §§ 1408 and 1409.

2. The *Order Approving (a) Disclosure Statement for Plan Proponents’ Joint Plan of Reorganization, (b) Form of Ballots and Other Solicitation Procedures, (c) Deadline for Objecting to Confirmation and for Filing Acceptances and Rejections to Plan and (d) Setting Hearing Date on Confirmation of Plan Combined with Notices Thereof* (the “Order Approving Disclosure Statement”), was served by the Committee to all parties in interest and creditors in this Bankruptcy Case, including all persons and entities having a claim, lien or interest in or relating to the Debtor’s assets, all parties to the Assumed Contracts in accordance with Bankruptcy Rule 6004(c), and as otherwise described in the Order Approving Disclosure Statement. Such notice constitutes proper, timely, adequate and sufficient notice to all creditors

---

<sup>2</sup> Where appropriate, findings of fact shall also be considered conclusions of law, and conclusions of law shall also be considered findings of fact. The Court reserves the right to make further findings of fact and conclusions of law.

and parties in interest in accordance with all applicable law, including, without limitation section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9019 and the orders of this Court. No other or further notice of the confirmation of the Plan or the entry of these Findings of Fact and Conclusions of Law is required. A reasonable opportunity to object and to be heard regarding the relief granted herein and in the related *Order Confirming Plan Proponents Second Amended and Restated Joint Plan of Reorganization* (the “Confirmation Order”) has been afforded to all interested persons and entities.

## **II.** **FILING AND SERVICE OF THE PLAN, DISCLOSURE STATEMENT AND SOLICITATION PACKAGES**

3. On July 5, 2005, the Plan Proponents’ filed their *First Amended and Restated Disclosure Statement for Plan Proponents’ First Amended and Restated Joint Plan of Reorganization* (Dkt. No. 1530, the “Disclosure Statement”). On July 14, 2005, the Court entered its Order Approving Disclosure Statement.

4. The Order Approving Disclosure Statement (i) required the Debtor to transmit the Plan, the Disclosure Statement and the solicitation package (as that term is described in the Disclosure Statement Approval Order) to the United States Trustee and all creditors and interested parties entitled to vote on the Plan by July 22, 2005; (ii) established August 22, 2005, as the deadline for submitting ballots on the Plan; (iii) established August 22, 2005, as the deadline for filing and serving objections to confirmation of the Plan; and (iv) scheduled August 30, 2005, at 9:00 a.m. central daylight time as the hearing on confirmation of the Plan (the “Confirmation Hearing”).

5. By the Disclosure Statement Order, the Bankruptcy Court approved the Disclosure Statement as containing adequate information of a kind and in sufficient detail as far as reasonably practicable in light of the nature and history of the Debtor, that would enable a hypothetical reasonable investor typical of the holders of claims and interest of the relevant impaired classes to make an informed judgment regarding the Plan pursuant to 11 U.S.C. § 1125(a)(1). The Disclosure Statement Order also found that the notice given by the Debtors of the hearing to approve the Disclosure Statement was given in compliance with the Bankruptcy Rules.

6. On July 28, 2005 (Dkt. No. 1575), the Committee filed a certificate of service regarding service of the Plan, Disclosure Statement and solicitation packages to Claim holders, Interest holders, and the parties on the operative Official Master Service List. The certificate of service demonstrates that the Plan, Disclosure Statement<sup>3</sup> and other solicitation materials were mailed on or before July 22, 2005, to (i) all creditors entitled to vote on the Plan, (ii) all counterparties to Assumed Contracts, (iii) all parties identified on the then current Official Master Service List and (iv) certain other interested parties noted therein.

7. The Debtors complied with the Order Approving Disclosure Statement in providing notice of the Confirmation Hearing in the method and manner as prescribed in that order. All entities entitled to and required to receive notice of the Confirmation Hearing pursuant to the Bankruptcy Code, applicable non-bankruptcy law, and the Order Approving

---

<sup>3</sup> Certain portions of the Exhibits to the Disclosure Statement were inadvertently not included in the solicitation package sent to creditors and parties-in-interest; however, the same were provided to creditors and parties-in-interest thereafter which is evidenced by certificates of service filed with the Court as Docket Nos. 1575 and 1671.

Disclosure Statement have received due, proper, and adequate notice of such hearings and have had an opportunity to appear at and be heard at such hearings. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, (1950).

**III.**  
**SELECTION OF THE GENERAL MANAGER FOR THE REORGANIZED DEBTOR  
AND LIQUIDATING TRUSTEE FOR THE FFP CREDITORS' TRUST**

8. The General Manager of the Reorganized Debtor and the Trustee of the FFP Creditors' Trust shall be Mark Lipscomb, who shall serve in such positions consistent with the governance documents for the Reorganized Debtor and the FFP Creditors' Liquidating Trust Agreement, respectively. In accordance with Article 9.3(b) of the Plan, Mary Ann Farmer, as a representative of Grocery Supply Company, and Jeffrey Bednar, as a representative of Citgo Petroleum Corporation, shall serve as the initial members of the FFP Board. Additional members of the FFP Board may be appointed prior to the Effective Date.

**IV.**  
**FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE PLAN**

**A. Objections to Confirmation of the Plan.**

9. Objections to confirmation of the Plan were filed by:
- (a) Valero Marketing and Supply Co. [Docket Nos. 1644 and 1645];
  - (b) Harbur & Harbur LP [Docket Nos. 1655 and 1672];
  - (c) Texas Commission on Environmental Quality [Docket No. 1651];
  - (d) Missouri Department of Natural Resources [Docket Nos. 1657 and 1673];
  - (e) Neutze Properties, Ltd. [Docket Nos. 1653 and 1670];
  - (f) Texas Comptroller [Docket Nos. 1577 and 1754];

- (g) Objections by Various Texas Ad Valorem Tax Authorities [Docket Nos. 1634, 1635, 1660, 1677, and 1684];
- (h) Internal Revenue Service [Docket No. 1676];
- (i) Anadarko Development Co., Camarillo Holdings, Inc., Larry J. Taylor, Greg and Brenda Hendricks, Silverstar Properties, Ltd., and Sierra Pacific Land Co. [Docket Nos. 1633 and 1681];
- (j) Citizens Bank & Trust [Docket No. 1656];
- (k) Winthrop Leasing [Docket No. 1675];
- (l) Banco Popular [Docket No. 1648];
- (m) Harvison Landlords [Docket Nos. 1650, 1696, and 1705]; and
- (n) FFP Properties [Docket No. 1652].

(collectively, the “Plan Objections”).

10. As of the conclusion of the Confirmation Hearing, all Plan Objections had been withdrawn or otherwise resolved by the Plan Proponents. Confirmation of the Plan was unopposed.

**B. Classifications of Claims**

11. The Classes of Claims against and Interests in the Debtor are designated as follows under the Plan:

- Class 1 Allowed Secured Tax Claims
- Class 2 Allowed Priority Non-Tax Claims
- Class 3 Allowed Secured Claim of Banco Popular
- Class 4 Allowed Secured Claim of GMAC Mortgage Co. – Trust 1998
- Class 5 Allowed Secured Claim of GMAC Mortgage Co. – Trust 2000
- Class 6 Allowed Secured Claim of Long Lane Master Trust, IV
- Class 7 Allowed Secured Claim of MTGLQ Investors, L.P.
- Class 8 Allowed Secured Claim of Citizens Bank & Trust
- Class 9 Allowed Claim of Alon USA, L.P.
- Class 10 Allowed Other Secured Claims
- Class 11 Allowed General Unsecured Claims

## Class 12 Existing Interests

12. This classification scheme is in compliance with Section 1123(a)(1), (2), and (3) of the Bankruptcy Code. Classes 2 and 9 are unimpaired, and therefore, are deemed by law to have accepted the Plan. Class 12 is to receive no distribution under the Plan, and therefore, is deemed by law to have rejected the Plan.

13. The classification of Claims and Interests found in Article III of the Plan is reasonable and necessary, has a rational, justifiable and good faith basis, and places Claims and Interests in a particular Class where such Claims or Interests are substantially similar to other Claims or Interests of such Class.

### **C. Results of Voting on the Plan**

14. Acceptances of the Plan were solicited in accordance with Section 1125 of the Bankruptcy Code and other applicable Bankruptcy Code provisions.

15. The following classes of Creditors and Interest holders have voted to accept, or are deemed to have accepted, the Plan:

Class 2 – Unimpaired	Allowed Priority Non-Tax Claims	Unimpaired
Class 4 – Impaired	Allowed Secured Claim of GMAC Mortgage Co. – Trust 1998	Accept
Class 5 – Impaired	Allowed Secured Claim of GMAC Mortgage Co. – Trust 2000	Accept
Class 6 – Impaired	Allowed Secured Claim of Long Lane Master Trust, IV	Accept
Class 7 – Impaired	Allowed Secured Claim of MTGLQ Investors, L.P.	Accept
Class 9 – Unimpaired	Allowed Alon USA, L.P. Claim	Unimpaired
Class 11 – Impaired	Allowed General Unsecured Claims	Accept

16. Pursuant to Section 1124 of the Bankruptcy Code, Classes 1, 3—8, 10, and 11 are Impaired and were entitled to vote or were deemed unimpaired pursuant to the terms of the Plan.

As reflected in the ballot tabulation provided to the Court at the Confirmation Hearing (the “Ballot Tabulation”), of these Classes, Classes 2, 4, 5, 6, 7, 9, and 11 have accepted the Plan or are deemed to have accepted the Plan pursuant to Sections 1126 and 1129(a)(8) of the Bankruptcy Code. Classes 1, 3, 8, and 10 rejected the Plan.

**D. Confirmation Requirements under the Bankruptcy Code**

**(i) 11 U.S.C. § 1123(a)(4): No Discrimination**

17. Article V of the Plan provides for all holders of Claims against and Interests within a particular class to receive identical treatment under the Plan on account of such Claims and Interests unless the holder of such Claim or Interest has expressly consented to less favorable treatment. Therefore, the Plan satisfies the requirements of Section 1123(a)(4) of the Bankruptcy Code.

**(ii) 11 U.S.C. § 1123(a)(5): Implementation of the Plan**

18. The Plan provides adequate means for implementation of the Plan, including: (i) the sale of all assets of the Debtor retained under the Plan; (ii) the assumption and assignment of certain Leases; (iii) the distribution of the FFP Fuels’ Settlement Funds; (iv) the vesting of the limited partnership interest of the Reorganized Debtor and the membership interest of FFP Creditors, LLC in the FFP Creditors’ Trust; (v) the cancellation of existing Interests; and (vi) the appointment of Mark Lipscomb as the Trustee of the FFP Creditor’s Trust under the FFP Creditors’ Liquidating Trust Agreement and the General Manager of the Reorganized Debtor.

19. The Plan specifies the procedures by which distributions will be made to holders of Allowed Claims in Classes 1 through 11. Accordingly, the Plan provides adequate, proper

and legal means for its implementation, thereby satisfying the requirements of Section 1123(a)(5) of the Bankruptcy Code.

**(iii) 11 U.S.C. § 1123(a)(6): Equity Securities**

20. No equity securities are being issued pursuant to the Plan.

**(iv) 11 U.S.C. § 1123(a)(7): Selection of Directors and Officers**

21. The Plan provides that Mark Lipscomb shall be appointed the General Manager of the Reorganized Debtor and Trustee of the FFP Creditors' Trust. He shall serve in such positions consistent with the governance documents for the Reorganized Debtor and the FFP Creditors' Liquidating Trust Agreement, respectively. In accordance with Article 9.3(b) of the Plan, Mary Ann Farmer, as a representative of Grocery Supply Company, and Jeffrey Bednar, as a representative of Citgo Petroleum Corporation, shall serve as the initial members of the FFP Board. Additional members of the FFP Board may be appointed prior to the Effective Date.

**(v) 11 U.S.C. § 1123(b)(1): Impairment or Unimpairment of Claims**

22. The Plan impairs or leaves unimpaired each class of Claims against or Interests in the Debtor, and therefore satisfies the requirements of Section 1123(b)(1) of the Bankruptcy Code.

**(vi) 11 U.S.C. § 1123(b)(2): Assumption or Rejection of Executory Contracts**

23. The Debtor has exercised its sound business judgment in respect of the assumption and/or rejection of executory contracts or unexpired leases as provided in Article 13 of the Plan and the Confirmation Order and, therefore, the Plan satisfies the requirements of section 1123(b)(2) of the Bankruptcy Code.

**(vii) 11 U.S.C. §1123(b)(3)(B): Pursuit of Causes of Action**

24. Pursuant to Section 1123(b)(3)(A), Article 8.12 of the Plan provides for the retention and enforcement of the Debtor's causes of action.

25. After the Effective Date, the compromise and settlement by the Reorganized Debtor of any retained cause of action may be effected without necessity of Bankruptcy Court approval pursuant to Article 14.3 of the Plan.

**(viii) 11 U.S.C. § 1129(a)(1): Compliance with Title 11**

26. The classification of Claims and Interests set forth in the Plan satisfies the standards of 11 U.S.C. § 1122. The Plan complies with the applicable provisions of the Bankruptcy Code, including 11 U.S.C. § 1123.

**(ix) 11 U.S.C. § 1129(a)(2): Plan Proponents' Compliance with Title 11**

27. The Plan Proponents have complied with the applicable provisions of the Bankruptcy Code, including without limitation, Sections 1125 and 1126 of the Bankruptcy Code; therefore, the Plan satisfies the requirements of Section 1129(a)(2) of the Bankruptcy Code.

**(x) 11 U.S.C. § 1129(a)(3): Plan Proposed In Good Faith**

28. The Plan is proposed in good faith and not by any means forbidden by law, and therefore satisfies the requirements of Section 1129(a)(3) of the Bankruptcy Code.

29. The Plan Proponents have proposed the Plan with the legitimate, valid, and honest purpose of liquidating the Debtor's property and assets, and making distributions to holders of Claims against the Debtor's estate. Accordingly, the Plan fairly achieves a result consistent with the objectives and purposes of the Bankruptcy Code.

30. The Plan is the result of good faith, arms-length negotiations among the Plan Proponents and various creditors of the Debtor's estate. The distributions set forth within the Plan, specifically including (i) the distribution of the FFP Fuels' Settlement Funds, (ii) the granting of liens and other interests to LLMT, and (iii) the transfer of certain assets to a designated affiliate of GMAC, all pursuant to Article VII of the Plan, are also the result of good faith, arms-length negotiations among the Plan Proponents.

31. In determining that the Plan is proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of the Bankruptcy Case and the formulation of the Plan.

**(xi) 11 U.S.C. § 1129(a)(4): Disclosure and Approval of Payments**

32. Other than payments to Court-approved professionals, no payments have been made nor are any payments to be made by the Debtor, or by any person issuing securities or acquiring properties under the Plan, for services or for costs and expenses incurred in connection with the Bankruptcy Case, or in connection with the Plan and incident to the Bankruptcy Case. In any event, all such payments are subject to the approval of the Bankruptcy Court as reasonable, therefore the Plan satisfies the requirements of Section 1129(a)(4) of the Bankruptcy Code.

**(xii) 11 U.S.C. § 1129(a)(5): Disclosure of Management and Payments to Insiders**

33. At the Confirmation Hearing, the Plan Proponents complied with Section 1129(a)(5) by disclosing the identity and affiliations of each of the individuals proposed to serve, after the Effective Date of the Plan, as directors, officers, and/or the trustee, to the extent

applicable and to the extent those persons could be identified, of the Reorganized Debtor, its general partner FFP Creditors, LLC, and its limited partner, the FFP Creditors' Trust. In this regard, the General Manager of the Reorganized Debtor and the Trustee of the FFP Creditors' Trust shall be Mark Lipscomb, who shall serve in such positions consistent with the governance documents for the Reorganized Debtor and the FFP Creditors' Liquidating Trust Agreement, respectively. In accordance with Article 9.3(b) of the Plan, Mary Ann Farmer, as a representative of Grocery Supply Company, and Jeffrey Bednar, as a representative of Citgo Petroleum Corporation, shall serve as the initial members of the FFP Board. Additional members of the FFP Board may be appointed prior to the Effective Date. The appointment of such individuals to such offices is consistent with the interests of Creditors and Interest holders and with public policy.

34. Section 1129(a)(5) further requires the Debtor to disclose the identity of any insider that will be employed or retained by the Debtor, and the nature of any compensation for such insider that is being approved by the Court (in the Plan or otherwise), as well as compensation which has been negotiated for any post-Effective Date officers and directors. Other than certain members of existing management of the Debtor who will remain in their respective positions for a limited period of time after the entry of the Confirmation Order, the Debtor will not be employing or retaining any such insider. The annual compensation and severance plan for such members of existing management is disclosed in the Disclosure Statement.

**(xiii) 11 U.S.C. § 1129(a)(6): Regulatory Rate Approval**

35. The Debtor's business does not involve the establishment of rates over which any governmental regulatory commission has or will have jurisdiction after confirmation of the Plan, therefore 11 U.S.C. § 1129(a)(6) is inapplicable.

**(xiv) 11 U.S.C. § 1129(a)(7): Best Interest of Creditors Test**

36. Based on the Ballot Tabulation and the Liquidation Analysis prepared by the Committee, with respect to each Impaired Class of Claims or Interests, (i) each holder of a Claim or Interest of such Class has either accepted the Plan or (ii) will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that the holder would so receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. Therefore, the Plan satisfies the requirements of Section 1129(a)(7) of the Bankruptcy Code

**(xv) 11 U.S.C. § 1129(a)(8): Acceptance of Plan by All Classes**

37. As disclosed in the Ballot Tabulation, Classes 4, 5, 6, 7, and 11 voted to accept the Plan, while Classes 2 and 9 were deemed to have accepted the Plan, in accordance with the requirements contained in 11 U.S.C. § 1126. Therefore, with respect to each Class, other than Classes 1, 3, 8, 10, and 12, the Plan satisfies the requirements of section 1129(a)(8) of the Bankruptcy Code.

38. Classes 1, 3, 8, and 10 voted to reject the Plan; however, the Plan does not discriminate unfairly against, and is fair and equitable with respect to, holders of claims in Classes 1, 8, and 10. Further, with respect to Banco Popular, who held the only claim subject to Class 3, the Plan incorporates an agreement with Banco Popular for the resolution of its objection to confirmation of the Plan.

39. The Plan provides for no distribution to holders of claims or interests in Class 12, and therefore, pursuant to Section 1126(g) of the Bankruptcy Code, Class 12 is deemed to reject the Plan. The Plan does not discriminate unfairly against, and is fair and equitable with respect to, holders of Claims and Interests in Class 12. Specifically, no class of Claims or Interests that are junior to Class 12 shall receive or retain any property under the Plan. Therefore, the Plan satisfies the requirements of Section 1129(b) of the Bankruptcy Code and can be confirmed notwithstanding the deemed rejection by Class 12.

**(xvi) 11 U.S.C. § 1129(a)(9): Payment of Priority Claims**

40. The Plan Proponents do not believe there are any Claims against the Debtor of a kind specified in Sections 507(a)(2), 507(a)(3), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, thus, making Section 1129(a)(9)(B) inapplicable to the Plan. To the extent such claims do exist, the Plan provides for the treatment of same as Class 2 claims. With respect to any Claims against the Debtor of the kind specified in Section 507(a)(8) of the Bankruptcy Code, the Plan provides for the payment of the same consistent with Section 1129(a)(9)(C) of the Bankruptcy Code.

**(xvii) 11 U.S.C. § 1129(a)(10): Acceptance of Plan by Impaired Class**

41. Without including any acceptance of the Plan by any Insider, Classes 4, 5, 6, 7, and 11 voted to accept the Plan; accordingly, Section 1129(a)(10) of the Bankruptcy Code is satisfied.

**(xviii) 11 U.S.C. § 1129(a)(11): Feasibility**

42. The Plan implements the efficient and orderly liquidation of the Debtor and its estate. The Debtor has estimated the total amount of Administrative Expenses, Allowed Priority

Non-Tax Claims and Priority Tax Claims that may ultimately be Allowed and it is projected that there will be sufficient Cash in the Debtor's estate on the Effective Date to satisfy those Claims in full, as set forth in the Liquidation Analysis.

43. The Plan meets the requirements of Section 1129(a)(11) of the Bankruptcy Code because it is feasible and not likely to be followed by liquidation or the need for further financial reorganization. This finding is premised on, among other things, the following findings:

- (a) All of the conditions to the Effective Date set forth in the Plan have been met, or will be waived prior to the Effective Date;
- (b) the Plan Proponents have filed with the Court drafts of the Plan Documents referred to in Article 8.4 of the Plan;
- (c) the Plan Proponents have established that the Reorganized Debtor will have sufficient cash resources to satisfy its cash obligations due under the Plan on (or as soon as practical after) the Initial Distribution Date; and
- (d) the Plan Proponents have established that the Reorganized Debtor should have sufficient liquidity to satisfy its obligations pursuant to the Plan.

44. Because the Reorganized Debtor will be able to satisfy all Allowed Administrative Expenses in the manner provided by the Plan, as well as any Disputed Administrative Expenses or other Disputed Claims that are ultimately Allowed, the Court finds that the Debtor need not deposit in a segregated account any amounts that may be required to pay Disputed Administrative Expenses or Disputed Claims that may be allowed after the confirmation of the Plan, except as otherwise provided in the Plan.

45. All documents necessary to implement the Plan, including without limitation, the Plan Documents, the form of the LLMT/MTGLQ Secured Promissory Note, and all related loan

and security documents filed in accordance with Article 8.4 of the Plan shall be valid, binding and enforceable upon their execution.

**(xix) 11 U.S.C. § 1129(a)(12): Payment of Fees**

46. All fees payable under 28 U.S.C. § 1930 have been paid, or the Plan provides for the payment of all such fees on the Effective Date as required by Section 1129(a)(12) of the Bankruptcy Code.

**(xx) 11 U.S.C. § 1129(a)(13): Retiree Benefits**

47. There are no retiree benefits to be continued by the Debtor as to any current or former employees. Therefore, section 1129(a)(13) of the Bankruptcy Code is inapplicable.

**(xxi) 11 U.S.C. § 1129(b): Cramdown**

48. All Impaired Classes of Claims, other than Classes 1, 3, 8, 10, and 12, either voted to accept the Plan or are deemed to have accepted the Plan. Class 12, consisting of the Debtor's equity holders, receive nothing on account of their claims or interests under the Plan and are deemed to have rejected the Plan. Classes 1, 3, 8, 10, and 12 voted to reject the Plan.

49. The Plan does not discriminate unfairly and is fair and equitable to Classes 1, 3, 8, 10, and 12.

50. Accordingly, the Debtor has established all requirements for confirmation of the Plan by way of cramdown.

**(xxii) 11 U.S.C. § 1129(c): Other Plans**

51. Other than the Plan, no Chapter 11 plan of reorganization or liquidation has been filed with respect to the Bankruptcy Case, therefore the Plan satisfies the requirements of Section 1129(c) of the Bankruptcy Code.

**(xxiii) 11 U.S.C. § 1129(d): Tax Avoidance**

52. The primary purpose of the Plan is not avoidance of taxes or avoidance of the requirements of Section 5 of the Securities Act, and there has been no objection filed by any governmental unit asserting such purpose, therefore the Plan satisfies the requirements of Section 1129(d) of the Bankruptcy Code.

**E. Executory Contracts and Unexpired Leases**

53. The Debtor, the Committee, and GMAC have made a careful review of the Debtor's executory contracts and unexpired leases, and it is a reasonable exercise of the Debtor's business judgment for it to assume or assume and assign those executory contracts (the "Assumed Contracts") identified on Exhibit "A" to the Plan; provided, however, in the event the Debtor files a motion prior to the Effective Date in which it requests authority to reject any of the unexpired leases or executory contracts identified on Exhibit "A" to the Plan, such unexpired leases or executory contracts shall not be assumed pursuant to the Plan if an order is entered granting the relief sought by the Debtor to reject such unexpired lease or executory contract.

54. The assumption and rejection of the executory contracts and unexpired leases as set forth in the Plan is: (i) in the best interests of the Debtor, its estate, and its creditors, (ii) based upon and within the Debtor's sound business judgment, and (iii) necessary to the implementation of the Plan.

**V.  
BURDEN OF PROOF**

55. The burden of proof is upon the proponent of a plan to establish that the applicable standards of the Bankruptcy Code have been satisfied by a preponderance of the

evidence. *Heartland Fed. Sav. Ass'n v. Briscoe Ent., Ltd. (In re Briscoe Fed. Sav. Ass'n)*, 994 F.2d 1160, 1163 (5th Cir.), cert. denied, 510 U.S. 992 (1993).

56. The record of the Confirmation Hearing demonstrates that the Plan Proponents produced evidence on each applicable standard. Such evidence was clear, on point, and persuasive, and there was no contradicting proof. Accordingly, the Plan Proponents have carried their burden, and the Plan should be confirmed.

**VI.**  
**CONCLUSION**

57. The foregoing constitutes the Court's findings of fact and conclusions of law. And finding of fact that constitutes a conclusion of law shall be so construed and vice versa.

58. Based thereon, the Court will separately enter an order confirming the Plan.

**AGREED TO AS TO FORM AND SUBSTANCE:**

<p><u>/s/ Jason N. Bramlett</u> Holland Neff O'Neil (14864700) Jason N. Bramlett (24031875) <b>GARDERE WYNNE SEWELL LLP</b> 3000 Thanksgiving Tower 1601 Elm Street Dallas, Texas 75201-4761 (214) 999-3000 (214) 999-4667 Facsimile</p> <p>—AND—</p> <p><b>WHITEFORD, TAYLOR &amp; PRESTON, L.L.P.</b> Paul M. Nussbaum, Esquire Brent C. Strickland, Esquire Seven Saint Paul Street, Suite 1400 Baltimore, Maryland 21202 (410) 347-8700 (410) 625-7510 Facsimile ATTORNEYS FOR THE OFFICIAL</p>	<p><u>/s/ Mark Petrocchi</u> Mark Petrocchi (15851750) <b>COLVIN &amp; PETROCCHI, L.P.</b> 801 Cherry Street, Unit 35, Suite 1300 Fort Worth, Texas 76102-6863 (817) 336-7883 Fax: (817) 338-9209</p> <p>ATTORNEYS FOR DEBTOR FFP OPERATING PARTNERS, L.P.</p>
---	--

COMMITTEE OF UNSECURED CREDITORS	
<p><u>/s/ Stephen C. Stapleton</u>  F. John Istre (10435390)  Stephen C. Stapleton (19059300)  <b>COWLES &amp; THOMPSON, PC</b>  901 Main Street, Suite 4000  Dallas, Texas 75202  (214) 672-2000  Fax: (214) 672-2020</p> <p>ATTORNEYS FOR GMAC COMMERCIAL  MORTGAGE CORPORATION, SERVICER  FOR FMAC LOAN RECEIVABLES TRUST  1998-C AND FMAC LOAN RECEIVABLES  TRUST 2000-A</p>	<p><u>/s/ William L. Wallander</u>  William L. Wallander, (20780750)  Michaela C. Crocker (24031985)  <b>VINSON &amp; ELKINS L.L.P.</b>  3700 Trammell Crow Center  2001 Ross Avenue  Dallas, Texas 75201  (214) 220-7700  Fax: (214) 999-7887</p> <p>ATTORNEYS FOR LONG LANE  MASTER TRUST IV and MTGLQ  INVESTORS, L.P.</p>

**### End of Order###**