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**MCKAY, BURTON & THURMAN**  
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**IN THE UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF UTAH, CENTRAL DIVISION**

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In re:

**CASTLE ARCH REAL ESTATE  
INVESTMENT COMPANY,  
LLC; CASTLE ARCH OPPORTUNITY  
PARTNERS I, LLC; CASTLE ARCH  
OPPORTUNITY PARTNERS II, LLC;  
CASTLE ARCH KINGMAN, LLC;  
CASTLE ARCH SECURED  
DEVELOPMENT FUND, LLC; AND  
CASTLE ARCH SMYRNA, LLC**

Debtor.

Bankruptcy No. 11-35082  
Bankruptcy No. 11-35237  
Bankruptcy No. 11-35240  
Bankruptcy No. 11-35241  
Bankruptcy No. 11-35242  
Bankruptcy No. 11-35243  
Bankruptcy No. 11-35246  
(Jointly Administered Chapter 11)

**Honorable Joel T. Marker**

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**SECOND APPLICATION FOR ALLOWANCE OF  
FEES AND COSTS BY MCKAY, BURTON & THURMAN,  
COUNSEL FOR CASTLE ARCH OPPORTUNITY PARTNERS I, LLC**

TO THE HONORABLE JOEL T. MARKER, UNITED STATES BANKRUPTCY  
JUDGE:

The application of McKay, Burton & Thurman, pursuant to Federal Rule of Bankruptcy Procedure 2016, 11 U.S.C. Sections 330 and 331 and pursuant to the Administrative Expense Claim bar date as said term is defined in Article I of the Plan, as counsel for Castle Arch Opportunity Partners I, LLC (“CAOP-I”), respectfully represents as follows:

A. Background.

1. The present CAOP-I bankruptcy case commenced by the filing of a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on October 20, 2011.

2. No trustee has been appointed in the CAOP-I case and the Debtor acted as debtor in possession through April 30, 2012.

3. On April 30, 2012, the Court entered an Order for Appointment of Trustee in the Castle Arch Real Estate Investment Company, LLC (“CAREIC”) bankruptcy case, appointing D. Ray Strong as Chapter 11 Trustee for Castle Arch Real Estate Investment Company, LLC and manager of affiliated entities, including CAOP-I.

4. An application to employ McKay, Burton & Thurman was filed by CAOP-I on December 16, 2011. The Order Authorizing Employment of McKay, Burton & Thurman was entered on January 26, 2012. CAOP-I has agreed to pay McKay, Burton & Thurman a reasonable fee for services rendered in this case and to reimburse McKay, Burton & Thurman for actual and necessary costs incurred. The Debtor paid McKay, Burton & Thurman a post-petition retainer of \$50,000.00 which retainer was approved by

this court in the January 26, 2012 Order Authorizing Employment of McKay, Burton & Thurman.

5. In this application McKay, Burton & Thurman seeks compensation for services rendered and costs incurred as the attorneys for the Debtor during the period May 31, 2013 through July 23, 2013 (the "Application Period"). A prior application was filed by McKay, Burton & Thurman on or about May 31, 2013 for fees in the amount of \$132,321.00 and costs necessarily incurred in the administration of the Debtor's estate in the amount of \$2,260.27 through May 30, 2013. McKay, Burton & Thurman's prior application has been paid from the post-petition retainer and funds of the estate.

6. The following are the attorneys and professionals employed by McKay Burton & Thurman who have rendered services in this case:

a. Gregory J. Adams is a 1992 graduate of the University of California Los Angeles School of Law and a member of the Utah State Bar. Mr. Adams has specialized in bankruptcy law for over 20 years. Mr. Adams' billing rate for the period covered by this application is \$275 per hour.

b. Jeremy C. Sink is a 2003 graduate of the University of Creighton College of Law and a member of the Utah State Bar. Mr. Sinks' billing rate for the period covered by this application is \$250 per hour.

B. Project Summary.

7. During the period for which this application is made McKay, Burton & Thurman has consulted with and advised the Debtor and its manager concerning the rights, powers and duties of a debtor in possession under Chapter 11; represented the

Debtor and its manager in all proceedings before this Court; prepared pleadings, notices, and other documents for the Debtor as required by the Court or the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the local rules of practice in this District.

8. Attached hereto as Appendix 1 and incorporated by this reference is a detailed itemization of the services performed by McKay, Burton & Thurman as attorneys for the Debtor during the Application Period, showing the nature of the services rendered, the attorney who performed the service, and the amount of time expended, all in accordance with Bankruptcy Code section 330. The following is a summary of services and amounts by category:

a. Asset Analysis & Recovery This category includes services provided for the analysis of the Debtor's finances and assets and time spent analyzing the real and personal property of the estate and recovery of the same where the status of such property is subject to dispute. For this application, services provided total \$3,267.50.

b. Asset Disposition This category includes services to analyze and provide for the disposition of estate assets. For this application, services provided total \$137.50.

c. Business Operations This category includes services rendered to the Debtor regarding support regarding ongoing real property management, investment and other business operations. These include, though are not

necessarily limited to, the Debtor's ongoing investment operations with Conix and Blackstar as disclosed in the Debtor's monthly operating reports and otherwise. For this application, services provided total \$275.

d. Case Administration This category itemizes time spent providing services to assist the Debtor administering monthly financial reports; preparing reports and motions regarding the same and attending hearings and conferences regarding the same and fielding inquiries from creditors. For this application, services provided total \$535.

e. Fee / Employment Application This category includes time for the administrative expense of preparing, filing with the Court and attending hearings where necessary to approve professionals for the estate and the subsequent fee applications regarding the same. For this application, services provided total \$2,477.50.

g. Plan and Disclosure Statement This category includes review of implementation issues addressed in the Plan and Disclosure Statement and administration of the same by this Debtor. For this application, services provided total \$1,210.

k. Itemization of Costs Advanced Appendix 2 attached hereto provides an itemization of costs actually incurred on behalf of the Debtor by McKay, Burton and Thurman during the application period and for which the firm

seeks reimbursement pursuant to this application. For this application, disbursements total \$967.34.

9. Each professional project for which compensation is sought is described in Appendix 1 to this application. The project summaries contain an itemization of time and service entries along with a statement of hours spent and the amount of compensation requested for each professional for each project.

C. Summary of Services and Expenses.

10. The cost of services rendered by the attorneys of McKay, Burton & Thurman is comparable to the cost of like services customarily rendered by attorneys in Salt Lake City, Utah for similar work performed on behalf of private clients in cases other than cases under the Bankruptcy Code.

11. The expenses for which McKay, Burton & Thurman seeks reimbursement are actual and necessary expenses which have been advanced by the firm on behalf of the Debtor.

12. The following is a summary of the time expended by each employee of McKay, Burton & Thurman, the hourly rate for each individual and the total compensation amount requested for each individual by this application:

<u>Professional</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Extended Amount</u>
Gregory J. Adams	24.10	\$275.00	\$6,627.50
Jeremy C. Sink	5.10	\$250.00	\$1,275.00
<b>TOTAL</b>			<b>\$7,902.50</b>

13. McKay, Burton & Thurman has advanced expenses actually and necessarily incurred in the administration of the Debtor's estate in the amount of \$967.34 for the Application Period. As mentioned, the expenses are itemized Appendix 2 to this application.

D. Compliance with Rule 2016, Rules of Bankruptcy Procedure

14. By this application, McKay, Burton & Thurman seeks approval of fees of \$7,902.50 and expenses of \$967.34 incurred while the case was a chapter 11 proceeding, and seeks approval of such fees as a chapter 11 administrative expense.

15. In accordance with Rule 2016 of the Rules of Bankruptcy Procedure, McKay, Burton & Thurman states that no payments heretofore have been made or promised to it for services rendered, or to be rendered as attorney for the Debtor, in connection with the case except as herein above set forth. No agreement or understanding exists between the firm and any other person for the sharing of compensation received or to be received for services rendered in and in connection with this case, except as permitted by said rule.

E. Case Status

16. The Debtor has approximately \$659,052.24 of real estate investments and an interest in land located in Tooele County with an estimated value of \$5,378,023.00. The figures provided herein are more fully set forth in the Debtor's Monthly Operating Report for April, 2013 filed as docket number 79 in case number 11-35240. The estate's current cash balance as of July 18, 2013 is \$646,719.18, which is unencumbered.

WHEREFORE, McKay, Burton & Thurman respectfully requests:

1. An order allowing Chapter 11 compensation to McKay, Burton & Thurman for actual, necessary services rendered in the amount of **\$7,902.50** and payment of actual costs advanced in the amount of **\$967.34** for the period May 31, 2013 through July 23, 2013, in accordance with Bankruptcy Code sections 330 and 331;

2. An order allowing the Debtor to pay McKay, Burton & Thurman \$8,869.84, representing the unpaid fees and costs; and

3. For such other and further relief as the Court deems appropriate.

DATED this 25<sup>th</sup> day of July, 2013.

**McKAY, BURTON & THURMAN**

By: /s/ Jeremy C. Sink  
Gregory J. Adams  
Jeremy C. Sink  
Attorneys for Castle Arch  
Opportunity Partners I, LLC



## Attorneys Fees &amp; Expenses 5/31/13 - 6/30/13

	<u>Act. Revenue</u>
Service	
GJA	6,627.50
JS	1,275.00
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Total Service	7,902.50
Other Charges	
Disbursements	
Court Fees	11.50
Misc.	97.00
Photocopies	388.00
Postage	463.84
Runner Service	7.00
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Total Disbursements	967.34
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Total Other Charges	967.34
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TOTAL	<u>8,869.84</u>

	<u>Jul 18, 13</u>
Castle Arch Opportunity Partners I, LLC	
Asset Analysis & Recovery	3,267.50
Asset Disposition	137.50
Business Operations	275.00
Case Administration	535.00
Disbursements	967.34
Fee/Employment Applications	2,477.50
Plan & Disclosure Statement	1,210.00
Total Castle Arch Opportunity Partners I, LLC	<u>8,869.84</u>
<b>TOTAL</b>	<b><u><u>8,869.84</u></u></b>

APPENDIX 1

**PROJECT: Asset Analysis & Recovery**

7/18/2013

<b>DATE</b>	<b>PROFESSIONAL</b>	<b>TIME</b>	<b>DESCRIPTION</b>
06/18/2013	GJA	2.8	Asset Analysis & Recovery- Research re water share and tooele land recovery issues.
07/08/2013	GJA	2.7	Analysis of factual basis for real property transfer and potential recovery issues (2.7)
07/10/2013	GJA	2.4	Research regarding real estate avoidance and issues (2.4).
07/11/2013	GJA	2.8	Research re water share and real estate claim avoidance and recovery issues (2.8).
07/11/2013	JS	1.3	Meeting with Greg and then follow up with Mark on Tooele land and water dispute with CAREIC (1.3)

APPENDIX 1

PROJECT: Asset Disposition

7/18/2013

DATE	PROFESSIONAL	TIME	DESCRIPTION
			Asset Disposition-
07/15/2013	GJA	0.5	Research re sale of real property issues (.3); correspondence to Trustee re same (.2)

APPENDIX 1

**PROJECT: Business Operations**

7/18/2013

<b>DATE</b>	<b>PROFESSIONAL</b>	<b>TIME</b>	<b>DESCRIPTION</b>
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Business Operations-

06/27/2013	GJA	0.4	Conf with Trustee re Blackstar operations and accounting issues (.2); research re same (.2)
07/16/2013	GJA	0.6	Research re Blackstar operations and accounting issues (.4); follow up with D. Thompson re same (.2)

APPENDIX 1

PROJECT: Case Administration

7/18/2013

DATE	PROFESSIONAL	TIME	DESCRIPTION
06/06/2013	JS	0.6	Case Administration- Phone call with investor in CAOPI on Plan, claims, fee apps, payout, intercompany claims and MBT's fee app (.6)
06/17/2013	GJA	0.6	Review Monthly Financial Report and prepare for fling (.4); follow up with Trustee re same (.2)
06/18/2013	GJA	0.8	Compile updates for May monthly report and comparative analysis with April monthly report (.6); correspondnce to Trustee's office re same (.2)

APPENDIX F

PROJECT: Fee/Employment Application

7/18/2013

DATE	PROFESSIONAL	TIME	DESCRIPTION
05/31/2013	JS	1.8	Fee/Employment Applications- Finalized fee application, notice of hearing, certificate of service and exhibits and filed the same (1.8)
05/31/2013	GJA	2.9	Draft and revise Fee Application (1.4); research re transaction categories and case status and history for same (1.5)
06/03/2013	JS	0.2	Worked on notice of hearing for fee application (.2)
06/04/2013	JS	0.2	Follow up with Greg on concerns raised by the Trustee as to timing of fee application (.2)
06/25/2013	JS	0.3	Drafted order approving fee application and filed (.3)
06/25/2013	GJA	1.3	Research re fee application status and hearing on same (.3); confs with clerk of court re same (.3); correspondence with Trustee and Trustee's office re same (.3); draft and revise proposed Order approving application (.4).
06/26/2013	JS	0.1	Order entered, forwarded to Trustee for payment
07/11/2013	GJA	0.7	Prepare project analysis per category (.5); correspondence to Trustee re same (.2)
07/17/2013	JS	0.4	worked on second fee app (.4)
07/18/2013	JS	0.2	Additional changes to second fee app (.2)
07/18/2013	GJA	1.2	Draft and reviese fee application and supporting documentation (1.); correspondence to Trustee re same (.2)

APPENDIX 1

**PROJECT: Plan and Disclosure Statement**

7/18/2013

<b>DATE</b>	<b>PROFESSIONAL</b>	<b>TIME</b>	<b>DESCRIPTION</b>
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06/05/2013	GJA	2.9	Plan & Disclosure Statement- Research re implementation of Plan and confirmation issues (1.4); meeting with Trustee and counsel re same (1.5)
06/07/2013	GJA	1.5	Review Findings and Conclusion and proposed Order re same (.6); research re same (.4); correspondence to Trustee and counsel (.2); endorse same (.3)



**APPENDIX 2**

**McKAY, BURTON & THURMAN, P.C.**

**COSTS ADVANCED FOR PERIOD**

Castle Arch Opportunity Partners I, LLC

<b>DATE</b>	<b>AMOUNT</b>	<b>DESCRIPTION</b>
		Disbursements-
05/31/2013	388.00	Photocopies of fee application for service to matrix.
05/31/2013	3.84	Service of fee application.
05/31/2013	460.00	Service of fee application to matrix.
05/31/2013	97.00	Fee for envelopes used in service of fee application to matrix.
06/01/2013	7.00	4/24/13 Runner Service/LMI to USBC and return next run.
06/01/2013	11.50	Court Fee