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**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION**

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In re:

CASILE ARCH REAL ESTATE INVESTMENT  
COMPANY, LLC et al.,

Debtors.

Case Nos. 11-35082, 11-35237, 11-35243, 11-  
35242 and 11-35246

Case Nos. 11-35241 and 11-35240  
(Jointly Administered)

Chapter 11

Joel T. Marker

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**GLEN MARTINSEN'S REQUEST FOR PAYMENT OF  
ADMINISTRATIVE EXPENSE**

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Glen Martinsen ("Mr. Martinsen"), by and through his undersigned counsel, hereby submits this Request for Payment of Administrative Expense requesting the entry of an order allowing and directing the Debtors to pay as an administrative expense the sum of \$28,500. In support thereof, Mr. Martinsen states as follows:

1. Mr. Martinsen began his employment with the debtor Castle Arch Real Estate Investment Company ("CAREIC") in July of 2009 as its controller. He was hired at a starting

salary of \$100,000 annually. In his job, he had financial responsibility for CAREIC and its subsidiaries. The accounting department at that time consisted solely of an assistant controller.

2. In or about January 2011, his salary was raised to \$110,000. In 2010 and 2011, when CAREIC downsized, his duties as a controller expanded to include supervising the project manager and the investor relations.

3. On July 12, 2011, CAREIC and its subsidiaries were placed under an order of receivership by the District Court for the Second Judicial District in Davis County, Utah Civil No. 100700353. Thereafter, Trent Waddoups was appointed as the receiver (the "Receiver").

4. When the Receiver was appointed, Mr. Martinsen was the only employee of CAREIC still working in the office. At that time, Mr. Martinsen had assumed all financial responsibility and duties and was handling all projects and investor relations. Mr. Martinsen was also responsible for performing due diligence, presenting and advising on investment options related to business partners Conix, and tracking the investment results of the various investments with various partners.

5. On October 17 and 20, 2011, the Receiver filed voluntary Chapter 11 bankruptcy petitions for CAREIC and the other debtors.

6. After the petitions were filed, Mr. Martinsen continued to work as controller at his same annual salary of \$110,000 per year.

7. On November 22, 2011, the Receiver turned over possession, custody and control of the CAREIC's estate to CAREIC in its capacity as debtor-in-possession. At that time, Mr. Martinsen was promoted to Chief Financial Officer ("CFO") of CAREIC and his annual salary was increased to \$132,000. Mr. Martinsen's increased salary was still significantly less than the \$204,000 annual salary paid to CAREIC's part-time CFO in 2008, and was disclosed in the

debtor-in-possession monthly operating reports filed with the Court and provided to the US Trustee's office.

8. Mr. Martinsen has a Bachelors of Science degree in Accounting, a Masters of Business Administration degree (MBA), holds a current CPA certificate and has over 20 years experience as a controller or CFO.

9. The Debtors-in-possession quickly retained legal counsel who advised the Debtors that in a show of good faith and in order to help the Debtors with their immediate cash needs, Mr. Martinsen and the officers should voluntarily accrue part of their salary on a monthly basis instead of taking it in cash.

10. On advice of counsel and for the semi-monthly pay period beginning December 9, 2011 through the pay period ending April 30, 2012, Mr. Martinsen voluntarily accrued a total of \$28,500 in unpaid salary (approximately \$5,000 per month).

11. As CFO for the Debtors-in-possession, Mr. Martinsen worked with the Debtors and their bankruptcy counsel to prepare and re-file all of the Debtors' bankruptcy filings, as the initial filings were found to be incomplete. During this time, he continued to act as the main contact for all investors, file the monthly bankruptcy reports, perform analysis and tracking on all current investments and to coordinate new investments with the Debtors' officers and legal counsel of the given entity.

12. On May 3, 2012, D. Ray Strong was appointed as the Chapter 11 Trustee for CAREIC (the "Trustee").

13. By the time the Trustee was appointed, the Debtors-in-possession had accrued \$28,500 in post-petition wages for Mr. Martinsen for which he has not been paid.

14. After his appointment, the Trustee immediately asked Mr. Martinsen to continue to work for the Debtors at an annual salary of \$90,000 per year, with a promise to try and increase that salary in the future.

15. When the Trustee was appointed, Mr. Martinsen was receiving \$6,000 per month with \$5,000 of wages accruing. The Trustee increased his monthly take-home pay to \$7,500 per month (or \$90,000 annually) and stopped the accrual of any additional wages.

16. Mr. Martinsen accepted the decrease in overall salary from the Trustee because, after appointment of the Trustee, Mr. Martinsen's duties decreased. From Mr. Martinsen's perspective, he was no longer legally liable for the direction of the Debtors, he no longer had to sign the monthly bankruptcy filings, he no longer had to decide how to deploy cash, and his involvement with various business partners of the Debtors was significantly reduced. Mr. Martinsen did, however, continue to prepare the bankruptcy Monthly Operating Reports, advise the Trustee on key accounting issues, and performed day to day accounting and other functions of the Debtors' office.

17. Under Bankruptcy Code Section 503(b)(1)(A), the "actual, necessary costs and expenses of preserving the estate, including wages, salaries and commissions for services rendered after the commencement of the case" are allowed as expenses of administration, and are afforded administrative expense priority under Section 507(a)(2).

18. "An expense is administrative only if it arises out of a transaction between the creditor and the bankrupt's trustee or debtor in possession (citation omitted) and only to the extent that the consideration supporting the claimant's right to payment was both supplied to and beneficial to the debtor-in-possession in the operation of the business." *In re Commercial Fin. Serv. Inc.*, 246 F.3d 1291, 1294 (10<sup>th</sup> Cir. 2001) (internal citations omitted).

19. The \$28,500 in accrued but unpaid, post-petition wages owing to Mr. Martinsen are entitled to administrative expense priority because they arose directly out of post-petition services that the Debtors-in-possession requested of him, and because the services Mr. Martinsen provided to the Debtors-in-possession were essential services that he, given his historical knowledge of the businesses and clients, was uniquely positioned to provide. Specifically, he provided critical accounting and business know-how, including information regarding business services, customer relationships and other historical business information.

20. The beneficial nature of his post-petition services is evidenced by the fact that the Trustee, after his appointment, asked Mr. Martinsen to continue to provide many of those same services and offered him a salary of \$90,000 per year to do so.

21. Compensating Mr. Martinsen as the CFO of the Debtors-in-possession from December 9, 2011 through April 30, 2012 at a rate of \$132,000 per year was reasonable. That annual salary was over \$70,000 less than Mr. Martinsen's predecessor CFO at CAREIC was paid, and if Mr. Martinsen had billed the estate for those same accounting services at a rate of \$250 per hour (which is a middle-of-the-road billing rate charged to the estate by the Trustee's accounting firm in this case) and based on a regular 40 hour work week, Mr. Martinsen's bill for the 5.5 months worked would have been over \$200,000 instead of the \$60,500.

WHEREFORE, Mr. Martinsen respectfully requests that the Court enter an order granting him an allowed administrative expense claim under Section 503(b)(1)(A) for unpaid wages in the amount of \$28,500, and such other and further relief as the Court deems just and necessary.

DATED this 20th day of August, 2013.

PARR BROWN GEE & LOVELESS

By: /s/ Joseph M.R. Covey  
Joseph M.R. Covey

*Counsel for Glen Martinsen*

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