

## **ResCap Liquidating Trust Board of Trustees Conflict of Interest Policy**

The Board of Trustees (the “Board”) of the ResCap Liquidating Trust (the “Liquidating Trust”) hereby memorializes the procedures (the “Conflict of Interest Policy”) that it has implemented, and will continue to implement, if a Liquidating Trustee (“Trustee”) has a conflict of interest, Potential Conflict or Appearance of Conflict (as defined below).<sup>1</sup>

### **I. Duties of Trustees**

- A.** Section 6.9 of the Liquidating Trust Agreement, dated December 17, 2013, requires that all Trustees of the Board must act in good faith and solely in a fiduciary capacity in furtherance of the Liquidating Trust, and in accordance with applicable law.
- B.** In furtherance of the foregoing, the Trustees shall avoid participating in any activity, decision, discussion, or deliberation of the Board that presents a conflict of interest, Potential Conflict or Appearance of Conflict.

### **II. Conflict Review Process**

- A.** Whenever a Trustee learns of a situation that, under Delaware law, might present a conflict of interest (“Potential Conflict”) or an Appearance of Conflict, either with respect to himself or herself or with respect to another Trustee (in each case, including such Trustee’s family members), such Trustee shall immediately notify counsel to the Board, who in turn shall immediately notify the Board.
- B.** Upon receiving any such notification regarding any Potential Conflict (or Appearance of Conflict), the Board, with the exception of the Trustee who has such Potential Conflict, shall review same, with the assistance of counsel to the Board, to determine whether such Trustee has a conflict of interest under Delaware law that is subject to this Conflict of Interest Policy or an Appearance of Conflict (the “Conflict Review Process”).
- C.** During the Conflict Review Process, such Trustee shall be bound by the Recusal Mechanisms, and, where appropriate, Walling-Off Mechanisms, as defined below in § III.
- D.** The subject Trustee shall cooperate with the Board during the Conflict Review Process, and shall provide all information requested by the Board or Counsel to the Board in connection with the Conflict Review Process.
- E.** If, after conducting the Conflict Review Process, the Board, with the exception of the subject Trustee, after consultation with counsel, determines that a conflict of interest exists or an Appearance of Conflict exists, such Trustee shall continue to

---

<sup>1</sup> For the avoidance of doubt, and subject to the provisions of the Board Observer and Indemnification Agreement, this Conflict of Interest Policy shall also apply to the Board Observer, as if he or she were a Trustee, with respect to any Conflict or Appearance of Conflict.

be subject to the Recusal Mechanisms, and, where appropriate, the Walling-Off Mechanisms, as defined below in § III. Such Trustee shall also be designated a “Walled-Off Trustee,” and the entity giving rise to the Conflict Review and its affiliates “Walled-Off Entities.”

### **III. Recusal Mechanisms and Walling-Off Mechanisms**

- A.** The Walled-Off Trustee shall be recused from any and all activities, discussions, deliberations, or decisions regarding the Walled-Off Entities (the “Recusal Mechanisms”) in accordance with the further advice of counsel to the Board. After consultation with counsel to the Board, the Board may further implement certain walling-off mechanisms (the “Walling-Off Mechanisms”), including but not limited to the following:
- 1.** All non-Walled-Off Trustees, officers of the Liquidating Trust, and counsel shall be notified of the conflict of interest, and the Trustees and officers of the Liquidating Trust shall not discuss the topic (or provide any information or materials) related to the conflict of interest with the Walled-Off Trustee;
  - 2.** The Walled-Off Trustee shall be recused from the portions of Board meetings whenever a topic relating to the conflict of interest is addressed; and
  - 3.** In the event that information relating to Walled-Off Entities is inadvertently shared with a Walled-Off Trustee, the Walled-Off Trustee shall keep such information confidential and not disclose it to the Walled-Off Entities. The Walled-Off Trustee and the other Trustees shall immediately disengage from the communication and promptly notify counsel to the Board of the circumstances surrounding such inadvertent disclosure so that the Board, and after consultation with counsel to the Board, shall implement procedures to prevent the possibility of a recurrence.
- B.** In the event that Board materials are distributed to Trustees that may include information with respect to a conflict of interest, the Board (other than the Walled-Off Trustee), as well as Liquidating Trust officers, will notify and work with counsel to the Board to determine what, if anything, should be redacted or excluded from the materials to be distributed.

### **IV. Walled-Off Trustees**

- A.** Although no current Trustee has a conflict of interest under Delaware law, out of an abundance of caution, Samuel L. Molinaro and Matthew A. Doheny shall be subject to the Recusal Mechanisms, and, where appropriate, the Walling-Off Mechanisms, with respect to any activity, discussion, deliberation, or decision implicating UBS Investment Bank (“UBS”) or HSBC Securities (USA), Inc. (“HSBC Securities”) (or their affiliates), respectively. Accordingly, UBS and

HSBC Securities shall be designated Walled-Off Entities, with respect to Mr. Molinaro and Mr. Doheny, respectively.

- B.** Notwithstanding that neither Samuel L. Molinaro nor Matthew A. Doheny have a conflict under Delaware law, each of such Trustees shall execute an undertaking to the Trust confirming the following: (i) that they will adhere to the Conflict of Interest Policy in all respects; (ii) that they will not provide UBS or HSBC Securities, respectively, information regarding the Trust, including its causes of action (“Trust Information”); (iii) if UBS or HSBC Securities seeks any Trust Information, Mr. Molinaro or Mr. Doheny, as the case may be, shall promptly notify counsel to the Board who will provide guidance as to whether, and how, to respond, and will apprise and advise the Board consistent with applicable law and the Conflict of Interest Policy.

**V. Consultation with Counsel to the Board**

- A.** In the event of any doubt in the interpretation or implementation of this Conflict of Interest Policy, including, whether, and how, to implement any Recusal Mechanisms or Walling-Off Mechanisms, or if any Trustee encounters any other scenario not described herein involving the possibility of a conflict of interest, the Board, and the Liquidating Trust officers, as applicable, will consult with counsel to the Board, and will consider its recommendations.

**VI. Defined Terms**

- A.** A conflict of interest exists under Delaware law where a Trustee causes an entity that he or she serves as a fiduciary to enter in a transaction or decision for his or her own benefit, or the benefit of another entity that he or she serves, to the detriment of the Liquidating Trust. See, e.g., *Heineman v. Datapoint Corp.*, 611 A.2d 950, 955 (Del. 1992) (citation omitted), overruled on other grounds by *Brehm v. Eisner*, 746 A.2d 244 (Del. 2000); *Quadrant Structured Prods. Co., Ltd. v. Vertin*, 102 A.3d 155, 189-90 (Del. Ch. 2014); *In re Tri-Star Pictures, Inc.*, Litig. No. CIV. A. 9477, 1995 WL 106520, at \*3 (Del. Ch. Mar. 9, 1995) (citing *Citron v. E.I. du Pont de Nemours & Co.*, 584 A.2d 490, 499 (Del. Ch. 1990)); *Bragger v. Budacz*, No. CIV. A. 13376, 1994 WL 698609, at \*4 (Del. Ch. Dec. 7, 1994); *Marvel Entm’t Grp. v. Perelman*, No. CIV.A. 97-586-KAJ, 2004 WL 332813, at \*1 (D. Del. Feb. 18, 2004).
- B.** An Appearance of Conflict exists where there is no conflict of interest as determined in accordance with this Conflict of Interest Policy, but a Trustee is involved in a particular matter and the circumstances are such that a reasonable person in good faith would question if the Trustee has a conflict of interest based on applicable Delaware Law.