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17 Attorneys For Morris C. Aaron, Liquidating
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19 Dated April 30, 2008

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Attorneys for Larry Lattig, Litigation Trustee,
First Magnus Litigation Trust dated April 30,
2008

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re
FIRST MAGNUS FINANCIAL
CORPORATION,
Debtor.

Chapter 11

Case No. 4-07-bk-01578-JMM

**JOINT MOTION TO EXTEND TIME TO
FILE OBJECTIONS TO CLAIMS**

This Motion is filed by MORRIS C. AARON, Liquidating Trustee of the First Magnus Liquidating Trust dated April 30, 2008 (the "Liquidating Trustee") and LARRY LATTIG, Litigation Trustee of the First Magnus Litigation Trust dated April 30, 2008 (the "Litigation

1 Trustee).¹ Pursuant to the Motion, 11 U.S.C. § 105(a), and Sec. 10.1 of the *Second Amended*
2 *Plan of Liquidation dated January 4, 2008 filed by First Magnus Financial Corporation* (the
3 “Plan”), confirmed by order (the “Confirmation Order”) entered on February 29, 2008 (the
4 “Confirmation Date”), the Trustees respectfully request that the Court extend for a period of one
5 hundred twenty (120) days the time for the Trustees to object to Claims under the Plan.² Pursuant
6 to Sec. 10.1 of the Plan, the current deadline for objecting to Claims is Monday, June 30, 2008.³
7 To date, approximately 5,916 Claims have been filed against the Debtor, the majority of which, at
8 least by number, are Priority Non-Tax Claims filed by former employees of the Debtor for unpaid
9 wages and benefits. Under the circumstances, the Trustees need additional time to properly
10 investigate, evaluate, and, if necessary, object to Claims. Therefore, the Trustees respectfully
11 request that the Court enter an order, in the form attached hereto as Exhibit “A,” extending the
12 time for the Trustees to object to claims for 120 days to October 28, 2008.

13 In further support of this Motion, the Trustees state as follows:

- 14 1. On August 21, 2007, the Debtor filed a voluntary petition for relief under Chapter
15 11 of the Bankruptcy Code. [Dkt. 1].
- 16 2. An Official Committee of Unsecured Creditors (the “Committee”) was appointed
17 on August 30, 2007. [Dkt. 67].
- 18 3. The *Order Confirming Second Amended Plan Of Liquidation Dated January 4,*
19 *2008 Filed By First Magnus Financial Corporation* dated February 28, 2008 (the “Confirmation
20 Order”) was entered by the Court on February 29, 2008 (the “Confirmation Date”). [Dkt. 1589].
- 21 4. The Effective Date of the Plan occurred on May 1, 2008. [Dkt. 2438].

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24 ¹ The Liquidating Trustee and the Litigation Trustee may be referred to together as the
“Trustees”).

25 ² Unless otherwise stated, capitalized terms used herein shall have the meanings ascribed to such
terms in the Plan.

26 ³ 120 days after the February 29, 2008 Confirmation Date.

- 1 5. The Plan has been substantially consummated as evidenced by the following acts
2 and events:
- 3 (a) The Liquidating Trust Agreement was executed and the Liquidating Trustee began
4 his duties;
- 5 (b) The Litigation Trust Agreement was executed and the Litigation Trustee began his
6 duties;
- 7 (c) All papers necessary to dissolve First Magnus have been filed in accordance with
8 Section 10-1403 of the Arizona Statutes;
- 9 (d) The Advisory Board commenced operations in accordance with Section 7.15 of
10 the Plan and retained counsel in accordance with Section 7.15.2 of the Plan;
- 11 (e) All of the Remaining Assets were transferred to the Liquidating Trust;
- 12 (f) All Estate Tort and Other Claims were transferred to the Litigation Trust;
- 13 (g) First Magnus terminated all of its employees;
- 14 (h) The Liquidating Trust hired 29 employees and entered into employment
15 agreements with several of these employees;
- 16 (i) The Liquidating Trust distributed more than \$1,900,000 to 9 holders of
17 administrative expense claims in accordance with Section 4.1.2 of the Plan;
- 18 (j) The Liquidating Trust made an initial distribution of more than \$500,000 to more
19 than 3,700 holders of priority employee claims in accordance with Section 4.3 of
20 the Plan;
- 21 (k) The Liquidating Trust distributed the Litigation Trust Start-Up Cash (\$250,000) to
22 the Litigation Trust in accordance with Section 7.12 of the Plan;
- 23 (l) The Liquidating Trustee and Litigation Trustee have each retained counsel and
24 spent significant cash and internal resources with respect to pursuit of litigation,
25 reconciliation of claims, planning for sale of assets and payment of wages;
- 26 (m) The Liquidating Trustee has begun the process of reconciling claims and
determining which claims should be objected to;
- (n) The administrative claims filing date has passed in accordance with Section 4.1.2
of the Plan and creditors have filed their administrative claims have been
reviewed, objected to, resolved and paid, as appropriate;
- (o) Final fee applications of professionals retained in the First Magnus case have been
filed, ruled upon and paid, as appropriate;

- 1 (p) More than 20,000 executory contracts and unexpired leases were rejected pursuant
2 to Section 5.3 of the Plan and Section 365 of the Bankruptcy Code;
- 3 (q) In reliance on Section 5.5 of the Plan, Washington Mutual, as agent, sold loans
4 with a face amount of more than \$237,000,000 to third parties;
- 5 (r) All of First Magnus' equity was cancelled and its former shareholders no longer
6 retain any equity interest in their shares, in accordance with Section 5.8 of the
7 Plan; and
- 8 (s) The transfer of all of First Magnus' assets to the Liquidating Trust is a "deemed
9 liquidation" for federal tax purposes, followed by the creation of the trust by the
10 creditors. See Revenue Procedure 94-45, 1994-2 C.B. 684.

11 6. As discussed above, on the Effective Date, the First Magnus Liquidating Trust was
12 deemed established and the Liquidating Trustee was deemed appointed. Among other things, the
13 Liquidating Trustee has the power to object to Claims and prosecute, settle, or abandon Estate
14 Claims. The Liquidating Trustee is a representative of the Estate, pursuant to Bankruptcy Code
15 section 1123, and has all of the rights of a trustee appointed under Bankruptcy Code section 1106
16 as it relates to the Remaining Assets. *See* Plan, Secs. 1.39, 7.3 - 7.7.

17 7. On the Effective Date, the Litigation Trust was deemed established and the
18 Litigation Trustee was deemed appointed. The Liquidating Trustee is a representative of the
19 Estate, pursuant to Bankruptcy Code section 1123, and has all of the rights of a trustee appointed
20 under Bankruptcy Code section 1106 as it relates to the Estate Tort and Other Claims. The Estate
21 Tort and Other Claims, include, to the extent necessary, the power to object to Claims asserted by
22 "past and present directors, officers, Insiders and Affiliates, the Warehouse Lenders, and Repo
23 Participants." *See* Plan, Secs. 1.40, 7.9, and 7.10.

24 8. Sec. 10.1 of the Plan provides, in relevant part, as follows:

25 Only the Liquidating Trustee, and the Litigation Trustee in certain instances, shall
26 be entitled to object to Claims. Any objections to Claims shall be served and filed
on or before the later of: (i) one hundred and twenty (120) days after the
Confirmation Date; (ii) thirty (30) days after a request for payment or proof of
Claim is timely filed and properly served; or (iii) such other date as may be fixed
by the Bankruptcy Court, whether before or after the dates specified in subsections
(i) and (ii) herein.

1 See Plan, Sec. 10.1 (emphasis added).

2 9. Pursuant to Sec. 9.3.11 of the Plan, the Court retained jurisdiction: “[t]o make
3 orders as are necessary or appropriate to carry out the provisions of the Plan or the Trust
4 Agreements, or in aid of confirmation and consummation of the Plan;”

5 10. Because the Effective Date of the Plan did not occur until May 1, 2008, and the
6 time for objecting to Claims was keyed off of the Confirmation Date, the time for the Trustees to
7 reconcile and evaluate Claims was reduced from approximately 120 days to 60 days. Given the
8 number of Claims filed in the Bankruptcy Case, 60 days is an insufficient amount of time to
9 accomplish the necessary tasks.

10 11. With respect to Claim objection issues, to date, the Liquidating Trustee has
11 focused solely on Priority Tax Claims and Priority Non-Tax Claims, which encompasses
12 approximately 3,350 of the total amount of claims filed against the Debtor. In addition to the
13 sheer number of Claims, the fact that the Clerk of the Bankruptcy Court was unable to provide the
14 Liquidating Trustee with either an electronic version of the Claims Register (in usable format) or
15 electronic copies of Claims has substantially increased the amount of time necessary to administer
16 the Claims. The Liquidating Trustee was able to download a “PDF” version of the Claims
17 Register and convert the file to Excel format to serve as the building block for a Claims database,
18 but the conversion was imperfect requiring the Liquidating Trustee to manually verify much of
19 the relevant information.

20 12. Despite these initial hurdles, the Liquidating Trustee is making progress and
21 anticipates filing omnibus objections to: (i) late filed claims; (ii) duplicate claims, and (iii) alleged
22 priority claims that exceed the priority limit, all before June 30, 2008. Nevertheless, the Trustees
23 believe that an extension of 120 days is necessary and appropriate to enable the Trustees to
24 accurately and effectively review all Claims, and file objections to Claims, if appropriate.

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WHEREFORE, the Trustees respectfully request that the Court enter an Order, in the form attached hereto as Exhibit "A," extending the time for the Trustees to file objections to Claims for 120 days to October 28, 2008.

Dated this 5th day of June, 2008.

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By 
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Todd A. Burgess

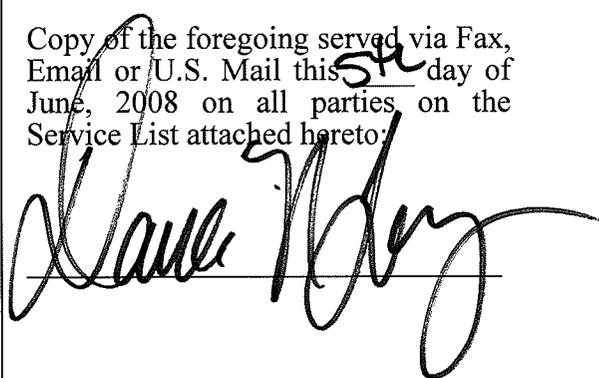
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First Magnus Litigation Trust dated April 30,
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Attorneys For Morris C. Aaron, Liquidating
Trustee, First Magnus Liquidating Trust Dated
April 30, 2008

Copy of the foregoing served via Fax,
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