

**In the Matter of:                   Estate of IFC Credit Corporation  
191 Waukegan Rd., Suite 315  
Northfield, IL 60093**

**AFFIDAVIT OF ERVIN M. DOUGLASS, PRESIDENT – DIAMOND LOGISTICS, INC.**

Comes now, Ervin M. Douglass, President and sole shareholder of Diamond Logistics, Inc., an Ohio corporation, and submits this sworn Affidavit in the above styled proceeding.

- 1) I am the sole owner and President of Diamond Logistics, Inc., 745 N. Wilson Rd., Columbus, Ohio 43204. Diamond Logistics is a small for-hire motor carrier serving the automotive industry since 1996.
- 2) In February 2006, I entered into a lease agreement with FIRSTCORP (IFC Credit Corporation dba FIRSTCORP) of Morton Grove, Illinois (Exhibit A). The lease term was forty nine (49) months. Since Diamond Logistics is a small business with few, if any, assets, I was requested to, and did, sign a personal guarantee, which was "GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS..."
- 3) At the end of the 49 months, the lease had a buyout of \$1.00.
- 4) The lease also contains what I am advised is an "Evergreen clause", which clause requires that Diamond Logistics/Lessee make the \$1.00 payment and advise IFC of the cancellation of the lease "...AT LEAST 90 DAYS, BUT NOT MORE THAN 120 DAYS PRIOR TO THE SCHEDULED TERMINATION OF THIS LEASE..." (see Paragraph "15. Renewal Term") Diamond Logistics did not timely confirm the termination, nor immediately pay the \$1.00 buyout.
- 5) Diamond Logistics continues to be billed for non-payment of rental charges for usage of the product after month 49, that is, after the initial lease was completed. Diamond Logistics believes that it is not responsible for any of these charges, and that the amount due should be reduced to zero, based upon any one of the following arguments.
  - a. Equity. As more specifically stated in the letter dated March 22, 2011 from our legal counsel, which is attached to the master cover letter, dated August 21, 2012 containing this Affidavit, the equity of a missed \$1.00 buyout provision is totally absent in the face of a \$75,000 penalty. (Exhibit B)
  - b. Also, as stated in the master cover letter, IFC sold/transferred all rental payments to Co-Activ Capital Partners. Also attached to this letter are documents from Co-Activ Capital Partners stating that all rental payments have been made and reflect the return of overpayments of the rental charges. This would seem to be proof positive of the completion of rental payments.
  - c. Illinois Law 815 ILCS 601, effective January 12, 2005 (also attached to the August 21, 2012 master letter) requires mandatory steps to be taken before an Evergreen clause can be enforceable. One of those requirements requires that



AUG-18-2010 09:17 From: THE SERVICE CENTER 2679604001

To: 614 274 9753

P.1/2

To: KICK SEXTON (FAX) 614-274-9753  
From: DEBI (267-960-4043)

APES

**CO-ACTIV™**  
CAPITAL PARTNERS  
Post Office Box 2165  
Bedford Park, IL 60499-2165

received 8/18/2010 by Rick

June 30, 2009

Diamond Logistics Inc  
745 North Willson Rd  
Columbus OH 43204

Attention: Ervin Douglass

**RE: PURCHASE OF YOUR IFC CREDIT CORPORATION CONTRACT**

Dear Lessee:

Please be advised that IFC Credit Corporation and/or one of its affiliated businesses has transferred your account to CoActiv Capital Partners, Inc. and we have assumed all servicing rights to your account. We have assigned a new account number to your lease as follows #400-22500601. Please reference this account number when making your future payments. CoActiv Capital Partners, Inc., located in Horsham PA is a financial services company, who is a premier provider of private label and vendor oriented lease financing (visit our website at [www.coactivcapital.com](http://www.coactivcapital.com) for more information).

Enclosed are the following documents:

- Assignment Letter from IFC Credit Corporation to CoActiv Capital Partners, Inc
- ACH Instructions
- Frequently Asked Questions

**PLEASE NOTE THAT ONLY ACCOUNT REFERENCED IN THE ENCLOSED ASSIGNMENT LETTER WAS AFFECTED. YOU MAY HAVE OTHER AGREEMENTS WITH IFC THAT ARE NOT AFFECTED BY THIS CHANGE.**

Please remember, all future payments should be sent to (be sure to include your account number):

**CoActiv Capital Partners  
Post Office Box 2165  
Bedford Park, IL 60499-2165**

CoActiv Capital Partners, Inc. strives to service our customers and looks forward to building a prosperous relationship with you. Should you have any questions, please call our customer service department at 267-960-4000 for assistance.

655 Business Center Drive, Horsham, PA 19044

Phone: 267-960-4000 Fax: 267-960-4001 [www.CoActivCapital.com](http://www.CoActivCapital.com)

Marubeni  
Group

08/18/2010 WED 10:59

[ J

**EXHIBIT**

**6**

tabbles

**CoActiv Capital Partners**

November 17, 2010

Your lease has reached maturity. Enclosed please find a refund check representing an overpayment made to your account.

If you have any questions, please contact our office.

655 Business Center Drive, Suite 250, Horsham, PA 19044

Phone: 267-960-4000 Fax: 267-960-4090