

MEMORANDUM

February 13, 2009

To: Official Committee of Unsecured Creditors (the “Committee”) of VeraSun Energy Corporation, et al. (the “Debtors”)  
From: Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”)  
Re: VeraSun Energy Corporation, et al. – Summary of Recently Filed Pleading

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**Motion of Debtors for Order Under Bankruptcy Code Sections 105, 361, 363 and 364 Approving the Debtors’ Insurance Premium Financing Agreements with First Insurance Funding Corp. and Authorizing Payments and Granting of Liens Thereunder (the “Motion”)**

By the Motion, the Debtors seek entry of an order approving two insurance premium financing agreements with First Insurance Funding Corp. (“FIFC”) and authorizing payments and liens required thereunder. Specifically, the Debtors seek (i) approval of an insurance premium financing agreement dated November 7, 2008 for the majority of their insurance premiums (the “General Financing Agreement”), and (ii) authority to enter into a separate insurance premium financing agreement for the Janesville facility (the “Janesville Finance Agreement” and, together with the General Financing Agreement, the “Financing Agreements”). Under the Financing Agreements, FIFC is required to pay in advance the annual premiums owed by the Debtors under the Insurance Policies (defined below) and, in return, the Debtors are required to pay an initial down payment to FIFC, followed by monthly installments. Pursuant to the General Financing Agreement the Debtors made a down payment of \$939,672.40 and financed a total of \$3,758,689.60 at a rate of 6.57% per annum, of which two monthly payments have already been made. Pursuant to the Janesville Financing Agreement, the Debtors propose to make a down payment of \$46,239.25 and finance a total of \$138,717.75 at a rate of 6.57% per annum, of which one monthly payment has already been made.

According to the Motion, the Debtors maintain various insurance policies (collectively, the “Insurance Policies”) in connection with the operation of their businesses and the management of their properties. The Insurance Policies include coverage for, among other things, workers’ compensation, automobile claims, real estate claims, fiduciary liability claims, claims for losses due to crime, directors and officers liability, certain general and excess liability claims and various property-related liabilities. The Debtors assert that maintenance of insurance coverage under the various Insurance Policies is essential to the continued operation of their business and is required under the United States Trustee’s Operating Instructions and Reporting Requirements for Chapter 11 Cases, the laws of the various states in which the Debtors operate, and the

Debtors' various financial agreements. The Debtors further assert that they seek approval of the Financing Agreements out of an abundance of caution, as the Financing Agreements, as well as the payments made and the liens granted thereunder, are transactions in the ordinary course of business for which Bankruptcy Court approval is not necessary.

In addition to seeking approval of the Financing Agreements, the Motion requests that FIFC shall be granted the following protections: (1) a superpriority administrative expense claim for obligations owed by the Debtors under the Financing Agreements; (2) a security interest in the Insurance Policies, as well as all return premiums and loss payments payable to the Debtors under the Insurance Policies (collectively, the "Policy Collateral") to secure the Debtors' remaining payment obligations under the Financing Agreements; provided that FIFC's security interests in the Policy Collateral are subject to any interest of a mortgagee or loss payee of the Debtors; and (3) if the Debtors fail to make any payments due under the Financing Agreements, relief from the automatic stay to foreclose on the Policy Collateral (subject to any mortgagee or loss payee interest) to enable FIFC to apply the proceeds of the Policy Collateral to indebtedness owed by the Debtors under the Financing Agreements.