

CAREY W P & CO LLC  
Form 10-Q  
November 07, 2008

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**UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D. C. 20549  
FORM 10-Q**

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended September 30, 2008**

**or**

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission File Number: 001-13779**

**W. P. CAREY & CO. LLC**

(Exact name of registrant as specified in its charter)

**Delaware**

(State of incorporation)

**13-3912578**

(I.R.S. Employer Identification No.)

**50 Rockefeller Plaza  
New York, New York**

(Address of principal executive offices)

**10020**

(Zip Code)

**Investor Relations (212) 492-8920  
(212) 492-1100**

(Registrant's telephone numbers, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Registrant has 40,023,222 Listed Shares, no par value, outstanding at November 3, 2008.

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\* The summarized consolidated financial statements contained herein are unaudited; however, in the opinion of management, all adjustments (consisting of normal recurring adjustments) necessary for a fair statement of such financial statements have been included.

***Forward Looking Statements***

This quarterly report on Form 10-Q, including Management's Discussion and Analysis of Financial Condition and Results of Operations in Item 2 of Part I of this report, contains forward-looking statements within the meaning of the federal securities laws. It is important to note that our actual results could be materially different from those projected

in such forward-looking statements. You should exercise caution in relying on forward-looking statements as they involve known and unknown risks, uncertainties and other factors that may materially affect our future results, performance, achievements or transactions. Information on factors which could impact actual results and cause them to differ from what is anticipated in the forward-looking statements contained herein is included in this report as well as in our other filings with the SEC, including but not limited to those described in Item 1A Risk Factors in our Form 10-K for the year ended December 31, 2007. We do not undertake to revise or update any forward-looking statements. Additionally, a description of our critical accounting estimates is included in the management's discussion and analysis section in our Form 10-K for the year ended December 31, 2007. There has been no significant change in our critical accounting estimates.

As used in this quarterly report on Form 10-Q, the terms we, us and our include W. P. Carey & Co. LLC, its consolidated subsidiaries and predecessors, unless otherwise indicated.

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**W. P. CAREY & CO. LLC**  
**PART I**  
**ITEM 1. FINANCIAL STATEMENTS**  
**CONSOLIDATED BALANCE SHEETS (UNAUDITED)**  
*(in thousands, except share and per share amounts)*

	<b>September 30, 2008</b>	<b>December 31, 2007 (NOTE)</b>
<b>Assets</b>		
Real estate, net	\$ 500,988	\$ 513,405
Net investment in direct financing leases	84,477	89,463
Equity investments in real estate and CPA <sup>®</sup> REITs	266,567	242,677
Operating real estate, net	75,311	73,189
Cash and cash equivalents	20,485	12,137
Due from affiliates	51,194	88,329
Intangible assets and goodwill, net	95,178	99,873
Other assets, net	30,654	34,211
 Total assets	 \$ 1,124,854	 \$ 1,153,284
 <b>Liabilities and Members' Equity</b>		
Liabilities:		
Non-recourse debt	\$ 255,478	\$ 254,051
Line of credit	73,500	62,700
Accounts payable, accrued expenses and other liabilities	44,001	59,076
Income taxes, net	60,641	65,152
Distributions payable	19,650	29,222
Settlement provision (Note 9)		29,979
 Total liabilities	 453,270	 500,180
 Minority interest in consolidated entities	 19,523	 18,833
 Commitments and contingencies (Note 8)		
Members' equity:		
Listed shares, no par value, 100,000,000 shares authorized; 40,024,035 and 39,216,493 shares issued and outstanding, respectively	771,283	748,584
Distributions in excess of accumulated earnings	(119,319)	(117,051)
Accumulated other comprehensive income	97	2,738
 Total members' equity	 652,061	 634,271
 Total liabilities and members' equity	 \$ 1,124,854	 \$ 1,153,284

The accompanying notes are an integral part of these consolidated financial statements.

Note: The consolidated balance sheet at December 31, 2007 has been derived from the audited consolidated financial statements at that date.

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**W. P. CAREY & CO. LLC**  
**CONSOLIDATED STATEMENTS OF INCOME (UNAUDITED)**  
*(in thousands, except share and per share amounts)*

	Three months ended September		Nine months ended September	
	30,	30,	30,	30,
	2008	2007	2008	2007
<b>Revenues</b>				
Asset management revenue	\$ 20,205	\$ 18,648	\$ 60,370	\$ 63,886
Structuring revenue	10,818	9,778	17,403	67,809
Wholesaling revenue	1,517		4,145	
Reimbursed costs from affiliates	11,303	3,422	32,749	10,141
Lease revenues	18,959	18,965	57,583	56,583
Other real estate income	3,834	3,764	10,261	9,879
	66,636	54,577	182,511	208,298
<b>Operating Expenses</b>				
General and administrative	(17,013)	(12,323)	(48,242)	(47,624)
Reimbursable costs	(11,303)	(3,422)	(32,749)	(10,141)
Depreciation and amortization	(6,395)	(6,083)	(18,765)	(19,555)
Property expenses	(1,815)	(2,282)	(5,555)	(5,069)
Impairment charge	(538)		(538)	
Other real estate expenses	(1,989)	(2,255)	(6,204)	(6,080)
	(39,053)	(26,365)	(112,053)	(88,469)
<b>Other Income and Expenses</b>				
Other interest income	752	1,288	2,193	5,530
Income from equity investments in real estate and CPA <sup>®</sup> REITs	2,272	8,945	10,917	13,312
Minority interest in income	(103)	(505)	(496)	(3,911)
Gain on sale of investment in direct financing lease	1,103		1,103	
(Loss) gain on sale of securities, foreign currency transactions and other, net	(1,566)	1,029	3,093	1,384
Interest expense	(5,004)	(5,269)	(14,579)	(15,271)
	(2,546)	5,488	2,231	1,044
Income from continuing operations before income taxes	25,037	33,700	72,689	120,873
Provision for income taxes	(5,839)	(11,396)	(20,405)	(48,813)
Income from continuing operations	19,198	22,304	52,284	72,060
<b>Discontinued Operations</b>				
Income from operations of discontinued properties		422	3,863	2,534

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Gain on sale of real estate, net				962
Impairment charges		(2,317)		(2,317)
(Loss) income from discontinued operations		(1,895)	3,863	1,179
<b>Net Income</b>	\$	19,198	\$	20,409
	\$		\$	56,147
	\$		\$	73,239
<b>Basic Earnings Per Share</b>				
Income from continuing operations	\$	0.49	\$	0.58
(Loss) income from discontinued operations				1.34
				\$
				1.89
		(0.05)		0.10
				0.03
Net income	\$	0.49	\$	0.53
	\$		\$	1.44
	\$		\$	1.92
<b>Diluted Earnings Per Share</b>				
Income from continuing operations	\$	0.48	\$	0.58
(Loss) income from discontinued operations				1.31
				\$
				1.87
		(0.05)		0.10
				0.03
Net income	\$	0.48	\$	0.53
	\$		\$	1.41
	\$		\$	1.90
<b>Weighted Average Shares Outstanding</b>				
Basic		39,294,889		38,298,979
				39,125,329
				38,117,280
Diluted		40,299,073		39,601,853
				40,293,094
				39,718,522
<b>Distributions Declared Per Share</b>	\$	0.492	\$	0.472
	\$		\$	1.461
	\$		\$	1.401

The accompanying notes are an integral part of these consolidated financial statements.

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**W. P. CAREY & CO. LLC**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (UNAUDITED)**  
*(in thousands)*

	Three months ended		Nine months ended	
	September 30,		September 30,	
	2008	2007	2008	2007
<b>Net Income</b>	\$ 19,198	\$ 20,409	\$ 56,147	\$ 73,239
<b>Other Comprehensive Income</b>				
Change in unrealized appreciation on marketable securities	25	(31)	(14)	(23)
Unrealized (loss) gain on derivative instrument	(315)		184	
Foreign currency translation adjustment	(6,147)	1,507	(2,811)	2,024
	(6,437)	1,476	(2,641)	2,001
<b>Comprehensive Income</b>	\$ 12,761	\$ 21,885	\$ 53,506	\$ 75,240

The accompanying notes are an integral part of these consolidated financial statements.

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**W. P. CAREY & CO. LLC**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**  
*(in thousands)*

	<b>Nine months ended September</b>	
	<b>30,</b>	
	<b>2008</b>	<b>2007</b>
<b>Cash Flows Operating Activities</b>		
Net income	\$ 56,147	\$ 73,239
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization including intangible assets and deferred financing costs	20,412	21,140
Income from equity investments in real estate and CPA <sup>®</sup> REITs in excess of distributions received	(1,224)	(9,269)
Gain on sale of direct financing lease	(1,103)	
Gain on sale of real estate, net		(962)
Minority interest in income	496	4,027
Straight-line rent adjustments	1,718	2,045
Management income received in shares of affiliates	(30,237)	(43,415)
Unrealized loss (gain) on foreign currency transactions, warrants and securities	324	(1,279)
Realized gain on foreign currency transactions, warrants and securities	(1,567)	(105)
Impairment charges	538	2,317
Stock-based compensation expense	5,894	3,795
Decrease in deferred acquisition revenue received	46,695	16,164
Increase in structuring revenue receivable	(8,845)	(50,253)
(Decrease) increase in income taxes, net	(6,527)	8,465
Decrease in settlement provision	(29,979)	
Net changes in other operating assets and liabilities	(5,250)	(1,016)
<b>Net cash provided by operating activities</b>	<b>47,492</b>	<b>24,893</b>
<b>Cash Flows Investing Activities</b>		
Distributions received from equity investments in real estate and CPA <sup>®</sup> REITs in excess of equity income	7,566	24,358
Capital contributions to equity investments	(1,361)	
Purchases of real estate and equity investments in real estate	(184)	(40,845)
Capital expenditures	(8,355)	(11,768)
Loan to affiliate		(8,676)
Proceeds from repayment of loan to affiliate		8,676
VAT refunded on purchase of real estate	3,189	
Proceeds from sales of real estate and securities	5,062	6,014
Funds placed in escrow in connection with the sale of property		(3,315)
Funds released from escrow in connection with the sale of property	636	
Payment of deferred acquisition revenue to affiliate	(120)	(524)
<b>Net cash provided by (used in) investing activities</b>	<b>6,433</b>	<b>(26,080)</b>

**Cash Flows Financing Activities**

Distributions paid	(67,987)	(53,432)
Contributions from minority interests	1,957	1,181
Distributions to minority interests	(1,659)	(1,295)
Scheduled payments of mortgage principal	(7,196)	(13,854)
Proceeds from mortgages and credit facilities	122,968	150,383
Prepayments of mortgage principal and credit facilities	(102,427)	(70,590)
Repayment of loan from affiliates	(7,569)	
Payment of financing costs	(375)	(1,317)
Proceeds from issuance of shares	21,242	4,532
Excess tax benefits associated with stock-based compensation awards	697	1,352
Repurchase and retirement of shares	(5,134)	(21,104)
<b>Net cash used in financing activities</b>	<b>(45,483)</b>	<b>(4,144)</b>

**Change in Cash and Cash Equivalents During the Period**

Effect of exchange rate changes on cash	(94)	291
Net increase (decrease) in cash and cash equivalents	8,348	(5,040)
Cash and cash equivalents, beginning of period	12,137	22,108
Cash and cash equivalents, end of period	\$ 20,485	\$ 17,068

The accompanying notes are an integral part of these consolidated financial statements.

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**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS*****Note 1. Business***

We provide long-term sale-leaseback and build-to-suit transactions for companies worldwide and manage a global investment portfolio. We invest primarily in commercial properties that are each triple-net leased to single corporate tenants, domestically and internationally, and earn revenue as the advisor to publicly owned, non-traded real estate investment trusts (CPA® REITs) sponsored by us that invest in similar properties. We are currently the advisor to the following CPA® REITs: Corporate Property Associates 14 Incorporated (CPA:14), Corporate Property Associates 15 Incorporated (CPA:15), Corporate Property Associates 16 Global Incorporated (CPA:16 Global) and Corporate Property Associates 17 Global Incorporated (CPA:17 Global). As of September 30, 2008, we own and manage over 850 commercial properties domestically and internationally, including our own portfolio. Our own portfolio is comprised of our full or partial ownership interest in 187 commercial properties, substantially all of which are net leased to 84 tenants, with a total of approximately 18 million square feet (on a pro rata basis) and an occupancy rate of approximately 95%.

**Primary Business Segments**

*Investment Management* We provide services to the CPA® REITs in connection with structuring and negotiating investment and debt placement transactions (structuring revenue) and provide on-going management of their portfolios (asset-based management and performance revenue). Asset-based management and performance revenue for the CPA® REITs are determined based on real estate related assets under management. As funds available to the CPA® REITs are invested, the asset base from which we earn revenue increases. In addition, we also receive a percentage of distributions of available cash from CPA®:17 Global's operating partnership. We may also earn incentive and disposition revenue and receive other compensation in connection with providing liquidity alternatives to CPA® REIT shareholders.

*Real Estate Ownership* We own and invest in commercial properties globally that are then leased to companies, primarily on a triple-net leased basis. We may also invest in other properties on an opportunistic basis.

***Note 2. Basis of Presentation***

Our unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X of the United States Securities and Exchange Commission (SEC). Accordingly, they do not include all information and notes required by accounting principles generally accepted in the United States of America for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair statement of the results of the interim periods presented have been included. The results of operations for the interim periods are not necessarily indicative of results for the full year. These financial statements should be read in conjunction with our annual report on Form 10-K for the year ended December 31, 2007.

**Basis of Consolidation**

The consolidated financial statements include all our accounts and our majority-owned and/or controlled subsidiaries. The portion of these entities not owned by us is presented as minority interest as of and during the periods consolidated. All material inter-entity transactions have been eliminated.

When we obtain an economic interest in an entity, we evaluate the entity to determine if the entity is deemed a variable interest entity (VIE) and if we are deemed to be the primary beneficiary, in accordance with Financial Accounting Standards Board (FASB) Interpretation No. 46R, Consolidation of Variable Interest Entities (FIN 46R). We consolidate (i) entities that are VIEs and of which we are deemed to be the primary beneficiary and (ii) entities that are non-VIEs that we control. Entities that we account for under the equity method (i.e., at cost, increased or decreased by our share of earnings or losses, less distributions) include (i) entities that are VIEs and of which we are not deemed to be the primary beneficiary and (ii) entities that are non-VIEs that we do not control but over which we have the ability to exercise significant influence. We will reconsider our determination of whether an entity is a VIE and who the primary beneficiary is if certain events occur that are likely to cause a change in the original determinations.

In determining whether we control a non-VIE, our consideration includes using the Emerging Issues Task Force ( EITF ) Consensus on Issue No. 04-05, Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights ( EITF 04-05 ). The scope of EITF 04-05 is limited to limited partnerships or similar entities that are not variable interest entities under FIN 46R. The EITF reached a consensus that the general partners in a limited partnership (or similar entity) are presumed to control the entity regardless of the level of their ownership and,

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**Table of Contents****Notes to Consolidated Financial Statements**

accordingly, may be required to consolidate the entity. This presumption may be overcome if the agreements provide the limited partners with either (a) the substantive ability to dissolve (liquidate) the limited partnership or otherwise remove the general partners without cause or (b) substantive participating rights. If it is deemed that the limited partners' rights overcome the presumption of control by a general partner of the limited partnership, the general partner shall account for its investment in the limited partnership using the equity method of accounting.

In February 2007, we formed CPA<sup>®</sup>:17 Global, an affiliated REIT. In November 2007, the SEC declared effective CPA<sup>®</sup>:17 Global's registration statement to raise up to \$2 billion of its common stock in an initial public offering, plus up to an additional \$475 million of its common stock under its distribution reinvestment and stock purchase plan. In December 2007, we commenced fundraising for CPA<sup>®</sup>:17 Global; however, no shares were issued until January 2008. Therefore, as of and during the period ended December 31, 2007, the financial results of CPA<sup>®</sup>:17 Global were included in our consolidated financial statements, as we owned all of CPA<sup>®</sup>:17 Global's outstanding common stock. Beginning in 2008, we have accounted for our interest in CPA<sup>®</sup>:17 Global under the equity method of accounting.

In March 2008, we formed Carey Watermark Investors Incorporated ( Carey Watermark ). We filed a registration statement on Form S-11 with the SEC during March 2008 to raise up to \$1 billion of common stock of Carey Watermark in an initial public offering, plus up to an additional \$237.5 million of its common stock under a distribution reinvestment and stock purchase plan, and currently expect to commence fundraising in 2009. As of and during the three and nine months ended September 30, 2008, the financial statements of Carey Watermark, which had no operations during these periods, were included in our consolidated financial statements, as we owned all of Carey Watermark's outstanding common stock.

**Out-of-Period Adjustment**

During the third quarter of 2007, we determined that a longer schedule of depreciation/amortization of assets in certain of our equity method investment holdings should appropriately be applied to reflect the lives of the underlying assets rather than the expected holding period of these investments. We concluded that these adjustments were not material to any prior periods' consolidated financial statements. We also concluded that the cumulative adjustment was not material to the third quarter of 2007, nor to the year ended December 31, 2007. As such, the cumulative effect was recorded in the consolidated statements of income as a one-time cumulative out-of-period adjustment in the third quarter of 2007. The effect of this adjustment for the three and nine months ended September 30, 2007 was to increase income from continuing operations before income taxes by approximately \$5.7 million and \$4.2 million, respectively, and net income by approximately \$4.8 million and \$3.5 million, respectively. There was no associated net impact on our cash flow from operations for the nine months ended September 30, 2007.

**Reclassifications and Revisions**

Certain prior period amounts have been reclassified to conform to the current period financial statement presentation. The consolidated financial statements included in this Form 10-Q have been retrospectively adjusted to reflect the disposition (or planned disposition) of certain properties as discontinued operations for all periods presented.

**Adoption of New Accounting Pronouncements****SFAS 157**

In September 2006, the FASB issued Statement of Financial Accounting Standards ( SFAS ) No. 157, Fair Value Measurements ( SFAS 157 ). SFAS 157 provides guidance for using fair value to measure assets and liabilities. SFAS 157 clarifies the principle that fair value should be based on the assumptions that market participants would use when pricing the asset or liability and applies whenever other standards require assets or liabilities to be measured at fair value. SFAS 157 also provides for certain disclosure requirements, including, but not limited to, the valuation techniques used to measure fair value and a discussion of changes in valuation techniques, if any, during the period. We adopted SFAS 157 as required on January 1, 2008, with the exception of nonfinancial assets and nonfinancial liabilities that are not recognized or disclosed at fair value on a recurring basis, for which the effective date is our 2009 fiscal year. The initial application of SFAS 157 did not have a material effect on our financial position and results of operations and we are currently evaluating the impact, if any, that the remaining application of SFAS 157 will have on our financial position and results of operations.

SFAS 157 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include: Level 1, defined as observable inputs such as quoted prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions. The following table sets forth our financial assets that were accounted for at fair value on a recurring basis as of September 30, 2008 (in thousands):

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Description	Fair Value Measurements at Reporting Date Using:			
	September 30, 2008	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
Assets:				
Marketable equity securities	\$ 1,643	\$	\$	\$ 1,643
Derivative assets	189		189	
	\$ 1,832	\$	\$ 189	\$ 1,643

Description	Fair Value Measurements Using Significant Unobservable Inputs (Level 3 only)					
	Marketable			Marketable		
	Equity Securities	Derivative Assets	Total Assets	Equity Securities	Derivative Assets	Total Assets
	Three months ended September 30,			Nine months ended September 30,		
Beginning balance	\$ 1,652	\$	\$ 1,652	\$ 1,494	\$ 204	\$ 1,698
Total gains or losses (realized/unrealized):						