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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

Judge John K. Olson

In Re:

Case No. 08-10928-BKC-JKO

TOUSA, INC.,

Debtor.

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ALL MOTIONS ON THE CALENDAR  
(844)(848)(850)(851)(852)(857)(762)(880)(231)

May 7, 2008

The above entitled cause came on for hearing before the HONORABLE JOHN K. OLSON, one of the Judges in the UNITED STATES BANKRUPTCY COURT, in and for the SOUTHERN DISTRICT OF FLORIDA, at 299 East Broward Boulevard, Fort Lauderdale, Broward County, Florida, on May 7, 2008, commencing on or about 9:30 a.m., and the following proceedings were had:

Reported by: Jacquelyn Ann Jones, Court Reporter



1 APPEARANCES:

2 BERGER SINGERMAN, P.A.  
By: JORDI GUSO, ESQUIRE  
3 On behalf of the debtors

4 KIRKLAND & ELLIS, LLP  
By: PAUL BASTA, ESQUIRE, and  
5 NATASHA LABOVITZ, ESQUIRE, and  
JOSHUA SUSSBERG, ESQUIRE  
6 On behalf of the debtors

7 AKIN GUMP STRAUSS HAUER & FELD, LLP  
By: DANIEL H. GOLDEN, ESQUIRE  
8 On behalf of the official committee

9 BILZIN SUMBERG BAENA PRICE & AXELROD, LLP  
By: SCOTT L. BAENA, ESQUIRE  
10 On behalf of the second lien holders

11 BRACEWELL & GIULIANI  
By: MATTHEW I. KRAMER, ESQUIRE, and  
12 KURT MAYR, ESQUIRE  
On behalf of the second lien holders

13 CHADBOURNE & PARKE, LLP  
14 By: JOSEPH H. SMOLINSKY, ESQUIRE  
On behalf of CitiBank North America, Inc.

15 SMITH HULSEY & BUSEY  
16 By: STEPHEN D. BUSEY, ESQUIRE  
On behalf of CitiBank North America, Inc.

17 STEARNS WEAVER MILLER WEISSLER  
18 ALHADEFF & SITTERSON, P.A.  
By: PATRICIA ANN REDMOND, ESQUIRE  
19 On behalf of the committee of unsecured creditors

20 GENOVESE JOBLOVE & BATTISTA  
By: PAUL BATTISTA, ESQUIRE  
21 On behalf of Aurelius GSO and Carlisle

22 SHUTTS & BOWEN  
By: ANDREW BRUMBY, ESQUIRE  
23 On behalf of Oakmont Grove Venture, LLC

24

25

1 HALEY SINAGRA  
2 By: JIM WEBB, ESQUIRE, and  
3 PAULA TOLAND, ESQUIRE  
4 On behalf of AEL Financial

4 FOWLER WHITE  
5 By: ALAN J. PERLMAN, ESQUIRE  
6 On behalf of Superior Homes and Investments

6 OFFICE OF THE UNITED STATES TRUSTEE  
7 By: STEVEN SCHNEIDERMAN, ESQUIRE

7 APPEARING TELEPONICALLY:

8 WEIL GOTSHAL & MANGES  
9 By: ROBERT LEMONS, ESQUIRE, and  
10 KELLY RODEN, ESQUIRE  
11 On behalf of GMAC Model Homes Finance, LLC

11 PROCOPIO CORY HARGREAVES & SAVITCH  
12 By: GERALD P. KENNEDY, ESQUIRE  
13 On behalf of SC Design

13 ECKERT SEAMANS  
14 By: KAREN LEE TURNER, ESQUIRE  
15 On behalf of Zurich American Insurance Company

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1 THE COURT: Please be seated. I understand that  
2 there's some who wish to appear by phone. Jedd, do  
3 you want to get me to do this the right way.

4 (The Court contacted parties by telephone.)

5 THE COURT: This is Judge Olson in the Touse  
6 matter. I'm going to first take appearances of anyone  
7 in the courtroom, and then I'd like appearances of  
8 anyone who is on the phone.

9 MS. LABOVITZ: Your Honor, Natasha Labovitz  
10 of Kirkland and Ellis for the debtor, joined by my  
11 colleagues Paul Basta and Josh Sussberg, and by my  
12 co-counsel, Jordi Guso.

13 MR. GUSO: Good morning, Your Honor.

14 THE COURT: Good morning to all.

15 MS. LABOVITZ: Of the Berger Singerman  
16 firm.

17 MR. GOLDEN: Daniel Golden, Akin, Gump,  
18 Strauss, Hauer, Feld, counsel for the official  
19 creditors' committee. Good morning, Your Honor.

20 THE COURT: Good morning.

21 MR. BAENA: May it please the Court. Good  
22 morning, Your Honor. Scott Baena, Matt Kramer, of  
23 Bilzen Sumberg, and Kurt Mayr of Bracewell Giuliani,  
24 on behalf of the second lien holders.

25 THE COURT: Good morning.

1 MS. REDMOND: Good morning, Your Honor.  
2 Patricia Redmond, Stearns Weaver, local counsel for  
3 Mr. Golden.

4 THE COURT: Good morning.

5 MR. BATTISTA: Judge, good morning. Paul  
6 Battista with Genovese Joblove and Battista on behalf  
7 of the Aurelius GSO and Carlisle senior and  
8 subordinate note holders.

9 MR. SMOLINSKY: Good morning, Your Honor.  
10 Joseph Smolinsky from Chadbourne and Parke on behalf  
11 of CNAI as agent, and I have with me Stephen Busey,  
12 Smith, Hulsey, Busey on behalf of pre-petition first  
13 lien agent.

14 THE COURT: Good morning.

15 MR. BRUMBY: Good morning, Your Honor. Andy  
16 Brumby of Shutts and Bowen. I'm here on behalf of  
17 Oakmont Grove Venture, LLC.

18 THE COURT: Mr. Brumby, nice to have you  
19 join this party.

20 MR. BRUMBY: Likewise, Judge.

21 MR. WEBB: Good morning. Jim Webb with  
22 Haley Sinagra and Paula Tollin for creditor, AEL  
23 Financial.

24 THE COURT: Mr. Webb, good morning.

25 MR. PERLMAN: Good morning, Judge. Alan

1 Perlman on behalf of Superior Homes and Investments.

2 THE COURT: Mr. Perlman, I think this is  
3 your first venture into this case, isn't it?

4 MR. PERLMAN: Yes, it is.

5 MR. SCHNEIDERMAN: Good morning again, Your  
6 Honor. Steven Schneiderman for the U.S. Trustee.

7 THE COURT: And on the phone. Anyone here  
8 on the phone?

9 MS. RODEN: Good morning, Your Honor. Kelly  
10 Roden (phonetic) and Robert Lemons from Weil Gotshal  
11 and Manges, on behalf of GMAC Model Homes Finance,  
12 LLC.

13 THE COURT: Good morning.

14 MR. KENNEDY: Gerald Kennedy, Procopio,  
15 Cory, Hargreaves and Savitch on behalf of SC Design,  
16 creditor.

17 THE COURT: Thank you. Anyone else? Okay.

18 Well, we were a little delayed getting  
19 started this morning because of the request --

20 MS. TURNER: Your Honor, Karen Lee Turner,  
21 Eckert Seamans, on behalf of Zurich American Insurance  
22 Company.

23 THE COURT: Ms. Turner, if you want to make  
24 an appearance, if you could do that when I ask for  
25 them, I'd appreciate that.

1           Anyone else on the phone? I shall assume  
2 not.

3           We delayed this commencement of this hearing  
4 somewhat because the debtors had asked for an  
5 in-camera status conference to discuss what they  
6 termed some confidential business issues relating to  
7 the case and a few other matters.

8           Present at that meeting were representatives  
9 of the debtor, of the committee, CitiBank, the first  
10 and second lien holders, and other significant  
11 creditors in the case.

12           I can tell you that while there was a little  
13 bit of information shared that is not public, it is  
14 not -- it was not a particularly significant meeting,  
15 and so I will probably have nothing more to say about  
16 that.

17           The transcript of that discussion will be  
18 transcribed under a directive I made at the conclusion  
19 of that status conference. Copies of the transcript  
20 will be available only to those who were in attendance  
21 at that meeting, subject to a motion by any party in  
22 interest to open the transcript, and if such a motion  
23 is timely filed, I would consider that at the May 22nd  
24 hearing, which is the next substantive hearing  
25 scheduled in the Touse case, the next hearing of any

1 sort of which I'm aware scheduled in the Tousa case.

2 Finally, I will advise everyone here that  
3 commencing the hearing on May 22nd, hearings in this  
4 case will be in courtroom 301 on the third floor of  
5 this building. And I don't expect to be itinerant  
6 judge starting that week.

7 So with that said, Ms. Labovitz.

8 MS. LABOVITZ: Your Honor, congratulations  
9 on the courtroom almost being finished.

10 We'll start with item 2 on the agenda, which  
11 is the debtors' deferred compensation motion. This  
12 motion was filed in February, but has been several  
13 times consensually adjourned while the debtors  
14 provided information to the creditors' committee, the  
15 United States Trustee, and other parties in interest.

16 And while the debtor continued to evaluate  
17 the request to pay certain deferred compensation in  
18 light of their efforts to develop a revised business  
19 plan, and determine, among other things, which  
20 employees would remain with the company going  
21 forward.

22 At this time the debtors have completed  
23 their business plan and shared that information with  
24 creditors, have determined, based on their revised  
25 business plan and some decisions about what was

1 necessary to preserve the ongoing business, based on  
2 natural attrition during the chapter 11 cases, and  
3 Judge, I'll explain in a moment that there's a  
4 significant retention problem, and based on a  
5 reduction in force program that the company is  
6 implementing in connection with the revised business  
7 plan, that the motion should go forward.

8           And Judge, the company believes there's a  
9 critical need to pay the deferred compensation  
10 highlighted in the motion, but that the amount that  
11 should be paid is significantly less than the 4  
12 million dollars that was initially proposed. It's now  
13 approximately 1.2 million dollars.

14           With that background, let me step back and  
15 highlight some of the key facts underlying the motion.  
16 As the Court has heard before, the debtors'  
17 compensation system in the ordinary course included a  
18 relatively small base salary for certain employees,  
19 and a fairly significant deferred compensation portion  
20 of the salary. Some of that paid quarterly to certain  
21 employees, mostly in the corporate headquarters -- or  
22 sorry, to certain employees, I may be mixing up  
23 whether it's at headquarters or in the field, and some  
24 of it paid annually.

25           In the ordinary course of business deferred

1 compensation for either 2007 for the annual people, or  
2 for the last quarter of 2007 for the quarterly people,  
3 would have been paid on February 15th, two weeks after  
4 these cases were filed. That was a pre-petition  
5 claim, Your Honor, so it hasn't been honored.

6 The debtors now are asking to pay this 2007  
7 compensation, not as a retention plan, and I want to  
8 highlight that for the record, because it's been the  
9 subject of some of the discussions with the parties in  
10 interest, not as a retention plan, this was not  
11 something that was developed in the chapter 11 cases  
12 in order to incent employees to stay with the company,  
13 rather this is a payment of a pre-petition claim.

14 And the reason it's necessary to pay the  
15 pre-petition claim, which we would suggest satisfies  
16 the standard under section 363(b) for doing so, is  
17 that employees have relied on this, not as a promise  
18 in a chapter 11 case, but as their 2007 compensation  
19 that they have been expecting to have paid on February  
20 15th.

21 The fact that they weren't paid a portion of  
22 their compensation is distracting to the employees,  
23 it's caused many employees to leave already, and may  
24 in fact, cause others to leave in the future, and the  
25 debtors believe that paying this compensation now is

1 important in order to gain the confidence and retain  
2 the confidence of these critical employees.

3 All the more so, Judge, because this motion  
4 was filed in February, and as the pages have fallen  
5 off the calendar it's now May. Employees have been  
6 waiting for quite some time to get to a resolution,  
7 and we believe it's important that we get to that  
8 resolution now.

9 The 1.2 million dollar amount has been  
10 shared with the creditor constituencies. I believe  
11 that the motion is consensual.

12 We have worked to clarify language in the  
13 revised order to make clear that, at the request of  
14 the United States Trustee, that in addition to the 1.2  
15 million, the debtors will also pay related taxes and  
16 other required obligations.

17 Judge, I think those are probably post  
18 petition obligations, but the debtor could be required  
19 to pay any of them, but at the request of the U.S.  
20 Trustee we highlighted that in the order.

21 And with that, I believe that the motion is  
22 consensual that all the creditor constituencies agree  
23 that the amount should be paid, and must be paid to  
24 maintain the business. But if the Court has any  
25 questions, I'd be happy to answer them.

1 THE COURT: Of the 1.2 million dollars, what  
2 figure represents what would be priority claims?

3 MS. LABOVITZ: The amount subject to this  
4 motion, Your Honor, would not be priority claim based  
5 at all. I say that because the first day order that  
6 the Court entered regarding employee compensation  
7 authorized the payment of this deferred compensation  
8 up to, I think a \$10,000 level.

9 So maybe for some people that 2,500 extra  
10 would be priority claims. But the vast majority of  
11 anything that would be priority claims has already  
12 been authorized by separate motion.

13 So Your Honor, the remaining 1.2 million  
14 would need to be approved under the section 363(b)  
15 standard of being critical to maintain the business  
16 operations in the case.

17 THE COURT: Okay. Anyone else wish to be  
18 heard?

19 MR. GOLDEN: Thank you, Your Honor.

20 Very briefly, the committee, principally  
21 through its financial advisor, did work closely with  
22 the debtors to try and see if a consensual resolution  
23 could be reached. We did believe when the motion was  
24 originally filed that we had a sense that it was  
25 overly expansive in its scope.

1           Given the fact that we were confident that  
2 the debtor would be undergoing some kind of revised  
3 business plan, we wanted to make sure the business  
4 plan set before you made a final determination as to  
5 who and in what amounts people should be paid portions  
6 of their 2007 deferred compensation.

7           This is a process that has actually worked  
8 well between the debtors and the committee. We've  
9 gotten the number down -- it wasn't necessarily the  
10 goal to get it down, but to get it right, but the  
11 number has come down significantly.

12           And there is the added feature that the  
13 payments will be paid over time, with a third paid by  
14 June 15th, a third paid by September 15th, and the  
15 final third paid within 30 days after the effective  
16 date of the plan.

17           So I think it aligns the interest of the  
18 employees with the company. It aligns the interest of  
19 the committee with the company. So as revised, we  
20 fully support the motion.

21           THE COURT: Mr. Schneiderman.

22           MR. SCHNEIDERMAN: Yes, Your Honor.

23           The only reason I rise is because at the  
24 last hearing I was before Your Honor, we had discussed  
25 this issue, and we wanted to make sure that none of

1 this, as Ms. Labovitz indicated, was under a retention  
2 plan.

3 Ms. Labovitz and her team have provided us  
4 historical payments going back, I think at least three  
5 years, showing these deferred compensation matters and  
6 payments. There were no insiders that were being  
7 paid. They have been deleted out of the list, and we  
8 had no further comments on this motion. Thank you.

9 THE COURT: Okay. Thank you. Does anyone  
10 else wish to be heard?

11 MR. SMOLINSKY: Your Honor, Joe Smolinsky.

12 Just to note that we have no objection to  
13 the revised schedule.

14 THE COURT: Thank you. Anyone else? Very  
15 good.

16 I'll grant the motion.

17 MS. LABOVITZ: Thank you, Judge.

18 And just for the record, because it's been a  
19 long time since the motion was filed, I would note  
20 that the factual background underlying the assertions  
21 made in the motion, and much of what was said in court  
22 today, was included in the declaration of Tommy  
23 McCaden (phonetic), which was filed on the very first  
24 day of these chapter 11 cases. So since it's been a  
25 long time, I thought it important to link that back.

1 THE COURT: Thank you very much.

2 MS. LABOVITZ: Judge, the next motion is  
3 another one that's been a perennial on the docket.  
4 It's been deferred a couple of times, but we have a  
5 final order to present to the Court today.

6 My colleague, Josh Sussberg, will present  
7 that.

8 MR. SUSSBERG: Good morning, Your Honor.

9 THE COURT: Good morning, Mr. Sussberg.

10 MR. SUSSBERG: This is item number 3 on the  
11 agenda, and this is the motion to authorize insurance  
12 payment.

13 If you recall, we filed a motion back on the  
14 25th of March, which was heard on the hearing on the  
15 9th, and the Court granted interim relief from the  
16 automatic stay to the extent the stay was applicable  
17 to allow one of the debtors' insurers, under several  
18 insurance policies covering these notes, to advance  
19 defenses costs during the pendency of the securities  
20 litigation.

21 The interim order permitted costs that were  
22 incurred through the end of March. That total number  
23 is approximately 1.2 million.

24 The committee was evaluating the policies at  
25 the time, and requested that we seek interim approval

1 back in the beginning of April, and they are  
2 continuing to review the insurance policies, as well  
3 as the securities litigation. And we are continuing  
4 to discuss with the committee and other parties  
5 whether it's appropriate at this time to seek an  
6 extension of the automatic stay to cover the entire  
7 securities litigation.

8 At this time we've agreed with the committee  
9 to permit the payment of additional defense costs in  
10 an amount not to exceed \$750,000. That's without  
11 prejudice to further requests upon motion and order of  
12 the court for payment of additional defense costs.

13 We have this memorialized in a final order,  
14 which we will submit and upload to Your Honor's docket  
15 today.

16 THE COURT: Very good. Does anyone else  
17 wish to be heard in connection with the further  
18 funding of D&O litigation?

19 MR. GOLDEN: Yes, Your Honor.

20 Mr. Sussberg is right, this is an active  
21 matter that the committee is investigating. The  
22 investigation goes into a couple of areas.

23 One is, are there estate claims that can be  
24 commenced against the company's officers and directors  
25 that can be implicated by the insurance policy that's

1 being covered, or being -- which is the subject of  
2 this motion.

3 It was a claims made policy for claims that  
4 were incurred essentially during calendar year 2006.  
5 Obviously, there was no estate in 2006, so we have to  
6 try and determine whether there is a claim of the  
7 estate that can relate back to the Durgan action.

8 THE COURT: Is there an insured, risk  
9 insured exclusion under the policy?

10 MR. GOLDEN: I believe that there is, and  
11 we're working through that issue, Your Honor.

12 THE COURT: The 11th Circuit hasn't made it  
13 particularly easy for you.

14 MR. GOLDEN: That's correct, Your Honor.

15 We understand that the posture of the Durgan  
16 action is that a motion to dismiss is likely to be  
17 filed before -- it's been filed, and likely to be  
18 heard.

19 In large part that was a compelling  
20 rationale for the committee to agree to additional  
21 expenditure of \$750,000. We are hopeful that this  
22 matter will end with the granting of the motion to  
23 dismiss.

24 So we were prepared to allow this additional  
25 \$750,000 to finish up all of the proceedings in

1 connection with the motion to dismiss.

2 If the motion to dismiss is not granted, we  
3 are going to take a fresh look at it. We've had  
4 discussions with the company that maybe the better  
5 course of action would be to seek to expand the  
6 automatic stay to cover these officers and directors  
7 so we don't further deplete this particular insurance  
8 policy. But as stated, the committee supports the  
9 further expenditure.

10 THE COURT: Okay. Anyone else? Then I will  
11 grant the motion.

12 MR. SUSSBERG: Thank you, Your Honor.

13 Item number 4 on the agenda is the motion by  
14 ADL Financial to compel the debtor to accept or reject  
15 two equipment leases for construction trailers that  
16 Tousa Homes leases for use at various job sites.

17 I know Mr. Webb is here on behalf of AL  
18 Financial today. I think this is a relatively  
19 straightforward matter, Your Honor. As Ms. Labovitz  
20 will get to later on in the agenda, the debtors have  
21 been in the process of analyzing various executory  
22 contracts and unexpired leases to determine whether or  
23 not there is an ongoing benefit to the estate by  
24 continuing to operate under those leases and  
25 contracts, and in fact, would determine to reject

1 certain contracts and certain leases.

2 One lease that we had determined to reject  
3 was in fact, the AL Financial construction site  
4 leases, and we were prepared to go ahead to do that  
5 when this motion was filed.

6 So we've reached out to Mr. Webb and agreed  
7 upon a consensual order that that the committee has  
8 also signed off on, which grants the rejection of the  
9 two leases, and affords AL Financial the ability to  
10 file a proof of claim within 30 days from the entry of  
11 the order.

12 THE COURT: Very good, Mr. Sussberg.  
13 Mr. Webb, anything you want to tell me?

14 MR. WEBB: No, Your Honor. Mr. Sussberg's  
15 recitation sounds accurate.

16 THE COURT: Okay. Don't let the 30 days  
17 run.

18 MR. WEBB: Thank you very much.

19 THE COURT: I'll grant the motion.

20 MS. LABOVITZ: Your Honor, I'll continue  
21 with the theme of rejecting contracts.

22 Item number 5 on the agenda is an omnibus  
23 motion to reject certain leases and executory  
24 contracts. Judge, as part of the business plan  
25 process that I described earlier, the debtors have

1     been both reviewing their business operations and  
2     aggressively trying to cut overhead costs and other  
3     costs of the business.

4             As part of that effort, and I think, Judge,  
5     you'll see that this is a first wave, the debtors have  
6     identified approximately one hundred leases and  
7     contracts that aren't needed for ongoing business  
8     operations.

9             The contracts cover certain advertising  
10    contracts that just aren't advantageous for the  
11    debtor. Certain equipment leases, certain model homes  
12    that had been used as showrooms, some office space and  
13    some storage space, some of which hadn't been used and  
14    wasn't necessary for operations, even pre-petition,  
15    and some of which is being further trimmed at this  
16    time.

17            Rather than do individual motions for all  
18    one hundred, we thought we'd try to streamline things  
19    and do them all at once. We've received no  
20    objections.

21            I would like to highlight for the record  
22    that after the motion was filed, the debtors  
23    determined to retain two of the contracts, at least  
24    for now, and an amended exhibit was filed with the  
25    court on Monday. It's that exhibit that we would

1 present to the Court with the proposed order rejecting  
2 the contracts.

3 THE COURT: Okay. Does anyone wish to be  
4 heard in connection with the motion to reject a  
5 variety of equipment and other leases? Hearing none,  
6 I will grant the motion.

7 MS. LABOVITZ: Thank you, Your Honor.

8 THE COURT: Thank you.

9 MS. LABOVITZ: Moving to item 6 on the  
10 agenda, there are still some leases for which the  
11 debtors can't make up their minds or haven't finished  
12 their review.

13 The deadline to assume or reject unexpired  
14 real property leases under section 365(d)(4) of the  
15 Bankruptcy Code is currently set to expire on May  
16 28th. The debtors will not be able to make  
17 determinations with respect to their remaining real  
18 property leases by that time.

19 They're continuing to finalize the business  
20 plan and review it with creditors, and because  
21 of that, and the sheer volume of leases, particularly  
22 here where the showrooms are model homes, they're  
23 unexpired real property leases, that can occur.

24 The debtors are seeking a 90 day extension  
25 of that deadline through August 26th, 2008. And we do

1 expect to be able to make meaningful progress during  
2 that time. There have been no objections to the  
3 motion.

4 THE COURT: Okay. Are you current on the  
5 leases?

6 MS. LABOVITZ: Yes, Your Honor. My  
7 understanding is that we are current on the leases at  
8 this time.

9 There have been a couple of instances during  
10 the case where we've gotten phone calls from landlords  
11 saying that the payment hadn't been made, I think  
12 partly because of the company just trying to process  
13 and make distinctions between pre and post petition,  
14 but every time we've heard that, the payment has been  
15 made.

16 THE COURT: Okay. Any objections? The  
17 motion is granted.

18 MS. LABOVITZ: Thank you, Your Honor.  
19 Mr. Sussberg is going to come back up to do the heavy  
20 lifting for the rest of it.

21 MR. SUSSBERG: Your Honor, the next item on  
22 the agenda is number 7, and this is a motion by  
23 Oakmont Grove Venture, LLC for relief from the  
24 automatic stay, and in the alternative for an order  
25 requiring the debtors to assume or reject a real

1 property purchase contract.

2 This item is actually an adjourned matter,  
3 but I wanted to take a moment just to give everybody a  
4 little bit of background into this matter, and the  
5 deal that we've negotiated with Oakmont, which will be  
6 presented to the Court, and documents over the next  
7 couple of days, and eventually heard at the June  
8 omnibus hearing.

9 To make a very long story short, the debtors  
10 in Oakmont have reached an agreement to adjourn the  
11 matter and toll the 30 day time period, section  
12 362(e).

13 As a bit of background, all of which we  
14 intend to explain in the pleadings that we do intend  
15 to file, Oakmont is the owner and developer of  
16 property in Polk County, Florida.

17 The project that Oakmont is developing is a  
18 planned unit development consisting primarily of  
19 residential subdivisions with different lot sizes at a  
20 total of 999 lots that will eventually be  
21 apportioned.

22 THE COURT: Where in Polk County?

23 MR. SUSSBERG: That, Your Honor, is a  
24 question I do not know the answer to. Maybe Mr.  
25 Brumby --

1 MR. BRUMBY: I don't know either.

2 MR. SUSSBERG: I'm not very familiar with  
3 Polk County myself.

4 THE COURT: Well, Imperial Polk County,  
5 which is what its county seal says, is probably the  
6 largest county in the state, so it's a fair piece of  
7 real estate, and it contains a great deal of what a  
8 former county attorney, whom I represented in a land  
9 fraud case, used to refer to as dry season pasture.

10 MR. SUSSBERG: Dry season pasture. We may  
11 use that in the motion.

12 Your Honor, we entered into a purchase  
13 contract with Oakmont which contemplated that Oakmont  
14 would horizontally develop the property and then  
15 provide Tousea with notice that certain phases were set  
16 to be taken down.

17 And the way in which the contract works is,  
18 upon notice that a phase is completed, Tousea required,  
19 within 15 days, to take down 100 lots.

20 And then after that initial 100 lot take  
21 down, an additional 100 lots is taken down every six  
22 months, until the additional 999 lots have been taken  
23 down.

24 We received notice in February that the  
25 initial phase one had been completed and Tousea was

1 required to take down the 100 lots. We have not yet  
2 taken down those lots. This is complicated by the  
3 fact that we have a contract with a third party,  
4 Superior Homes, represented today by Mr. Perlman, who  
5 is in court, which contemplates that Tousa will build  
6 homes on the lots that we take down under the Oakmont  
7 contract, and sell those homes to Superior.

8 We are in the process of negotiating certain  
9 amendments to the contract with Superior, we intend to  
10 file a motion to seek approval of that amendment in  
11 the very near term, which all coincides with the  
12 timing of the lot take down under the Oakmont  
13 contract.

14 So in the next couple of days we will  
15 document a deal with Oakmont that requires Tousa to  
16 take down the first hundred lots by June 11th, with  
17 the next hundred lots to be taken down by November  
18 3rd, and thereafter we will continue to take down 100  
19 lots every six months following that November 3rd take  
20 down.

21 In addition, the agreement with Oakmont will  
22 provide that to the extent Tousa fails to take down  
23 lots on any of the dates as required under the  
24 contract, Oakmont will be permitted to submit an  
25 affidavit to this court seeking relief from the

1 automatic stay, and Tousa will agree that they can  
2 only contest that a default in fact, occurred, and  
3 will not contest the relief from the automatic stay.

4           And like I said, Your Honor, this is subject  
5 to documentation. We intend to circulate it to the  
6 parties in interest to review before we submit it to  
7 Your Honor, but we did want to give you a little bit  
8 of background and a preview for the June 10th omnibus  
9 hearing.

10           THE COURT: Okay. Anything that needs to be  
11 added to that Mr. Brumby or Mr. Perlman?

12           MR. BRUMBY: I don't believe so, Your Honor.  
13 I believe Mr. Sussberg has accurately recited the  
14 situation. And as always, the devils are in the  
15 details of drafting, but I suspect that won't be  
16 difficult, it's a pretty straightforward deal.

17           MR. PERLMAN: Not at this time, Judge.  
18 Thank you.

19           THE COURT: Thank you. Does anyone else  
20 wish to be heard in connection with that matter?

21           MR. BRUMBY: With that, Your Honor, may I be  
22 excused?

23           THE COURT: You may.

24           MR. BRUMBY: Thank you, Judge.

25           THE COURT: I'll grant the motion, if

1 there's a motion for me to --

2 MR. SUSSBERG: No motion yet, but thank you.

3 THE COURT: Okay. You're going to carry  
4 this to June --

5 MR. SUSSBERG: We're going to carry it to  
6 the June 10th hearing, but we will be submitting a  
7 stipulation to in fact, toll the 362(e) period.

8 THE COURT: Okay.

9 MR. SUSSBERG: Hopefully that will be the  
10 beginning of next week, later this week.

11 THE COURT: So you will want an order.

12 MR. SUSSBERG: We will want an order, yes.

13 Your Honor, the next item on the agenda is  
14 number 8, and this is an item that Your Honor may  
15 recall. This is a motion to modify a previous order  
16 entered by the court relating to the debtors' sale of  
17 its interest in a note with respect to the I Drive  
18 property in Orlando.

19 On March 12th, following the Court's entry  
20 of an order approving the sale of that note on March  
21 6th, CitiCorp, as agent under the debtors' first lien  
22 revolving and term loan facilities released to the  
23 debtors the note which it had previously held to  
24 perfect its security interest therein.

25 Following our return and receipt of the note

1 we closed on a sale with PRN, and the debtors in fact,  
2 received approximately 13 million dollars in proceeds  
3 as a result of that sale.

4           Following the closing PRN sought financing  
5 from American Momentum Bank with respect to their  
6 potential construction relating to the I Drive  
7 property. And American Momentum Bank contacted the  
8 debtors and sought to modify the sale order to include  
9 additional findings that were previously excluded from  
10 the order.

11           Specifically, the bank sought to include a  
12 finding that the sale of the note was free and clear  
13 of all liens, claims and encumbrances under 363(f),  
14 and in addition, they sought a finding that PRN was a  
15 good faith purchaser and that the sale was negotiated  
16 at arm's length.

17           The order that Your Honor earned had  
18 previously excluded these items simply by mistake and  
19 inadvertence, as we had suggested to the debtors that  
20 we would like to get approval of the sale under 363  
21 presented to the Court, while the buyer was willing to  
22 move forward both prior to and after the bankruptcy,  
23 notwithstanding the order.

24           So in any event, we filed a motion under  
25 Bankruptcy Rule 9024, which, as Your Honor is aware,

1 incorporates Federal Rule 60(b), permits relief from a  
2 final judgment to modify the final order that was  
3 entered on March 6th and provide these clarified  
4 findings so that American Momentum Bank can provide  
5 the financing necessary to PRN.

6 And I will add that we've done this at the  
7 request of both the bank and PRN, and PRN has agreed  
8 to compensate the debtors for all costs and expenses  
9 incurred in submitting this motion.

10 THE COURT: Do you get anything else out of  
11 Ms. Rossman?

12 MR. SUSSBERG: Not without a few phone  
13 calls, no, Your Honor.

14 THE COURT: She didn't get you any Magic  
15 tickets?

16 MR. SUSSBERG: No. But I hear she has  
17 fantastic seats.

18 THE COURT: She does indeed. I have never  
19 sat in them, but her father used to be a co-owner.

20 MR. SUSSBERG: I did not know that.

21 THE COURT: And if you ever visit Ms.  
22 Rossman's office you will see that her dream is Lakers  
23 Fantasy Camp. She has shirts and things.

24 Well, paying the costs, okay. Anyone wish  
25 to be heard in connection with the modification of the

1 order that permitted the sale of the note to PRN?  
2 I'll grant it. Make sure you collect it all.

3 MR. SUSSBERG: Thank you, Your Honor.

4 Turning to the miscellaneous matters on the  
5 agenda, I was hopeful to stand up here today and  
6 present agreed upon orders with respect to the filing  
7 of proofs of claim by the first lien and second lien  
8 agent.

9 I can report to you that as early as this  
10 morning we were continuing to negotiate the terms of  
11 those stipulations, along with the creditors'  
12 committee, who provided us with certain comments.

13 And we are hopeful to be able to hammer out  
14 the details of those stipulations either today or  
15 tomorrow, and be able to be in a position to present  
16 Your Honor with agreed upon stipulations that permit  
17 the first and second lien agent to file one  
18 consolidated proof of claim against each of the debtor  
19 entities, so as to avoid the administrative hassle and  
20 expense in connection with filing 38 proofs of claim.

21 We would ask Your Honor that upon submission  
22 and notice of presentment that the stipulations and  
23 orders be entered so that to provide this relief in  
24 advance of the bar date, which is only a week and some  
25 odd days away.

1           THE COURT: Does anyone wish to be heard in  
2 connection? Mr.Smolinsky.

3           MR. SMOLINSKY: Thank you, Your Honor.  
4 Joseph Smolinsky.

5           Filing one claim versus 38 claims is nice,  
6 but there are two primary goals of this, what I would  
7 consider ministerial motions. The first is that the  
8 City be able to file claims on behalf of the facility.  
9 That would alleviate the need for the issuing bank,  
10 for letters of credit, and for the dozens of lenders  
11 to file individual claims.

12           The second primary purpose is to avoid the  
13 need to attach supporting documents and to make those  
14 documents available upon request.

15           We had started this process weeks ago, and I  
16 just want to explain to Your Honor that we're not here  
17 before, you know, ten days before the bar date because  
18 of a snafu on our part, but the stipulation itself in  
19 language pertaining primarily to documents and  
20 delivery of the documents got bogged down.

21           And as Your Honor I'm sure can appreciate,  
22 we have dozens of lenders who don't know today whether  
23 they have to file individual proofs of claim.

24           While I am hopeful, and from as late as five  
25 minutes ago I understand that there's an agreement

1 with respect to a stipulation, I don't want to leave  
2 this courtroom today not knowing if there is a  
3 problem, whether or not we can get some audience with  
4 Your Honor you know, sooner rather than later so  
5 that -- because we currently have no scheduled court  
6 conference or hearing prior to the bar date on the  
7 19th.

8           So I'm very hopeful that these issues have  
9 been resolved finally and that we're ready to move  
10 forward, but I'm a little reluctant to just rely on  
11 the submission, and that's it.

12           THE COURT: Okay. Fair enough. Mr.  
13 Golden.

14           MR. GOLDEN: Your Honor, I too, based upon  
15 e-mail traffic from lawyers back in New York, are  
16 confident that an agreed upon stipulation will be  
17 worked out, hopefully by the end of today.

18           I just didn't -- I don't think Mr. Smolinsky  
19 intended to leave this implication that they've worked  
20 on the stipulation for weeks. We didn't see the  
21 stipulation for weeks, we saw the stipulation for the  
22 first time yesterday, and that's why we've had you  
23 know, an accelerated ability to weigh in on some of  
24 the issues that are important to us.

25           But that having been said, I am confident, I

1 understand Mr. Smolinsky's concerns with the bar date  
2 rapidly approaching, and I would just ask the Court's  
3 deference that once and if a stipulation is fully  
4 agreed to, that it be able to be presented and so  
5 ordered.

6           And alternatively, if a stipulation cannot  
7 be ultimately agreed to, that there be some ability  
8 for the bank's counsel and the second lien agent's  
9 counsel to come to court and argue whatever issue they  
10 want to issue in advance of the bar date.

11           THE COURT: Okay.

12           MR. SMOLINSKY: Your Honor, I don't want to  
13 belabor the record, I just want to note that the  
14 committee has had this stipulation much longer than  
15 was indicated.

16           THE COURT: Anyone else wish to weigh in?

17           MR. MAYR: Good morning, Your Honor. Kurt  
18 Mayr, Bracewell and Giuliani for the second lien  
19 lenders and Wells Fargo as agent for the lien lenders.

20           We have the same objectives that Mr.  
21 Smolinsky has. These are ordinary course matters that  
22 streamline the proof of claim ministerial process for  
23 bank facilities like the first and second liens  
24 here.

25           I'm hopeful as well that we have something

1 today to spare the estate from tens of thousands of  
2 dollars of expenses and professional fees related to a  
3 very simple matter.

4 THE COURT: Okay. Anyone else?

5 Well, to the extent stipulations and orders  
6 are presented, I will sign them. To the extent you  
7 can't reach a deal, then I would suppose somebody  
8 needs to file an emergency motion, and I'll hear you.

9 I am only briefly in town tomorrow. I will  
10 be at the Southern District of Florida Bankruptcy Bar  
11 retreat on Friday, Saturday and Sunday, and I have a  
12 Chapter 13 morning on Monday, but I could entertain  
13 you on Monday afternoon or Tuesday or possibly  
14 Wednesday of next week.

15 So if you don't get there, file an emergency  
16 motion, call chambers and let us know that you filed  
17 an emergency motion. You'll see in our local rules  
18 that we have some antiquated procedures, including a  
19 motion to file things with a red cover sheet, I've  
20 never quite figured out how you file a red cover sheet  
21 by CMECF. But just let us know and we'll dig it  
22 out.

23 MR. MAYR: Thank you, Your Honor.

24 MR. SUSSBERG: Thank you, Your Honor.

25 Moving along on the agenda, I want to take a

1 brief second to highlight under the financing matters,  
2 which is item D, number 11.

3 As Your Honor is well aware, we're not going  
4 forward today on the DIP financing motion or the cash  
5 collateral motion that was filed two weeks ago. Those  
6 matters have been adjourned to the 22nd.

7 But we did want to note that a modification  
8 was made to the DIP financing agreement. All parties  
9 were provided notice pursuant to the terms of the  
10 interim DIP order, and that was simply to make clear  
11 that the interim termination date, which we had  
12 extended to April 30th, and was thereupon extendable  
13 to May 30th, could be extended on an interim basis and  
14 multiple times during the month of May.

15 The language wasn't necessarily clear that  
16 you could grant extensions during the month of May, so  
17 we simply modified that language, and in fact, entered  
18 into a letter agreement with City Group to extend the  
19 interim termination date to May 23rd, as it stands  
20 now.

21 And that's subject to further extension upon  
22 the request of the debtors and the sole consent of  
23 City Group to May 30th. And absent any further  
24 amendment to the DIP credit agreement, that is the  
25 final date that it can be extended to.

1           If Your Honor has any questions.

2           THE COURT: That sort of defines when the  
3 shoot out at the O.K. Corral has to occur.

4           MR. SUSSBERG: That is a gentle way of  
5 putting it.

6           THE COURT: Okay.

7           MR. SUSSBERG: Your Honor, we can certainly  
8 walk through the adjourned matters, but I know that  
9 there's one matter which requires some discussion, and  
10 that will be handled by Mr. Guso, and that's related  
11 to GMAC.

12          THE COURT: Okay.

13          MR. GUSO: May it please the Court. Good  
14 morning, Your Honor.

15          THE COURT: Good morning, Mr. Guso.

16          MR. GUSO: Your Honor, this is matter 16 on  
17 the docket, on the agenda rather, it is the debtors'  
18 motion to approve a stipulation with GMAC Model Home  
19 Finance, LLC.

20                 Your Honor, the deadline by which objections  
21 were due to this motion was May 16th. However, the  
22 debtors, GMAC, and the committee have been engaged in  
23 ongoing discussions regarding certain concerns raised  
24 by the committee, as well as additional business  
25 points which are important to the debtors and the

1 estate.

2 And in that regard, Your Honor, the debtors  
3 and GMAC agreed to extend the deadline by which the  
4 committee would be required to object to the  
5 stipulation.

6 And Your Honor, because those discussions  
7 are ongoing, the parties are requesting that the Court  
8 continue this hearing until May 22nd, with the  
9 exception, Your Honor, of the stipulation as it  
10 relates to the Sunbelt Homes.

11 And as defined in the stipulation, Your  
12 Honor, the Sunbelt Homes are nine model homes owned by  
13 Engle Sunbelt, LLC, of which Tousa is a member.

14 And as to those homes, Your Honor, the  
15 debtors, the committee, and GMAC have reached a  
16 stipulation, the principal features of which are as  
17 follows.

18 On the effective date of the stipulation,  
19 Your Honor, the debtors will return the model homes to  
20 GMAC free and clear of any post petition liens or  
21 claims, with the exception of any liens or claims  
22 relating to post petition real estate taxes or post  
23 petition homeowners assessments in respect of the  
24 Sunbelt Homes.

25 The debtors will no longer be obligated to

1 meet the retrofit obligations in respect of the  
2 Sunbelt Homes, that is the obligation to convert the  
3 model homes to traditional residences, rather GMAC  
4 will undertake that obligation, Your Honor, and will  
5 be allowed administrative expense claim in these  
6 estates for the reasonable documented costs of  
7 retrofitting those homes up to an aggregate amount of  
8 \$115,000.

9           And Your Honor, the debtors and the  
10 committee's rights to object to any administrative  
11 expense claim asserted by GMAC in that regard is  
12 expressly reserved.

13           And as of the closing, Your Honor, in all of  
14 the respects, GMAC on the one hand, and the debtors on  
15 the other, will exchange releases releasing any claims  
16 pertaining to the Sunbelt Homes, but preserving all  
17 other claims and defenses that those parties may have  
18 as against the other.

19           Your Honor, the discussions as to the  
20 balance of the stipulation are ongoing, we're hopeful  
21 that we will be able to reach closure on definitive  
22 agreements prior to the May 22nd hearing, but we would  
23 like to present to Your Honor an executed stipulation  
24 later today, and a proposed order approving the  
25 stipulation as it relates to the Sunbelt homes.

1           THE COURT: Okay. Fine. Does anyone else  
2 wish to be heard in connection with either the Sunbelt  
3 Homes portion of the motion or the continuance of the  
4 motion in general? Okay.

5           I'll approve the settlement. And I guess  
6 the order should just continue the rest of this to the  
7 22nd.

8           MR. GUSO: Yes, Your Honor. We propose to  
9 submit an order approving the Sunbelt stipulation with  
10 the stipulation -- executed stipulation next, and  
11 simply continue the balance of the motion to the  
12 22nd.

13          THE COURT: Very good. Thank you.

14          MR. GUSO: Thank you, Your Honor.

15          THE COURT: Mr. Golden.

16          MR. GOLDEN: Yes, Your Honor.

17          The Court has already heard that item 19,  
18 which is the committee's motion for standing to  
19 commence certain fraudulent conveyance litigation, is  
20 going to be adjourned to the next hearing date on May  
21 22nd.

22          The debtors, the first lien agent, and the  
23 second lien agent, in a meeting in New York had made  
24 that request, and we had agreed.

25          In connection with that adjournment, it had

1 also been asked that the committee to adjourn to the  
2 same date, items number 17 and number 18, which are  
3 the respective committee retention applications for  
4 J.H. Cohn and Robert Charles Lesser and Co, otherwise  
5 known as RCL and Co, which are respectively, RCL Co is  
6 the proposed real estate advisor for the committee,  
7 and J.H. Cohn is the proposed financial and forensic  
8 accountant for the committee.

9 We likewise agreed to the request for the  
10 adjournment, but in fairness to those professionals,  
11 who are already hard at work, we did ask the debtors,  
12 the first lien agent, and the second lien agent if  
13 they would have any objection if we would ask the  
14 Court to so order today's record to grant their  
15 respective retentions on an interim basis, so that if  
16 ultimately they were not retained because of an  
17 objection that was sustained, these people would not  
18 be free laborers, and that they would have the right  
19 to seek compensation for the amount of work that they  
20 did leading up to the May 22nd hearing.

21 All the parties have consented to that  
22 relief, and so what we would do, Your Honor, or what I  
23 am asking Your Honor, is to so order the record so  
24 that their respective retentions are approved on an  
25 interim basis, subject to a final hearing on May 22nd.

1           THE COURT: Are you requesting that I  
2 approve these two retentions of J.H. Cohn and R.C.  
3 Lesser on an interim basis effective as of today, or  
4 nunc pro tunc to the application date?

5           MR. GOLDEN: Nunc pro tunc to the -- I think  
6 it's actually shortly prior to the application date.  
7 It's nunc pro tunc to March 27th.

8           THE COURT: I will, absent objection, I will  
9 do so, but I need a written order.

10          MR. GOLDEN: We will provide you an order,  
11 Your Honor.

12          THE COURT: And provide in that that it's  
13 approved on an interim basis, subject to -- with the  
14 final hearing on May 22nd.

15          Mr. Schneiderman, I don't wish to rule  
16 before I hear from you.

17          MR. SCHNEIDERMAN: I just heard about this t  
18 this morning, Your Honor, and I would just ask that it  
19 be with all rights reserved. To the extent that the  
20 Court were to ultimately find that one of these two  
21 applicants are not disinterested and not qualified to  
22 be retained, that the review of that fee would have to  
23 be under a different standard to the extent of making  
24 a substantial contribution for example, to the estate.

25                 And there shouldn't be anything in the order

1 today that would allow an inference of allowance of  
2 fees under a reasonableness standard, if the ultimate  
3 ruling of the Court is that they're not able to be  
4 retained.

5 THE COURT: Mr. Golden.

6 MR. GOLDEN: I don't have an objection with  
7 that, Your Honor. We will work out a form of order.  
8 We will show it to the office of the United States  
9 Trustee, get their sign off before we present it to  
10 the Court.

11 THE COURT: Fine. Thank you.

12 MR. GOLDEN: Thank you, Your Honor.

13 THE COURT: What else have we to do this  
14 morning, ladies and gentlemen?

15 MS. LABOVITZ: I think that's all, Your  
16 Honor, unless the Court has any questions for us.

17 THE COURT: Well, does anybody want to give  
18 me any kind of a preview of coming attractions, a  
19 brief trailer, folks wanting to come back to the  
20 theater?

21 MR. BASTA: Your Honor, the only question I  
22 have, as Your Honor pointed out with the show down at  
23 the O.K. Corral comment, there is a possibility of the  
24 hearing on the 22nd to be a contested hearing with  
25 issues relating to both cash collateral and the

1 committee's standing motion to be presented.

2           The only question I would have for the Court  
3 is whether it's the Court's pleasure that if we do  
4 believe that we are heading into a contested hearing,  
5 whether it makes sense to organize that hearing with  
6 guidance from the Court, you know, in advance of  
7 getting starting so that we can make efficient use of  
8 the day.

9           THE COURT: Well, I'd be happy to provide  
10 what guidance I can. What do you suggest?

11           MR. BASTA: I guess to be more specific, I  
12 would reserve the right to request, Your Honor,  
13 perhaps a telephonic conference of the key  
14 constituencies for the purpose of determining if it's  
15 going to be an evidentiary hearing, where evidence is  
16 going to be presented, and what order it should occur,  
17 if we can get on the same page with everybody, at  
18 least on those logistics. It may not be necessary,  
19 but it's possible that we will be requesting that of  
20 the Court.

21           THE COURT: Okay. And I would certainly  
22 hold such a telephonic hearing, just subject to my  
23 calendar, and you all have Christina Romero's direct  
24 dial for setting up hearings.

25           I can tell you that the courtroom we will be

1 operating is state of the art technology, so that if  
2 you know how to run it, have at it. It's got big flat  
3 screen TVs and a camera in the ceiling and all sorts  
4 of interesting stuff, CD availability, laptop  
5 availability, and video conferencing.

6 MR. BASTA: Well, we won't bring any  
7 westerns in.

8 THE COURT: Might be good for  
9 intermission.

10 MR. GOLDEN: Who, Your Honor, should we talk  
11 to in your chambers to be able to access that type of  
12 technology?

13 THE COURT: Probably Mr. Bellman, although  
14 I think -- I suspect that Paul Singerman has a better  
15 handle on how that technology works. It's sort of an  
16 updated version of what they have in West Palm Beach,  
17 but I understand vaguely similar. Since I haven't had  
18 my first instructions yet, I will remain like the good  
19 parent I am, who requires my children to tell me how  
20 to turn the VCR on.

21 MR. GOLDEN: Thank you, Your Honor.

22 THE COURT: Anything else?

23 MR. KENNEDY: Your Honor, Gerald Kennedy on  
24 behalf of SC Design.

25 You asked the question as far as previews of

1 coming attractions, and maybe this was discussed  
2 in the chambers conference that we all didn't  
3 participate in, but what's the current feature?

4 I think we've had in the past a little  
5 report or some sort of update by the debtor  
6 representative or counsel as to what the current  
7 financial condition of the debtor is, if they are or  
8 are not meeting projections. What's really going on  
9 now?

10 THE COURT: I think Mr. Basta could give us  
11 a brief update, and that would be helpful.

12 MR. BASTA: Yes, Your Honor.

13 As previously reported to the Court, the  
14 company continues to sell homes at a rate that is  
15 higher than projected, and as a result of that, the  
16 company has built a fair amount of cash, and recently  
17 the company received its 206 million dollar tax refund  
18 from the IRS.

19 Right now the company's cash balance is,  
20 looks as follows. The company has \$102 million  
21 dollars of operating cash, the company has the 206  
22 million dollar tax refund, and the company has 33  
23 million dollars of restricted cash from various  
24 transactions.

25 As we indicated in a recent filing, the cash

1 position of the company has obviated the need for  
2 debtor-in-possession financing.

3           The debtors have been engaged in discussions  
4 with its first and second lien lenders, as well as the  
5 creditors' committee, for the use of cash collateral.  
6 No agreement with respect to consensual use of cash  
7 collateral has been reached. And if one cannot be  
8 reached, it is likely that the hearing on the 22nd  
9 will be contested, vis-a-vis cash collateral.

10           And as Mr. Golden also remarked in his  
11 earlier comments, the committee did accommodate the  
12 request of the debtors and the first and second lien  
13 lenders to adjourn their motion for standing to bring  
14 the litigation and have that hearing on the 22nd, and  
15 that matter will likely be heard on that date as  
16 well.

17           THE COURT: Thank you. Anything else anyone  
18 wishes to tell me in connection with the case?

19           In that event, we are adjourned. I'll see  
20 you on May 22nd and perhaps hear from you in the  
21 interim.

22           (The proceedings were concluded.)

23           C E R T I F I C A T E

24

25           The State of Florida           )

1 County of Palm Beach )

2

3 I, JACQUELYN ANN JONES, Court Reporter,  
4 certify that I was authorized to and did  
5 stenographically report the foregoing hearing; and  
6 that the transcript is a true record of my  
7 stenographic notes.

8 I further certify that I am not a relative,  
9 employee, attorney or counsel of any of the parties,  
10 nor am I a relative or employee of any of the parties'  
11 attorney or counsel connected with the action, nor am  
12 I financially interested in the action.

13

14 In witness whereof I have hereunto set my  
15 hand and seal this 18th day of May, 2008.

16

17

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JACQUELYN ANN JONES

18

Commission No. CC 995956

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Expires Feb 18, 2009

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