

dismiss the Amended Complaint. However, we have no objection to proceeding with the hearing on October 23, 2008 if the Court prefers to do so.

2. The Amended Complaint asserts new claims against the Transeastern Lenders, in addition to the claims that were asserted in the original complaint. It also alleges further detail concerning the original claims. In addition, the Amended Complaint names individually identified New Lenders as defendants. Based on discussions with counsel for the Senior Transeastern Lenders, the Committee believes it is likely that the Senior Transeastern Lenders will file a motion to dismiss the new claims in the Amended Complaint. The newly added defendants may also file motions to dismiss the Amended Complaint, and those motions may raise issues closely related to the pending motion.

3. The currently-scheduled October 23 hearing would focus on whether the *original* complaint sufficiently alleged claims against the Transeastern Lenders but what matters, now, is whether the allegations in the Amended Complaint are sufficient. As the Court noted when it authorized amendment of the complaint, the amendment could render a hearing on the Senior Transeastern Lenders' motion to dismiss the original complaint an act of futility. (September 17, 2008 Hearing Tr. 100) (Adv. Pro. D.E. 1877) Postponing the hearing and consolidating it with hearing on motions to dismiss the Amended Complaint would avoid that result, and would allow the Court to consider all relevant issues and hear from all interested parties in a single hearing.

4. The Committee does not believe that postponement would prejudice the Senior Transeastern Lenders. Those defendants seek to obtain dismissal of all claims against them at the earliest possible time, but they will continue to be defendants until the disposition of the new claims that are alleged in Amended Complaint. Postponement of the hearing on the pending motion will not delay that disposition.

5. The Committee has contacted counsel for the Senior Transeastern Lenders, described the nature of the new allegations in the Amended Complaint, and suggested that the

hearing be rescheduled. However, the Transeastern Lenders stated that they wished to proceed with the hearing on October 23, 2008. The Committee believes that postponement of the hearing on the Senior Transeastern Lenders' motion would be appropriate for the reasons stated above, but has no objection if the Court prefers to hold the hearing on October 23, as currently scheduled.

Dated: October 17, 2008

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications in this Court set forth in Local Rule 2090-1(A)

/s/ Patricia A. Redmond

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I hereby certify that the undersigned attorneys, along with others at their firm, have conferred with Senior Transeastern Lenders' counsel in a good faith effort to resolve by agreement the issues raised herein, but have been unable to do so.

I HEREBY CERTIFY that the undersigned attorneys are appearing *pro hac vice* in this matter pursuant to court order dated July 10, 2008 [D.E. 1360, 1362, 1363 in Ch. 11 No. 08-10928]

/s/ Michael L. Waldman

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Copies to:

Patricia A. Redmond

*(Attorney Redmond shall upon receipt serve a copy of this Order upon all interested parties and
file a certificate of service.)*

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2008, I caused a true and correct copy of The Committee's Suggestion Regarding Timing Of The Hearing On The Senior Transeastern Lenders' Motion To Dismiss to be served by e-mail on:

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