

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

<hr/>)
In re:)	Chapter 11 Cases
)	Case No. 08-10928-JKO
TOUSA, INC., <i>et al.</i>)	Jointly Administered
)	
Debtors.)	
<hr/>)
OFFICIAL COMMITTEE OF UNSECURED)	
CREDITORS OF TOUSA, INC., <i>et al.</i> ,)	
)	
Plaintiff,)	
vs.)	Adversary Proceeding No. 09-01616-JKO
)	
TECHNICAL OLYMPIC, S.A.;)	
KONSTANTINOS STENGOS; ANTONIO)	
MON; TOMMY MCADEN; ANDREAS)	
STENGOS; GEORGE STENGOS; LARRY)	
HORNER; WILLIAM HASLER; MICHAEL)	
POULOS; MARIANNA STENGOU; SUSAN)	
PARKS; J. BRYAN WHITWORTH; PAUL)	
BERKOWITZ; CANDACE CORRA;)	
RUSSELL DEVENDORF; BRIAN)	
KONDERIK; TOM MCANDREW; DAVID)	
SCHOENBORN; GORDON STEWART; and)	
STEPHEN WAGMAN,)	
)	
Defendants.)	
<hr/>)

**DEBTORS’ RESPONSE TO THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF TOUSA, INC., ET AL.’S MOTION TO LIFT THE STAY
AND SET AN ANSWER DATE**

On December 11, 2009, the Court ordered this action (“the Fiduciary Duties Litigation”) stayed to allow the Debtors time to pursue their coverage action against the two insurance towers obligated to advance defense costs to the above-named independent directors and officers (“Director Defendants”) (D.E. #36). The Official Committee of Unsecured Creditors of

TOUSA, Inc. et al. (“the Committee”) now moves the Court on an *ex parte* basis to lift its ordered stay in this proceeding and set February 1, 2010 as a deadline for the Director Defendants to file an answer or other responsive pleading.

Since the Court ordered this case stayed, the Debtors have continued to negotiate with the insurers and have reached an agreement in principle under which the insurers will advance defense costs to the Director Defendants. The Debtors and insurers are working diligently to reduce that agreement to a writing satisfactory to the insurers, the Debtors, and the individual defendants, and expect that the agreement will be finalized in the near future. However, no agreement is currently in place and the insurers have not yet begun to advance defense costs. The Committee is fully aware of the progress of these final negotiations, and the Debtors will continue to keep the Committee aware of all further developments on this score.

It is the Debtors’ view that the Committee should coordinate directly with defense counsel to the Director Defendants to reach an agreement on the response date once the funding agreement is final. We believe this approach would be fair, equitable and efficient. First, the Debtors understand that not all the defendants have counsel and those that have counsel have not fully engaged on the matter because there has not yet been any funding. Second, the Committee should now deal directly with the defendants and those defendants that have counsel. Third, the Debtors would expect the Committee could get an agreed response date within a short period of time. Given the circumstances, mutual coordination on a response date between the Committee and counsel for defendants simply makes the most sense going forward.

Dated: January 7, 2009

Respectfully submitted,

BERGER SINGERMANN, P.A.

/s/ Paul Steven Singerman

Paul Steven Singerman (Florida Bar No. 378860)
200 Biscayne Boulevard, Suite 1000
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

-and-

KIRKLAND & ELLIS LLP

Daniel T. Donovan (admitted *pro hac vice*)
Matthew E. Papez (admitted *pro hac vice*)
655 15th Street, N.W.
Washington, D.C. 20005
Telephone: (202) 879-5000

Nader R. Boulos, P.C. (admitted *pro hac vice*)
300 North LaSalle Street
Chicago, IL 60654
Telephone: (312) 862 2000
Facsimile: (312) 862 2200

M. Natasha Labovitz (admitted *pro hac vice*)
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Attorneys for Debtors TOUSA, Inc., et al.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by the Court's CM/ECF system or e-mail or U.S. Mail on this 7th day of January, 2009 to the recipients listed below.

/s/ Paul Steven Singerman (Florida Bar No. 378860)

BERGER SINGERMAN, P.A.

200 Biscayne Boulevard, Suite 1000

Miami, FL 33131

Telephone: (305) 755-9500

Facsimile: (305) 714-4340

Counsel for the Official Committee of Unsecured Creditors:

Daniel H. Golden

David M. Zensky

Philip C. Dublin

AKIN GUMP STRAUSS HAUER &

FELD LLP

One Bryant Park

New York, NY 10036

Telephone: (212) 872-1000

Facsimile: (212) 872-1002

dgolden@akingump.com

Patricia A. Redmond

STEARNS WEAVER MILLER WEISSLER

ALHADEFF & SITTERSON, P.A.

Museum Tower

150 West Flagler Street, Suite 2200

Miami, FL 33130

Telephone: (305) 789-3553

Facsimile: (305) 789-3395

predmond@swmwas.com

**Director Defendants and/or Counsel for Director Defendants
(to the extent presently known to the Debtors):**

Paul Berkowitz

60 Edgewater Drive, Apt. 8C

Coral Gables, FL 33021

William Hasler

102 Golden Gate Avenue

Belvedere, CA 94920

Antonio Mon

3200 N. Ocean Boulevard 1109

Ft. Lauderdale, FL 33308-7158

Russell Devendorf

3210 Birch TE

Davie, FL 33330-1316

Tommy McAden

600 Silver Spur Drive

Southlake, TX 76092

Larry Horner

370 Lake Shore Road

Putnam Valley, NY 10579

Stephen Wagman

660 Davis Road

Coral Gables, FL 33133-6973

Michael Poulos

2121 Kirby Drive

Houston, TX 77019-6035

David Schoenborn
11061 S.W. 16 Manor
Davie, FL 33324

Susan Parks
5 Burning Tree
Laguna Niguel, CA 92677-5303

Tom McAndrew
7036 N. 21 Street
Phoenix, AZ 85020

Gordon Stewart
Reach Road
Sedwich, ME 04676

Technical Olympic, S.A.
c/o Andrew N. Goldman
Michael Bongiorno
WILMER CUTLER PICKERING HALE
& DORR LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 937-7220
Facsimile: (212) 230-8888
*Counsel for Technical Olympic SA,
Konstantinos Stengos, Andreas Stengos,
George Stengos, and Marianna Stengou*

Konstantinos Stengos
c/o Andrew N. Goldman
Michael Bongiorno
WILMER CUTLER PICKERING HALE
& DORR LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 937-7220
Facsimile: (212) 230-8888
*Counsel for Technical Olympic SA,
Konstantinos Stengos, Andreas Stengos,
George Stengos, and Marianna Stengou*

J. Bryan Whitworth
6312 Indian Creek Drive
Fort Worth, TX 76116-1610

Candace Corra
177 Antelope Valley Avenue
Henderson, NV 89012-3408

Brian Konderik
2945 North 48 Street
Phoenix, AZ 85018-7749

George Stengos
c/o Andrew N. Goldman
Michael Bongiorno
WILMER CUTLER PICKERING HALE &
DORR LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 937-7220
Facsimile: (212) 230-8888
*Counsel for Technical Olympic SA, Konstantinos
Stengos, Andreas Stengos, George Stengos, and
Marianna Stengou*

Marianna Stengou
c/o Andrew N. Goldman
Michael Bongiorno
WILMER CUTLER PICKERING HALE &
DORR LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 937-7220
Facsimile: (212) 230-8888
*Counsel for Technical Olympic SA, Konstantinos
Stengos, Andreas Stengos, George Stengos, and
Marianna Stengou*

Andreas Stengos
c/o Andrew N. Goldman
Michael Bongiorno
WILMER CUTLER PICKERING HALE
& DORR LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 937-7220
Facsimile: (212) 230-8888
*Counsel for Technical Olympic SA,
Konstantinos Stengos, Andreas Stengos,
George Stengos, and Marianna Stengou*

Andrew N. Goldman
Michael Bongiorno
WILMER CUTLER PICKERING HALE
& DORR LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 937-7220
Facsimile: (212) 230-8888
*Counsel for Technical Olympic SA,
Konstantinos Stengos, Andreas Stengos,
George Stengos, and Marianna Stengou*

Monica A. Limon-Wynn
SNELL & WILMER LLP
One Arizona Center
400 East Van Buren Street
Suite 1900
Phoenix, AZ 85004-2202
Telephone: (602) 382-6000
Facsimile: (602) 382-6070
Counsel for Brian Konderik

Richard C. Critchlow
KENNY NACHWALTER, P.A.
1100 Miami Center
201 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 373-1000
Facsimile: (305) 372-1861
Counsel for Paul Berkowitz

James D. Wareham
James E. Anklam
PAUL HASTINGS JANOFSKY & WALKER
LLP
875 15th Street, N.W.
Washington, DC 20005
Telephone: (202) 551-1700
Facsimile: (202) 551-0133
Counsel for Antonio Mon

John D. Roesser
PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036
Telephone (212) 969-3388
Facsimile: (212) 969-2900
Counsel for Tommy McAden

C. Anthony Shippam
STEWART MANAGEMENT COMPANY
The Nemours Building
1007 Orange Street, Suite 1410
Wilmington, DE 19801
Telephone: (302) 472-9100
Counsel for Candace Corra and Gordon Stewart

Dennis P. Waggoner
HILL WARD HENDERSON
Suite 3700, Bank of America Plaza
101 E. Kennedy Blvd., Tampa, FL 33602
Telephone: (813) 221-3900
Facsimile: (813) 221-2900
*Counsel for Larry Horner, William Hasler,
Michael Poulos, Susan Parks, J. Bryan Whitworth*