

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

In re:
TOUSA, INC., *et al.*,

Debtors.

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF TOUSA, INC., *ET AL.*,

Plaintiffs,

vs.

CITICORP NORTH AMERICA, INC., *ET AL.*,

Defendants.

Chapter 11 Cases

Case No. 08-10928-JKO

Jointly Administered

Adv. Pro. No. 08-1435-JKO

**PLAINTIFF'S RESPONSE TO MOTION OF CITICORP NORTH AMERICA, INC.
TO INTERVENE AND TO STRIKE CERTAIN ALLEGATIONS
FROM THE PROPOSED FINDINGS**

Plaintiff, the Official Committee of Unsecured Creditors Of TOUSA, Inc., *et al.*, (“Plaintiff”) respectfully submits this response to the Motion of Citicorp North America, Inc., as Revolver Agent, (I) to Intervene in the Above-Captioned Adversary Proceeding for the Limited Purpose of Filing the Within Motion to Strike and (II) to Strike Certain Allegations from the Proposed Findings (Dckt. # 590) (“Citicorp Motion”).

Citicorp North America, Inc. (“Citicorp”) is already a party in this litigation, and has been present throughout this case to defend all of its interests. For that reason, a motion to intervene is unnecessary.¹

Plaintiff agrees to withdraw the last sentence of Paragraph 94 on page 167 of the Plaintiff’s Proposed Findings of Fact and Conclusions of Law.² This withdrawal clarifies that Plaintiff’s Proposed Findings of Fact and Conclusions of Law does not seek to avoid the Revolver Lenders’ lien on the TOUSA tax refund. Plaintiff understands this to be the only relief requested by the Citicorp motion. See Motion, at 13.

Plaintiff reserves the right to seek to avoid the liens held by the Revolver Lenders in subsequent proceedings.

¹ Plaintiff has no objection to the motion if the Court concludes that intervention is necessary.

² This sentence states: “The Committee’s claim under Section 547 also seeks to avoid liens held by the Revolver Lenders, not merely the liens held by the First and Second Lien Lenders.”

Dated: October 9, 2009

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 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/ Lawrence S. Robbins

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2009, I caused a true and correct copy of Plaintiff's Response To Motion Of Citicorp North America, Inc. To Intervene And To Strike Certain Allegations From The Proposed Findings to be served by e-mail on:

OCUC of TOUSA, Inc., et al. v. Citicorp North America, Inc., et al.
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