

§ 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief sought in this Motion is 11 U.S.C. § 105.

Background

2. On October 17, 2008, the Official Committee of Unsecured Creditors of TOUSA, Inc., et. al. (the "Committee") filed the First Amended Adversary Complaint in this action. (D.E. #120).

3. In the First Amended Adversary Complaint and subsequent amended complaints, Westport was misnamed as a First Lien Lender defendant, when WCP Cayman should have been the entity named instead.

4. On October 20, 2009, this Court entered the Amended Final Judgment (D.E. #721) and Amended Findings of Fact and Conclusions of Law (D.E. #722).

Relief Requested and Grounds Therefore

5. Westport, WCP Cayman, and the Committee (the "Parties") are in agreement regarding the substitution of WCP Cayman in the place of Westport as a First Lien Lender defendant in this matter for all purposes, including but not limited to all matters related to the Joint Stipulated Facts, Final Judgment and Findings of Fact and Conclusions of Law. In an effort to clarify these issues, the Parties entered into that certain Stipulation For Substitution of Party Defendant (the "Stipulation"), a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

6. By this Motion, Westport and WCP Cayman seek an order approving the Stipulation.

7. The Stipulation will eliminate any confusion regarding the proper Party Defendant.

8. Counsel for the Committee has agreed to the relief sought herein.

WHEREFORE, Westport and WCP respectfully request that this Court enter an order granting this Motion, approving the Stipulation, and providing for such other and further relief as is just and proper.

Certificate of Compliance with Local Rule 2090-1(A)

I 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 to practice in this Court set forth in Local Rule 2090-1(A).

Dated: December 22, 2009

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EXHIBIT A

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

STIPULATION FOR SUBSTITUTION OF PARTY DEFENDANT

The Official Committee of Unsecured Creditors of TOUSA, Inc., et al. (the “Committee”), Westport Capital Partners LLC (“Westport”) and WCP Real Estate Strategies Fund (Cayman), L.P. (“WCP Cayman”) stipulate to the substitution of WCP Cayman in place of Westport as a party defendant in this action. In support of this stipulation, the Committee, Westport and WCP Cayman state as follows:

Westport was misnamed as a First Lien Lender defendant in the First Amended Adversary Complaint (D.E. 120) and subsequent amended complaints, when WCP Cayman should have been the entity named instead. Similarly, both Westport and WCP Cayman were mistakenly named as a First Lien Lender in the Joint Stipulated Facts (D.E. 542), when only WCP Cayman should have been named as a First Lien Lender. WCP Cayman should be substituted for Westport as a First Lien Lender defendant in this matter for all purposes,

including but not limited to all matters related to the Joint Stipulated Facts (D.E. 542), Final Judgment (D.E. 721) and Findings of Fact and Conclusions of Law (D.E. 722 herein).

WHEREFORE, The Committee, Westport and WCP Cayman hereby stipulate to the substitution of WCP Real Estate Strategies Fund (Cayman), L.P. in place of Westport Capital Partners LLC as a First Lien Lender defendant.

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

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Agreed Motion by Westport Capital Partners LLC and WCP Real Estate Strategies Fund (Cayman), L.P. for Order Approving Stipulation Substituting Party Defendant* has been furnished on this 22nd day of December, 2009, electronically via the Court's CM/ECF system and via electronic mail to:

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