

**Bank of Florida's Motion for Relief from the Automatic Stay, or in the Alternative, for Adequate Protection (the "BOF Motion").**

By the BOF Motion, Bank of Florida – Southeast f/k/a/ Bank of Florida (“BOF”) seeks entry of an order granting BOF (i) relief from the automatic stay to foreclose on certain property located in Polk County, Florida (the “Property”) on which BOF holds a first priority mortgage and/or (ii) adequate protection of its interest in the Property.

According to BOF, on August 16, 2006, EMF Fund IV, LLC (“EMF”), a third-party non-Debtor, borrowed approximately \$5.2 million from BOF to purchase the Property. The loan was documented in a note (the “Note”) and in a Mortgage and Security Agreement (the “Mortgage”). Under the Mortgage, EMF was to make interest payments to BOF on the first day of each month. Also on August 16, 2006, EMF executed an agreement (the “Option Agreement”) with TOUSA Homes, Inc. (“TOUSA”) that provided TOUSA the right to purchase the Property in a series of incremental transactions if TOUSA made certain scheduled payments. In addition, TOUSA, EMF, and BOF executed an agreement (the “Subordination Agreement”) by which the parties agreed that the Option Agreement was subordinate to the Mortgage and under which BOF has certain subrogation rights vis a vis EMF. Pursuant to section 1(d) of the Option Agreement, EMF can require TOUSA to purchase the Property.

BOF alleges that on January 1, 2008, EMF failed to make an interest payment to BOF and, according to BOF, has not made any subsequent interest payments. According to the BOF Motion, as of March 13, 2008, EMF owed BOF approximately \$4.6 million in principal and accrued interest, with additional interest accruing. BOF alleges that TOUSA has failed to make a payment under the Option Agreement to EMF that was due January 5, 2008 and that EMF has exercised its right under the Option Agreement to require TOUSA to purchase the remaining portion of the Property at a pre-determined price of approximately \$7.5 million. TOUSA has not purchased the Property. BOF alleges that TOUSA's right to cure the default under the Option Agreement expired on January 9, 2008, prior to the filing of the Debtors' chapter 11 cases and, therefore, TOUSA no longer has any interest in the Property.

According to BOF, the Property is worth approximately \$2.9 million, while the debt to BOF is over \$4.6 million, meaning that no equity cushion exists in the Property for EMF. Further, BOF asserts that TOUSA is not using the Property, and cannot use the Property unless it tenders approximately \$7.5 million to EMF. BOF argues that it lacks adequate protection and is entitled to relief from the automatic stay to foreclose on the Property because: (i) EMF has been delinquent under the Note since January 1, 2008; (ii) EMF and TOUSA are enjoying the use of the Property without making payments to BOF; (iii) TOUSA and EMF lack equity in the Property and the Property is not necessary to an effective reorganization of the Debtors; (iv) TOUSA's rights have terminated under the Option Agreement; and (v) the 2007 property taxes on the Property have not been paid by EMF or TOUSA.

In the alternative, if the Court determines that TOUSA still has an interest in the Property, despite TOUSA's failure to purchase the Property under the Option Agreement, BOF requests relief from the automatic stay to foreclose on the Property subject to the Option Agreement.

***A hearing on the BOF Motion has been scheduled for April 9, 2008, with an objection deadline of April 4, 2008 at 5:00 p.m. (ET).***