

Rodriguez Family’s Motion for Relief from Stay (the “Rodriguez Motion”).

By the Rodriguez Motion, creditors Guillermo S. Rodriguez, Erin M. Rodriguez, and Antonio Rodriguez (collectively, the “Rodriguez Family”) seek entry of an order lifting the automatic stay to allow the Rodriguez Family to pursue a state court negligence action against TOUSA, Inc. (“TOUSA”). Prior to the Debtors’ filing for chapter 11 protection, the Rodriguez Family filed a Florida state court action against TOUSA (the “State Court Action”) alleging personal injury claims caused by a home sold by TOUSA, which allegedly contained mold, mildew, and other toxic substances.¹ The Rodriguez Family alleges damages in excess of \$15,000.

The Rodriguez Family alleges that the Debtors have an insurance policy which covers the types of claims alleged in the State Court Action and that they wish to proceed with the State Court Action to recover the proceeds of such policies.² The Rodriguez Family alleges that the Debtors do not require the benefit of the automatic stay because the Debtors’ liability insurance would likely cover defense costs and any judgment. Accordingly, the Rodriguez Family alleges that any judgment will not be enforced against the Debtors, other than collecting against the Debtors’ insurance. However, the Rodriguez Family also wishes to preserve its claims against the Debtors by filing a proof of claim (“POC”) in the event that the Debtors’ insurance company fails to pay any judgment awarded to the Rodriguez Family.

A hearing on the Rodriguez Motion has not been scheduled, but an objection deadline has been set for November 22, 2008.

¹ The motion also asks for relief from the stay to “file their personal injury claims against the Debtors.” Rodriguez Motion at 3. It is unclear whether the Rodriguez Family is seeking authority to file additional claims.

² The Rodriguez Family attaches a Zurich American Insurance Group Policy as an exhibit to the Rodriguez Motion.