

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
RC SOONER HOLDINGS, LLC, <u>et al.</u> , ¹)	Case No. 10-10528 (BLS)
)	
Debtors.)	(Jointly Administered)

**STIPULATION AND CONSENT ORDER GRANTING MOTION OF FANNIE MAE
FOR RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)
AND RULE 4001 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

UPON CONSIDERATION of the Motion of Fannie Mae for Relief from Automatic Stay pursuant to 11 U.S.C. § 362(d) and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the “Motion”); the consent of RC Sooner Holdings, LLC, and all of its debtor affiliates and subsidiaries listed in footnote 1 (collectively, the “Debtors”) to the relief sought in the Motion upon the terms and the conditions set forth herein; and Federal National Mortgage Association (“Fannie Mae” or the “Lender”) and the Debtors having agreed and stipulated as follows, which stipulations this Court hereby approves and adopts:

1. Filing of Petition. On February 22, 2010 (the “Petition Date”), the Debtors filed voluntary chapter 11 petitions under the Code. By Order of this Court, the Debtors’ bankruptcy cases are jointly administered for procedural purposes only. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors are authorized to operate their

¹ The Debtors and the last four digits of their taxpayer identification numbers are: RC Sooner Holdings, LLC (7904); RC Brixton Square Owner, LLC (8002); RC Cedar Crest Owner, LLC (7914); RC Fulton Plaza Owner, LLC (8011); RC Magnolia Owner, LLC (7998); RC Pomeroy Park Owner, LLC (7939); RC Salida Owner, LLC (7947); RC Savannah South Owner, LLC (7983); RC Southern Hills Owner, LLC (7958); Brixton Square Apartments, LLC (1844); CC Apartments, LLC (1798); Fulton Plaza Apartments, LLC (4344); Magnolia Manor Apartments, LLC (4486); Pomeroy Park Apartments, LLC (1649); Salida Apartments, LLC (1915); Savannah South Apartments, LLC (8586); and Southern Hills Villa Apartments, LLC (1721). The business address for each of the Debtors where notices should be sent is 1515 Broadway, 11th Floor, New York, New York 10036-8901.

business as debtors in possession. To date, no official committee of unsecured creditors has been appointed in these cases.

2. Jurisdiction: Core Proceeding. Consideration of the Motion constitutes a “core proceeding” as defined in 28 U.S.C. § 157. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district.

3. The First Interim Order. On February 24, 2010, after conducting a preliminary hearing on the Motion of the Debtors and Debtors in Possession for Entry of Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the “Cash Collateral Motion”), this Court entered an Interim Agreed Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the “First Interim Order”) whereby, *inter alia*, this Court authorized the Debtors to use Cash Collateral through and including March 11, 2010, set a deadline to object to the Cash Collateral Motion of March 8, 2010, and set a final hearing on the Cash Collateral Motion for March 11, 2010.

4. The Second Interim Order. On March 11, 2010, this Court entered a Second Interim Agreed Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the “Second Interim Order”) whereby, *inter alia*, this Court authorized the Debtors to use Cash Collateral through and including March 18, 2010, extended the deadline for Fannie Mae to object to the Cash Collateral Motion of March 15, 2010, and set a final hearing on the Cash Collateral Motion for March 18, 2010.

5. Lender's Limited Objection to the Motion. On March 15, 2010, Lender filed a Limited Objection to the Cash Collateral Motion, in which the Lender stated that it did not object to the use of Cash Collateral for ordinary and necessary operations or for the payment of fees to the Debtors' claims agent but objected solely to the use of Cash Collateral for the payment of other administrative expenses, including, without limitation, the payment of the fees of Debtors' attorneys. No other creditors or parties-in-interest objected to the Cash Collateral Motion or the entry of a Final Order.

6. The March 18, 2010 Hearing. On March 18, 2010, this Court conducted a further preliminary hearing on the Cash Collateral Motion and the Lender's Limited Objection.

7. The Third Interim Order. On March 19, 2010, this Court entered a Third Interim Agreed Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the "Third Interim Order") whereby, *inter alia*, this Court authorized the Debtors to use Cash Collateral through and including March 30, 2010, and set a final hearing on the Cash Collateral Motion for March 30, 2010.

8. Fourth Interim Order. On March 26, 2010, this Court entered a Fourth Interim Agreed Order (A) Authorizing Debtors in Possession to Use Cash Collateral; (B) Granting Replacement Liens to Lender; (C) Granting Adequate Protection; and (D) Scheduling a Final Hearing Thereon (the "Fourth Interim Order") whereby, *inter alia*, this Court authorized the Debtors to use Cash Collateral through and including the earlier of April 19, 2010, or the date on which an order granting the Lender relief from the automatic stay is entered, and set a final hearing on the Cash Collateral Motion for April 19, 2010.

9. Final Cash Collateral Order. This Stipulation and Order is being submitted for entry contemporaneously with a proposed Final Agreed Order Authorizing Debtors in Possession to Use Cash Collateral, Granting Replacement Liens to Lender, and Granting Adequate Protection.

10. The Lender's Lift Stay Motion. On March 30, 2010, the Lender filed a Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d) and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "Lift Stay Motion"). No party filed an Objection to the Lift Stay Motion and the objection deadline expired on April 12, 2010. The Debtors have reached an agreement with the Lender and consent to the relief requested by the Lender in the Lift Stay Motion subject to the terms, conditions, and agreements set forth herein.

11. Appointment of a Receiver. Immediately upon the entry of this Stipulation and Order, the Lender will seek the appointment of a receiver (the "Receiver") by a court of competent jurisdiction of the State of Oklahoma to operate and manage the Apartment Complexes.² The wages of the employees of RC Realty Management, Inc. ("RC Realty") and RC Realty's management fees and expenses for a three (3) business day period following the appointment of the Receiver (the "Transition Period") shall be paid from Cash Collateral. Following the Transition Period neither RC Realty nor the Debtors shall have any obligation to pay any costs or expenses associated with the operation of the Apartment Complexes or to manage the Apartment Complexes. All operating costs and expenses of the Apartment Debtors arising on or after the date on which the Receiver is appointed shall be the sole responsibility and obligation of the Receiver and shall be paid by the Receiver. At the conclusion of the Transition Period, the Debtors shall turnover all Cash Collateral less the amounts necessary to pay

² Capitalized terms not otherwise defined herein have the meaning set forth in the Lift Stay Motion.

outstanding checks, to pay RC Realty's management fees through the end of the Transition Period, and to pay U.S. Trustee fees in the amount of \$6,500.

12. Debtor's Cooperation with Receiver. The Debtors hereby agree to cooperate with the Lender and any Receiver in all matters related to the appointment of the Receiver and to take such steps as are reasonably necessary to effectuate a smooth transition from the management and operation of the Apartment Complexes by the Debtors to the management and operation of the Apartment Complexes by the Receiver during the Transition Period. Debtors further agree to deliver copies of all financial documents, books, and records in their possession, custody, and control relating to the Apartment Complexes to the Receiver within three (3) business days after the appointment of the Receiver unless the Receiver otherwise directs. After the conclusion of the Transition Period, the Debtors and RC Realty shall not interfere with the Receiver in the performance of his duties and shall respond to reasonable requests for information related to the operation and management of the Apartment Complexes by the Receiver made during a reasonable time after the Transition Period. Fannie Mae acknowledges that following the Transition Period, RC Realty will no longer employ those persons previously responsible for the day to day management and operation of the Apartment Complexes.

13. Fannie Mae's Release of Certain of the Debtors. Fannie Mae does hereby remise, release, and forever discharge RC Sooner Holdings, LLC; RC Brixton Square Owner, LLC; RC Cedar Crest Owner, LLC; RC Fulton Plaza Owner, LLC; RC Magnolia Owner, LLC; RC Pomeroy Park Owner, LLC; RC Salida Owner, LLC; RC Savannah South Owner, LLC ; RC Southern Hills Owner, LLC, and RC Realty, and their managers, members, officers, directors, shareholders, agents, advisors, attorneys, and successors and assigns (collectively, the "RC

Entities”), jointly and severally, of and from all and every manner of acts and actions, cause and causes of actions, suits, arbitrations, mediations, conciliations, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever in law or equity, which it has, ever had, now has, or its predecessors, successors, and/or assigns can, shall, or may have, from the beginning of the world to the date of this Stipulation and Order, whether known or unknown, suspected or unsuspected, fixed or contingent, relating to the management, operation, or ownership of the Apartment Complexes, the Debtors’ bankruptcy cases, the acquisition of the interests in the Apartment Debtors, any transactions, actions, or inaction relating to the Apartment Complexes, and the indebtedness of the Apartment Debtors to Fannie Mae; provided, however, that notwithstanding anything to the contrary herein, Fannie Mae does not release any of the Debtors from claims based upon misappropriation of funds in violation of the cash collateral orders entered by this Court in the Debtors’ bankruptcy cases, all of which claims (if any) are expressly preserved and Fannie Mae does not release any of the claims pending in the Oklahoma state court foreclosure actions against any party thereto.

14. RC Entities’ Release of Fannie Mae. The RC Entities hereby remise, release, and forever discharge Fannie Mae of and from all and every manner of acts and actions, cause and causes of actions, suits, arbitrations, mediations, conciliations, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever in law or equity, which it has, ever had, now has, or its predecessors, successors, and/or assigns can, shall, or may have, from the beginning of the world to the date of

this Stipulation and Order, whether known or unknown, suspected or unsuspected, fixed or contingent, relating to the management, operation, or ownership of the Apartment Complexes, the Debtors' bankruptcy cases, the acquisition of the interests in the Apartment Debtors, any transactions, actions, or inaction relating to the Apartment Complexes, and the indebtedness of the Apartment Debtors to Fannie Mae.

15. Debtors' Claim Against Bank of the West. Fannie Mae hereby forever abandons, releases, and waives any interest, security interest, lien, right, or other claim to the causes of action or claims (including, without limitation, the proceeds thereof) that the Debtors have or may have against (i) Bank of the West; (ii) any of RemyCo., Inc., The Remy Companies, Inc., Home Realty Ventures, Inc., Bradford Creek Properties, LLC, Landurm Design and Development Co., Inc., Diamond Pointe, LLC, Bluechip Holdings, LP, Tim L. Remy, Tim J. Remy, Sherry E. Remy, L. Leon Remy, Robin E. Remy, Sherry E. Remy Revocable Trust Dated July 14, 1997, L. Leon Remy Revocable Trust dated July 14, 1997, and any of their agents, attorneys, predecessors in interest, affiliates, successors, assigns, employees, directors, officers, heirs, or personal representatives, as applicable (collectively, the "Remys"); and (iii) Sperry Van Ness/William T. Strange & Associates, including, without limitation, the causes of actions and claims asserted by the Debtors in Adversary Proceeding Nos. 10-50719 & 10-50723 (collectively, the "Adversary Proceedings"), pending before this Court. Fannie Mae and the Debtors expressly acknowledge and agree that the foregoing release is not intended to and shall not release any claims or causes of action that Fannie Mae has or may have against any of the Remys or otherwise restrict Fannie Mae from pursuing recovery directly against any of the Remys based on any claims or causes of action that Fannie Mae may have against any of the Remys.

16. Fannie Mae's Cooperation with Discovery. Promptly upon the entry of this Stipulation and Order, Fannie Mae will deliver to the Debtors copies of all documents relating, concerning, or evidencing the Apartment Debtors' indebtedness to Fannie Mae, including, without limitation, all promissory notes, mortgages, assignments of rent, assignments of loan documents, and forbearance agreements. Further, Fannie Mae will appropriately and timely respond to any subpoenas relating to the Remys served upon it and will encourage the involved lenders to do the same.

17. Apartment Debtors' Cases. In the event the Debtors decide to seek to dismiss the bankruptcy cases of the Apartment Debtors, Fannie Mae stipulates and agrees that it will not object to such a dismissal and hereby forever waives, relinquishes, and abandons the right to assert any and all objections it has or may have to such a dismissal.

18. Claims Against Third Parties. Notwithstanding anything to the contrary contained herein, both Fannie Mae and the Debtors are not waiving and expressly reserve any and all claims or causes of action of any kind that they may have against any third parties, including, but not limited to, the Debtors' right to pursue rescission of the original sale agreements as asserted in the Adversary Proceedings.

19. Negotiations. The agreements and arrangements authorized in this Stipulation and Order have been negotiated at arms-length, are fair and equitable under the circumstances, and are enforceable pursuant to their terms. The Lender and the Debtors have been represented by counsel and intend to be and are bound by the terms of this Stipulation and Order.

20. Factual Findings/Legal Conclusions. Each of the foregoing findings by the Court will be deemed a finding of fact if and to the full extent that it makes and contains

factual findings and a conclusion of law if and to the full extent that it makes and contains legal conclusions.

THEREFORE, IT IS BY THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, HEREBY

ORDERED, that the Motion be and hereby is GRANTED; and it is further

ORDERED, that the automatic stay of 11 U.S.C. § 362(a) is immediately terminated pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Lender and any successor and/or assignee to exercise its non-bankruptcy rights and remedies against the Apartments owned by the Apartment Debtors in accordance with the Mortgages and applicable non-bankruptcy law including, without limitation, the right to seek the appointment of a receiver to manage and operate the Apartments in a competent court of the State of Oklahoma and to foreclose on the Apartments; and it is further

ORDERED, that within three (3) business days of the entry of an Order by a court of competent jurisdiction of the State of Oklahoma appointing a receiver to operate and manage any of the Apartments owned by the Apartment Debtors, Fannie Mae shall file a Notice of such appointment with this Court; and it is further

ORDERED, this Court has and will retain jurisdiction to enforce this Stipulation and Order according to its terms; and it is further

ORDERED, that the fourteen (14) day stay pursuant to Bankruptcy Rule 4001(a)(3) is waived.

IT IS SO ORDERED.

Dated: April __, 2010

United States Bankruptcy Judge