

# **EXHIBIT A**

UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

Case No. 10-10528-BLS

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In the Matter of:

RC SOONER HOLDINGS, LLC., et al.

Debtors.

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United States Bankruptcy Court  
824 North Market Street  
Wilmington, Delaware

April 19, 2010

10:39 AM

B E F O R E:

HON. BRENDAN L. SHANNON

U.S. BANKRUPTCY JUDGE

ECR OPERATOR: MICHAEL MILLER

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HEARING re Motion for entry of interim and final orders  
(a) authorizing debtors in possession to use cash collateral,  
(b) granting replacement liens to Fannie Mae, (c) granting  
adequate protection, and (d) scheduling a final hearing  
thereon.

HEARING re 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.

HEARING re Motion of the debtors for an order authorizing  
production of documents and examination of a representative  
pursuant to bankruptcy rule 2004.

Pretrial conference, Adversary Proceeding RC Sooner Holdings  
LLC et al., v. Bank of the West et al., Adv. No. 10-50719.

Pretrial conference, Adversary Proceeding RC Sooner Holdings  
LLC et al., v. RemyCo. et al., Adv. No. 10-50723.

Transcribed by: Penina Wolicki

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A P P E A R A N C E S :

TOBEY M. DALUZ, ESQ.

SEAN J. BELLEW, ESQ.

CHRISTOPHER S. CHOW, ESQ.

BALLARD SPAHR LLP

REPRESENTING: THE DEBTORS

PATRICK TINKER, ESQ.

U.S. DEPARTMENT OF JUSTICE

OFFICE OF THE U.S. TRUSTEE

DAN ASTIN, ESQ.

CIARDI CIARDI & ASTIN

REPRESENTING: BANK OF THE WEST

NOEL BURNHAM, ESQ.

BURNHAM LAW ASSOCIATES LLC

REPRESENTING: THE REMYCO ENTITIES

NATALIE RAMSEY, ESQ.

MARK SHEPPARD, ESQ.

MONTGOMERY MCCrackEN WALKER & RHOADS, LLP

REPRESENTING: THE REMYCO ENTITIES

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GARY KAPLAN, ESQ.

MARSHALL DENNEHEY

REPRESENTING: SPERRY VAN NESS

RACHEL B. MERSKY, ESQ.

MONZACK MERSKY MCLAUGHLIN AND BROWDER, P.A.

REPRESENTING: FANNIE MAE

## P R O C E E D I N G S

1  
2 THE COURT: Please be seated.

3 Mr. Chow?

4 MR. CHOW: May it please the Court, Christopher Chow  
5 from Ballard Spahr, counsel for RC Sooner Holdings LLC. I want  
6 to thank the Court again, for making itself available today,  
7 Your Honor.

8 This is an omnibus hearing for RC Sooner and its  
9 sixteen affiliated debtors. The major items on today's agenda  
10 include the proposed stipulation consensually resolving Fannie  
11 Mae's lift-stay motion and an agreed final cash collateral  
12 order to be entered in connection therewith; the debtors'  
13 motion for 2004 discovery; and the initial status conferences  
14 in each of the pending adversaries.

15 THE COURT: Okay.

16 MR. CHOW: Unless Your Honor prefers otherwise, at  
17 this point, I think it makes the most sense to proceed by  
18 presenting the -- first the terms of the resolution or the  
19 proposed resolution to be reached with Fannie Mae, as those  
20 agreements may have some bearing on the remaining matters on  
21 the agenda.

22 THE COURT: Very good.

23 MR. CHOW: And to that end, I will yield the podium to  
24 Ms. Daluz of our office, to make the presentation to the Court.

25 THE COURT: Okay. Ms. Daluz.

1 MS. DALUZ: Good morning, Your Honor. For the record,  
2 Tobey Daluz, Ballard Spahr, on behalf of the debtors.

3 The debtors had hoped to utilize this bankruptcy case  
4 as a breathing spell that would allow it to negotiate a  
5 consensual resolution of the Fannie Mae mortgages. Immediately  
6 upon the commencement of the bankruptcy case, the debtors set  
7 about the process of participating in good-faith negotiations  
8 regarding the loans and the mortgages. It became pretty  
9 apparent early on that the revenues generated by the properties  
10 were insufficient to service the loans and the debt, and that a  
11 restructuring would be necessary. And although the  
12 representatives of the debtors met in good faith with  
13 representatives of Fannie Mae, it became apparent that we were  
14 not going to be able to get a consensual resolution of the  
15 mortgage loans.

16 In order to avoid costly litigation and valuations and  
17 the like, especially with respect to a project that was  
18 struggling, the debtors have elected, instead, to pursue its  
19 remedies against the Remys. In essence, the debtors' hope is  
20 to rescind the sales contracts in an effort to return to the  
21 status quo ante. Now, I think what we're prepared to do is to  
22 tender the ownership of the Apartment LLCs, and we hope to  
23 recover the purchase price and other resulting damages from the  
24 sales with the Remys.

25 As a result, we think it's best to pursue at this time

1 a consensual resolution of the issues with Fannie Mae. That  
2 includes both cash collateral as well as the motion for relief  
3 from stay which was filed a few weeks ago. With respect to  
4 cash collateral, which is the number 1 item on the agenda, Your  
5 Honor, the parties have agreed that we would agree to a final  
6 order on the use of cash collateral on substantially the same  
7 terms as the ones currently in place, with the first four  
8 interim orders.

9 The use of the cash collateral will continue until  
10 such time that Fannie Mae is able to get a receiver appointed  
11 for the properties in Oklahoma state court. At such time,  
12 Fannie Mae will then file a certification of counsel with the  
13 bankruptcy court, and use of cash collateral will terminate at  
14 that time.

15 The motion for relief from stay in the order that we  
16 are in the process of negotiating with Fannie Mae will need to  
17 be filed contemporaneous with this final order on the use of  
18 cash collateral. The hope is to file those two today. They  
19 are not yet final, but the terms of the motion for relief from  
20 stay are that -- excuse me -- the consensual order on relief  
21 from stay is that Fannie Mae would be given relief from stay to  
22 pursue those state law remedies, including the appointment of a  
23 receiver, and the debtors will not object to that appointment.  
24 During the transitional period, the debtors will agree to turn  
25 over the financial records and the management to the receiver.



1 And during that transitional period, RC Realty, who is, in  
2 fact, managing the properties, will continue to be paid from  
3 the proceeds of the properties.

4 In addition, with respect to relief from stay, Fannie  
5 Mae and the RC entities will exchange releases -- not the  
6 Apartment LLCs, only the RC Sooner entities, RC Sooner itself  
7 and the intermediate entities that hold the Apartment LLCs.

8 Fannie Mae has also agreed to waive its interest in  
9 any of the two adversary proceedings that are currently before  
10 the Court or the proceeds from those adversary proceedings.  
11 That includes the Bank of the West proceeding and the Remy  
12 adversary proceeding. Fannie Mae has also agreed not to  
13 object, should the debtors elect to seek the dismissal the  
14 Apartment LLC bankruptcy cases.

15 Fannie Mae and the loan servicers were also agree to  
16 make their best efforts to respond to any timely subpoenas  
17 received in connection with discovery needed by the debtors,  
18 both in the context of the bankruptcy case and also in the  
19 context of the adversary proceedings. We've agreed to serve  
20 that under subpoena.

21 And also, Fannie Mae and the debtors make it clear  
22 that they both reserve their rights vis-a-vis all third  
23 parties. That includes the Remys and any other party.

24 You're probably wondering what we intend to do with  
25 this case and fund it going forward. This week we intend to

1 file a motion for DIP financing. The debtors' primary  
2 shareholder has agreed to loan funds to the debtor, and we'll  
3 be filing a DIP motion this week. We should probably get a  
4 hearing maybe in the interim within -- maybe a two-week period  
5 between now and the next omnibus hearing. We'd like to get  
6 that on record --

7 THE COURT: Okay.

8 MS. DALUZ: -- so that we can continue the funds  
9 flowing in the estate once the properties are no longer assets  
10 of the debtors.

11 THE COURT: Okay.

12 MS. DALUZ: Your Honor, as I said, we don't have  
13 negotiated agreements yet. We're very close.

14 THE COURT: Okay.

15 MS. DALUZ: Fannie Mae is in the process of looking at  
16 them now. Our intention would be to file them under  
17 certification of counsel sometime later today. We think  
18 they're relatively straightforward. However, it's up to Your  
19 Honor as to whether or not that's the appropriate procedure.

20 THE COURT: Okay. I understand.

21 MS. RAMSEY: Your Honor, may I be heard? Natalie  
22 Ramsey on behalf of the Remy entities and individuals.

23 THE COURT: Good morning, Ms. Ramsey.

24 MS. RAMSEY: Good morning.

25 THE COURT: You can come on up. I just want to make

1 sure we pick you up on the record. Yes, ma'am.

2 MS. RAMSEY: Thank you, Your Honor. We have not been  
3 party to these negotiations and were unaware of their contents  
4 until the report this morning to the Court. It's unclear to  
5 me, listening to it, whether or not the proposed resolution  
6 might have some impact upon the adversaries that have been  
7 filed against our clients. And I would like an opportunity to  
8 review those and file any objection in advance of entry by the  
9 Court.

10 THE COURT: That sounds fine.

11 MS. RAMSEY: Thank you, Your Honor.

12 THE COURT: Mr. Astin.

13 MR. ASTIN: May I approach the podium? Your Honor,  
14 for Bank of the West, Dan Astin. I'd just like to make the  
15 same reservation. I just was retained on Friday, and really  
16 don't know anything about these proceedings. I could just  
17 maybe work with debtors' counsel and Ms. Ramsey to make --

18 THE COURT: Sure.

19 MR. ASTIN: -- just to rule in or rule out how it  
20 impacts us.

21 THE COURT: Okay. Ms. Mersky?

22 MS. MERSKY: Good morning, Your Honor. Rachel Mersky  
23 on behalf of Fannie Mae. The debtors and Fannie Mae have  
24 worked diligently, both initially to see if there was something  
25 that could work in this matter, and then ultimately in

1 connection with the relief from stay. We don't believe that  
2 the Remys or any of the other parties involved have any  
3 interest in the relief from stay. And this was negotiated in  
4 order to expedite the process and hopefully have a receiver  
5 appointed by Wednesday or Thursday of this week. Consequently,  
6 to the extent that this Court elects to give an opportunity to  
7 those parties to review it, we need to see it set some finality  
8 and immediate time constraints, because the critical nature for  
9 Fannie Mae is getting the receiver appointed and cuttings cost.

10 THE COURT: Sure. Okay. Well, obviously it is my  
11 practice to afford all parties an opportunity to evaluate  
12 whether their legal rights are being affected. This is, as  
13 counsel has said, this is the first time they've heard of the  
14 resolution. It's certainly the first time I've heard of it,  
15 which is fine. And my instinct would be that the parties are  
16 finalizing a form of order now. And Mr. Astin and Ms. Ramsey  
17 have asked for the opportunity to review it. I don't see an  
18 issue with that.

19 If they have problems with it, I'm not looking for  
20 filed objections. I would expect the parties to get me on the  
21 phone. It may be difficult to do so over the next couple days.  
22 I go into trial starting at one o'clock today. And I'm booked  
23 solid with these people for at least the next five days. But I  
24 would find an opportunity to squeeze you in somehow. But -- so  
25 I'll leave that where it is.

1 I've listened pretty carefully to the resolution. I'm  
2 not exactly certain how it would affect their interests, but I  
3 do believe that the principles of fairness, at a minimum,  
4 require to have an opportunity to take a look at it. And if  
5 indeed there are issues, then I'll be here. Okay?

6 MS. MERSKY: Thank you, Your Honor.

7 THE COURT: Ms. Daluz?

8 MS. DALUZ: Yes, Your Honor. I'm wondering if it  
9 would make some sense if we could set a couple of deadlines so  
10 that we can provide -- if Fannie Mae is comfortable, we don't  
11 have all of the comments yet -- but if they're comfortable, we  
12 can provide them with the form of orders that we currently have  
13 in place. We do think it's necessary to get the final cash  
14 collateral order entered today. I don't think that anybody  
15 should have a problem with that. We tried to put all of the  
16 salient provisions with respect to relief from --

17 THE COURT: Into the lift-stay.

18 MS. DALUZ: -- stay into the lift-stay order.

19 THE COURT: Yes.

20 MS. DALUZ: Exactly. So my intention would still be  
21 to file that under certification of counsel, hopefully before  
22 one o'clock, so that we can get that entered --

23 THE COURT: They'll bring it in to me.

24 MS. DALUZ: -- before you begin your trial. And then,  
25 you know, if we could set a deadline of maybe by noon tomorrow

1 or something by which we could get comments, then we can  
2 file -- hopefully make any changes that are necessary and file  
3 the relief from stay order forthwith.

4 THE COURT: Okay. Ms. Ramsey?

5 MS. RAMSEY: Your Honor, that will provide sufficient  
6 time for us. Thank you.

7 THE COURT: Okay. That sounds fine. And again, I  
8 don't want to box myself in. I have not seen any of the  
9 documents the parties are referring to, and I understand  
10 they're still works in progress. And I'm treating this in some  
11 ways the way that I would typically treat a discovery dispute  
12 where I'm saying there's not a lot of upside in motion practice  
13 and formal written objections. They're usually not worth the  
14 time that's accorded to them, if I can get on the phone and  
15 work through it with the parties.

16 So I invite you to do that. And obviously, if the  
17 parties can come to closure on the terms of the documents  
18 themselves, then that would be ideal. Otherwise, I'll expect  
19 to hear from the parties if there's an issue by midday  
20 tomorrow, and I will -- we'll figure out how to get you on the  
21 phone.

22 Mr. Astin?

23 MR. ASTIN: Judge, just an issue --

24 THE COURT: Can you get to that podium so we can pick  
25 you up?

1 MR. ASTIN: Sure. My client is on the west coast, and  
2 I know that they're very concerned about this matter. I'm  
3 going to move as quickly as I can. But I just don't want to  
4 surprise anyone if -- probably tomorrow at noon is not  
5 realistic for me to be able to report back. And I would  
6 probably need more time. I'd just like to let everybody know  
7 that now. Maybe to the end of the day.

8 THE COURT: 1:30.

9 MR. ASTIN: Thank you.

10 THE COURT: Yes. And other thing is, I think the  
11 debtor has offered to give the latest and greatest version.  
12 And I think that ought to happen immediately. You can at least  
13 start working from that. And then if there's a black-line with  
14 some tinkering over the next few hours then, again, you're  
15 ahead of the -- I realize I'm putting a burden, but if they  
16 look at it today and they have an hour and a half tomorrow,  
17 during the business day, then hopefully we'll be able to get  
18 something done and come to closure. Okay?

19 MS. DALUZ: We will send that out immediately  
20 following the hearing, Your Honor.

21 THE COURT: Very good. Okay.

22 MR. CHOW: Your Honor, the next item on the agenda is  
23 the debtors' 2004 motion. Now, it may appear, in light of the  
24 terms of the proposed consensual lift stay with Fannie Mae that  
25 the discovery sought in connection with our 2004 motion may not

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C E R T I F I C A T I O N

I, Penina Wolicki, certify that the foregoing transcript is a true and accurate record of the proceedings.

**Penina Wolicki**

Digitally signed by Penina Wolicki  
DN: cn=Penina Wolicki, c=US  
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Date: April 26, 2010