

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ) Chapter 11  
)  
RC SOONER HOLDINGS, LLC., et al, ) Case No. 10-10528  
)  
Debtors. ) (Jointly Administered)

**AFFIDAVIT OF MARC McCARTHY IN SUPPORT OF LIMITED  
OBJECTION OF FANNIE MAE TO DEBTORS' MOTION  
FOR ENTRY OF INTERIM AND FINAL ORDERS (A) AUTHORIZING  
DEBTORS' IN PASSION TO USE CASH COLLATERAL,  
(B) GRANTING REPLACEMENT LIENS TO FANNIE MAE,  
AND (C) GRANTING ADEQUATE PROTECTION**

STATE OF TEXAS )  
)ss:  
COUNTY DALLAS )

I, Marc McCarthy, after first being duly sworn, hereby deposes and states upon my personal knowledge, information, and belief as follows:

1. I am a Senior Asset Manager for Fannie Mae and the person primarily responsible for administration of the Notes, Mortgages and other loan documents pertaining to loans made to certain of the Debtors (the "Apartment Debtors") in the above jointly administered case. The Apartment Debtors consist of: Brixton Square Apartments, LLC; CC Apartments LLC; Fulton Plaza Apartments, LLC; Magnolia Manor Apartments, LLC; Pomeroy Park Apartments, LLC; Salida Apartments, LLC; Savannah South Apartments, LLC and Southern Hills Villa Apartments. Each of the Apartment Debtors owns a residential apartment complex (the "Apartments") located in Tulsa County, Oklahoma.

2. Each of the Apartment Debtors is indebted severally (the "Debt"), to Fannie Mae pursuant to notes (the "Notes") held by Fannie Mae. The Debt is secured by valid and perfected

first mortgages and lien interests (the "Mortgages") against all assets (the "Collateral") of each of the respective Apartment Debtors. There is no cross-collateralization of the Debt owed by the respective Apartment Debtors. The Collateral includes, but is not limited to, all rents, cash, negotiable instruments, deposit accounts and other cash equivalents of the respective Apartment Debtors.

3. Prior to the Petition Date, the Apartment Debtors each failed to make the monthly payments due under the Notes by August 1, 2009, and September 1, 2009, thereby constituting defaults under the Notes and Mortgages and other loan documents pertaining thereto.

4. By letters to the Apartment Debtors dated September 29, 2009, Fannie Mae gave notice of Apartment Debtors' monetary default and notified Apartment Debtors that failure to cure the conditions of default by October 9, 2009, would cause the entire unpaid balance of the Notes and all other amounts owed by Apartment Debtors under the Notes, Mortgages and other loan documents to become immediately due and payable without further demand.

5. Pursuant to the respective Mortgages, a transfer of more than fifty percent (50%) ownership interest in the Apartment Debtors without the consent of Fannie Mae is an event of default constituting a breach of the respective Notes, Mortgages and other loan documents. On October 29, 2009, each of the RC LLCs<sup>1</sup>, also Debtors in the above jointly administered bankruptcy cases, purchased 100% of the interest in the Apartment Debtors. The RC LLCs and the 100% owner of the RC LLCs, RC Sooner Holdings, LLC ("RC Sooner"), the lead Debtor in the above jointly administered cases, made no effort to qualify as borrowers under Fannie Mae guidelines and, apart from acquiring ownership of the Apartment Debtors, have no lender/borrower relationship with Fannie Mae.

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<sup>1</sup> The RC LLCs are 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; and RC Southern Hills Owner, LLC.

6. The entire RC acquisition structure and closing of the sale of the interests in the Apartment Debtors to the RC Sooner LLCs was done without the knowledge or consent of Fannie Mae, although all of the Apartment Debtors were fully aware that Fannie Mae's prior consent for any such transfers was required by the Notes, Mortgages and other loan documents and that failure to do so would constitute a breach of the Notes, Mortgages and other loan documents. The Mortgages containing the restrictions on transfers of ownership are all recorded in the public land records in Tulsa County, Oklahoma. A schedule of the recording information respecting the Mortgages is attached hereto as Exhibit "A".

7. Had any of the Debtors contacted Fannie Mae directly or through the servicers of the loans evidenced by the notes prior to the closing of the transfers or ownership of the Apartment Debtors, they would have learned:

- A. That the Notes were in default and had been accelerated,
- B. The existence of the restrictions on transfers of ownership,
- C. The requirements to obtain Fannie Mae's consent to a proposed transfer of ownership, and
- D. The requirements to qualify as a borrower from Fannie Mae.

8. The unpaid balances due, owing and payable under the respective Notes and the name of each principal obligor on the respective Notes are set forth in Exhibit "B" hereto.

9. The Debt respecting each of the Apartment Debtors exceeds the value of the Collateral respecting each of the Apartment Debtors.

10. On February 2 and February 8, 2010, Fannie Mae filed foreclosure actions (the "Foreclosure Actions") against each of the Apartment Debtors and other non-debtor persons and entities who are also liable on the Debt, in State Court in Tulsa County, Oklahoma. The Foreclosure Actions are listed on Exhibit "C" hereto.

11. A hearing for the appointment for a receiver respecting each of the Apartments was set in each Foreclosure Action for February 23, 2010. The filing of the bankruptcy cases of the Apartment Debtors on February 22, 2010, stayed the Foreclosure Actions, and the receivership hearings respecting the Apartment Debtors were stricken.

FURTHER AFFIANT SAYETH NOT.

Marc McCarthy  
MARC McCARTHY

VERIFICATION

STATE OF TEXAS            )  
  ) ss:  
COUNTY OF DALLAS )

I, Marc McCarthy, of lawful age, being first duly sworn upon oath, depose and state that I have read the above and foregoing Affidavit and that the statements and facts therein contained are true and correct to the best of my knowledge and belief.

Marc McCarthy  
MARC McCARTHY

SUBSCRIBED and SWORN to before me this 15<sup>th</sup> day March, 2010.

Lisa R. Newton  
Notary Public

My Commission Expires: 01-22-12

My Commission Number: \_\_\_\_\_

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