



Entered on Docket
August 13, 2007

Hon. Linda B. Riegler
United States Bankruptcy Judge

AUGUST B. LANDIS, ASSISTANT UNITED STATES TRUSTEE
State Bar # IA PK9228
augie.landis@usdoj.gov
UNITED STATES DEPARTMENT OF JUSTICE
Office of the United States Trustee
300 Las Vegas Boulevard So., Suite 4300
Las Vegas, Nevada 89101
Telephone: (702) 388-6600 Attorney Ext. # 235
Facsimile: (702) 388-6658

Attorneys for the Acting United States Trustee,
SARA L. KISTLER

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

JOSEPH D. MILANOWSKI,

Debtor.

Chapter 11 - Involuntary

Case No. BK-S-07-13162-LBR

Date: August 9, 2007

Time: 9:30 a.m.

ORDER FOR RELIEF AND GRANTING INVOLUNTARY CHAPTER 11 PETITION

On August 9, 2007, in compliance with FED. R. BANKR. P. 1013(a), this matter came on for trial of the contested involuntary Chapter 11 bankruptcy petition filed against Joseph D. Milanowski ("**Milanowski**") by USA Capital Diversified Trust Deed Fund, LLC ("**Diversified**"), USACM Liquidating Trust, successor in interest to USA Commercial Mortgage

1 Company, on its own behalf and as servicer on behalf of numerous Direct Lenders ("**USACM**
2 **Trust**"), and Nevada State Bank ("**NSB**"). Marc Levinson appeared on behalf of Diversified.
3 Rob Charles appeared on behalf of USACM Trust. Brad Boodt appeared for NSB. Michael H.
4 Ahrens appeared on behalf of Compass Financial Partners, LLC and Compass USA SPE, LLC
5 ("**Compass**").¹ Russell Walker appeared on behalf of Milanowski. Assistant United States
6 Trustee August B. Landis appeared on behalf of the United States Trustee. Other appearances
7 were noted on the record.

8 Sufficient notice of the trial was provided to all parties in interest. The Court has
9 considered the involuntary petition and related joinders, Milanowski's answer as amended to the
10 time of trial, the pretrial briefs and papers filed by the parties, the trial exhibits to the extent they
11 were admitted into evidence, and the arguments of counsel at trial. The Court is fully informed
12 as to all issues before it pursuant to this contested involuntary bankruptcy petition. The findings
13 of fact and conclusions of law made by the Court in the course of the August 9, 2007 trial are
14 incorporated into this order by this reference pursuant to FED. R. BANKR. P. 1018 and 7052.
15 Based upon the record before it, the Court finds that the relief requested in the involuntary
16 bankruptcy petition is appropriate, and should be granted.

17 **IT IS ORDERED** that the involuntary petition is **GRANTED**.

18 **IT IS FURTHER ORDERED** that, pursuant to 11 U.S.C. § 303(h) and FED. R. BANKR.
19 P. 1013(a), this order shall constitute the order for relief in this case.

20 **IT IS FURTHER ORDERED** that Ford Elsaesser, currently acting as the interim
21 trustee, is appointed as the Chapter 11 trustee.

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26 _____
27 ¹Compass filed a joinder in the involuntary Chapter 11 petition on July 3, 2007. *See*
28 DE # 97.

1 **Submitted by:**

2 SARA L. KISTLER
3 ACTING UNITED STATES TRUSTEE
4 REGION 17

5 By: /s/ August B. Landis
6 August B. Landis
7 Assistant United States Trustee
8 Las Vegas, Nevada

9 **RULE 9021 DECLARATION**

10 In accordance with Local Rule 9021, the undersigned certifies that:

- 11 The Court waived the requirements of Local Rule 9021.
- 12 A copy of this proposed order has been delivered to the following attorneys and
13 unrepresented parties who appeared at the hearing regarding this matter and/or who filed
14 a written objection, and they have:
 - 15 Approved the form of this order
 - 16 Waived signature in open court; and/or
 - 17 Failed to file and serve papers in accordance with Local Rule 9021(c).
- 18 I have delivered a copy of this proposed order to all attorneys and unrepresented
19 parties who appeared at the hearing regarding this matter and/or who filed a written
20 objection, and all have either approved the form of this order, waived the right to review
21 the order, failed to file and serve papers in accordance with Local Rule 9021(c), and the
22 following have disapproved the order:
- 23 No opposition was filed in response to the motion, and no other party or counsel
24 appeared at the hearing.

25 **SARA L. KISTLER**
26 **ACTING UNITED STATES TRUSTEE**
27 **REGION 17**

28 By: /s/ August B. Landis
August B. Landis
Assistant United States Trustee
Las Vegas, Nevada

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