

**USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC**  
Robert G. Worthen, Chairman of the Board

July 7, 2009

Dear USA Capital Diversified Trust Deed Fund, LLC Investor:

I write on behalf of the Board of Directors of USA Capital Diversified Trust Deed Fund (“DTDF”) to update you regarding DTDF’s efforts to monetize assets and make distributions to investors. We continue to focus on recovering assets and the investigation and prosecution of causes of action against potential recovery targets. This letter builds off of the information provided in the previous letters and covers the following topics:

1. Distribution of 2008 K-1’s
2. Communications with DTDF Investors
3. Accessing the DTDF Website
4. Settlement with USA Commercial Mortgage Trust (“USACM”)
5. Investigating and Prosecuting Causes of Action against Potential Target Defendants
6. Advocating DTDF Interests in Other Bankruptcy Cases
7. Preserving Assets of Insiders (Thomas Hantges and Joseph Milanowski)
8. Status of Other Recovery Sources

As a reminder, the previous letters to DTDF investors are posted on DTDF’s website (see below for access to DTDF’s website).

**Distribution of K-1s**

By now, all non-custodial DTDF investors should have received a 2008 K-1 tax form. For those of you with custodial accounts, the K-1 was mailed directly to your custodian. Please contact Jane Schwartz at 602-744-7117 if you did not receive and would like a copy of your 2008 K-1.

**Communications with DTDF Investors**

We will send you another letter within the next three to four months. As it is very expensive to communicate with our professionals, who bill hourly fees, I am pleased to receive your phone calls and to answer questions about our status to the best of my ability. My personal cell phone number is (702) 239-4222 or you may send us inquiries at [diversifiedfund@orrick.com](mailto:diversifiedfund@orrick.com).

For address changes, please print and complete the Change of Address form posted on the DTDF website (form can be found under 1. Updates/Questions). If you don’t have access to a computer to visit the website, please send a written request with your legal vesting name and account number to DTDF at the following address:

USA Capital Diversified Trust Deed Fund  
C/O FTI Consulting, Inc.  
Two North Central Avenue, Suite 1200  
Phoenix, Arizona 85004

**Accessing the DTDF Website**

The website provides a convenient way to track the progress of DTDF collection efforts. Every letter to DTDF investors, including this one, is posted on the website. Here are two ways to access the DTDF Website:

- TYPING: Type <http://usacapdtfd.bmcgroup.com/default.aspx> into the browser screen at the top of your monitor.
- GOOGLE: If you type “USA Capital Diversified Information” in Google, the first resulting link should be the DTDF Website. Simply click on the link and you will be at the DTDF Website.

To stay informed of new postings to the website you can request automatic notifications of website updates. This can also be done by signing up on the website in Section 1. Updates/Questions. By signing up and providing a valid email address, you will receive alerts via email when new content is uploaded to the website.

**Settlement with USA Commercial Mortgage Trust (“USACM”)**

As mentioned in prior letters to DTDF investors, DTDF reached a settlement with USACM in early 2008. DTDF expects to recover funds from USACM based on DTDF’s allowed \$128 million unsecured claim in the USACM Estate. However, the amount and timing of a distribution to DTDF as an unsecured creditor of USACM has not been determined.

**Investigating and Prosecuting Causes of Action against Potential Target Defendants**

DTDF and USACM are working together to pursue various lawsuits. The table below shows the active cases where DTDF is a plaintiff. The timing and outcome of each of the cases is unknown at this time.

<b>Case No.</b>	<b>Defendant</b>
08-01132	Stanley E. Fulton <sup>1</sup>
08-01133	Kathryn L. Petersen; Kathryn L. Petersen Living Trust; KLP Trust dated 7/15/99; Specialized Development Tahoe, LLC <sup>2</sup>
08-01134	Mary Petersen; Mary Petersen Family Trust dated 8/12/98; Michael D. Petersen; Michael D. Petersen Family Trust dated 8/12/98; Kathryn L. Petersen; Kathryn L. Petersen Living Trust; KLP Trust dated 7/15/99 <sup>3</sup>

<sup>1</sup> Plaintiff is DTDF. The parties participated in a mediation in early May 2009, and they remain engaged in ongoing settlement discussions. The Court postponed the trial date from June 29, 2009 to October 17, 2009. DTDF may soon file a motion for summary judgment on some of the claims at issue.

<sup>2</sup> Plaintiff is DTDF. The defendants have requested that this case be consolidated with the Deloitte action pending in the United States District Court. This issue is set for hearing on July 10, 2009. The parties will participate in a mediation on July 15, 2009.

<sup>3</sup> Plaintiffs are USACM and DTDF. The defendants have requested that this case be consolidated with the Deloitte action pending in the United States District Court. This issue is

<b>Case No.</b>	<b>Defendant</b>
08-01135	Wells Fargo Bank, N.A. <sup>4</sup>
08-0112-0	David A. Fogg <sup>5</sup>
2:08-CV-461	Deloitte & Touche, LLP; Victoria Loob <sup>6</sup>

### **Advocating DTDF Interests in Other Bankruptcy Cases**

#### USAIP Chapter 11 Case

DTDF and USACM joined with other creditors of USAIP in the filing of an involuntary chapter 11 petition against USAIP in early April 2007. As a result, USAIP is a debtor in a bankruptcy case pending in Nevada (case #07-11821-LBR). USAIP is the maker of a \$58,374,918.81 promissory note (the “\$58 Million Note”) to USACM for the benefit of creditors (including DTDF). Repayment of the \$58 Million Note and other obligations of USAIP are secured by liens on USAIP’s interest in entities owned 100% or in part by USAIP. DTDF and USACM will share collections on the \$58 Million Note on an equal basis. Lisa M. Poulin was appointed as trustee for USAIP.

DTDF filed a timely proof of claim seeking \$176,380,998 from the USAIP estate. Resolution of claims against the USAIP estate and the possibility of payment are months or years away. DTDF continues to monitor the USAIP case, including reviewing its monthly operating reports.

#### Tree Moss Partners, LLC Chapter 11 Case

Tree Moss Partners, LLC (“Tree Moss”) is a debtor in bankruptcy due to an involuntary bankruptcy petition (Case No. 06-13758-LBR) filed by DTDF. Ms. Poulin has been appointed trustee for Tree Moss. Tree Moss owns 63 units of the condominium project adjacent to the Hotel Zoso in Palm Springs. USAIP’s equity in this entity is not pledged as collateral for the

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set for hearing on July 10, 2009. In seeking to move this case to the District Court, Defendant Michael Petersen withdrew his \$1.5 million claim against the USACM estate. The parties will participate in a mediation on July 15, 2009.

<sup>4</sup> Plaintiffs originally were USACM, DTDF and FTDF. FTDF and USACM have dismissed their claims as plaintiffs. The defendant filed a motion to stay this litigation and to compel arbitration. On June 19, 2009, the bankruptcy court denied that motion, meaning that the case will proceed to trial in the bankruptcy court. Trial is anticipated in first or second quarter of 2010.

<sup>5</sup> Plaintiffs are USACM and DTDF. The Bankruptcy Court scheduled a hearing on February 20, 2009 in order to schedule a settlement conference. A settlement conference was scheduled for April 29, 2009, but it was not successful. Trial is anticipated in October or November 2009.

<sup>6</sup> Plaintiffs were USACM and DTDF. DTDF’s claims against Deloitte were dismissed on August 15, 2008.

\$58 Million Note. DTDF filed a proof of unsecured claim for \$23,116,045 in the Tree Moss case.

On April 1, 2008, the Bankruptcy Court granted the Motion of the Trustee for Tree Moss for sale of substantially all of its property and releases with Diamond Resorts Corporation as buyer for approximately \$9,000,000. DTDF supported the sale to Diamond Resorts. The sale was conditioned upon a few items one of which was the extension of the ground lease by Bureau of Indian Affairs. The sale did not close so, Ms. Poulin is actively marketing the property. The timing of a sale of the property and subsequent timing and amount of distribution to DTDF are unknown.

#### HMA Sales, LLC Chapter 11 Case

HMA Sales is a debtor in bankruptcy due to a voluntary chapter 11 petition (Case No 07-12694) filed by USAIP under the control of Ms. Poulin. Ms. Poulin is the trustee for HMA Sales. DTDF and HMA Sales reached a settlement agreement in June 2007 that was discussed in prior letters to investors. As a result of the settlement agreement DTDF received \$8.9 million in 2007 and will receive additional monies from HMA. DTDF continues to monitor the HMA case and work with Ms. Poulin and her counsel to collect additional sums relating to the Royal Hotel.

#### BySynergy, LLC Chapter 11 Case

BySynergy is also a debtor in bankruptcy due to an involuntary bankruptcy petition (Case No. 08-7680-rtb) filed by parties other than DTDF on June 25, 2008. DTDF is monitoring the bankruptcy case to determine what amounts, if any, will become available for distribution to DTDF on account of BySynergy's loan from DTDF.

### **Preserving Assets of Insiders (Thomas Hantges and Joseph Milanowski)**

#### Thomas Hantges ("Hantges")

Due to the filing of an involuntary bankruptcy petition by DTDF, USACM and other creditors, Hantges is a debtor in a chapter 11 bankruptcy case in Nevada, Case No. 07-13163-lbr. Michael Carmel was appointed trustee in the Hantges bankruptcy.

DTDF timely filed a proof of claim against the estate of Hantges seeking the amount of \$182,538,254. Resolution of claims against the Hantges estate and the possibility of payment are months or years away. DTDF continues to monitor the Hantges case.

#### Joseph Milanowski ("Milanowski")

Similarly, due to the filing of an involuntary bankruptcy petition by DTDF, USACM and other creditors, Milanowski is a debtor in a chapter 11 bankruptcy case in Nevada, Case No. 07-13162-lbr. Although Milanowski and his counsel strenuously opposed the involuntary, the Bankruptcy Court entered an order for relief against Milanowski and appointed Ford Elsaesser as the trustee. Milanowski appealed the order for relief. The United States District Court for the District of Nevada dismissed the appeal on May 8, 2008.

DTDF filed a proof of claim against Milanowski for \$182,538,254. Resolution of claims against the Milanowski estate and the possibility of payment are months or years away.

The chapter 11 trustee in the Milanowski bankruptcy case reached a settlement agreement with Milanowski, whereby the trustee will settle the bankruptcy estate's claims against Milanowski for

roughly \$1,000,000. On January 9, 2009, the trustee filed a motion to approve the settlement agreement with the Court. An agreed order granting this settlement was filed on May 28, 2009.

DTDF filed a complaint in the bankruptcy court, Adv. No. 07-13162-lbr, to determine the non-dischargeability of Milanowski's debts to DTDF. Similar lawsuits were filed against Milanowski by USACM (No. 08-01093), Aurora Investment L.P (No. 07-01212), the Kehl family (No. 08-01052), the PBGC (No. 08-01044), and BySynergy, LLC (No. 07-01209). Milanowski has answered DTDF's complaint. On October 28, 2008, the Court entered an order staying litigation and discovery pending the conversion of the case to a chapter 7, or the filing of a chapter 11 plan providing for discharge. Neither event has occurred and the Court has extended the stay and scheduled a status check for November 13, 2009.

On April 23, 2008, the SEC brought an action against Milanowski "in connection with a multi-million dollar fraud" seeking an order requiring Milanowski to disgorge sums obtained. DTDF is not prosecuting this action. The complaint was filed with the United States District for the District of Nevada and is Case No. 2:08-CV-00511. The SEC filed a motion for summary judgment against Milanowski on June 23, 2009.

### **Status of Other Recovery Sources**

#### **Colt Loans**

DTDF and the two other direct lenders who are DTDF's co-beneficiaries of a promissory note secured by a first trust deed on certain parcels and buildings comprising a portion of the overall Colt project have, through Connecticut counsel hired by the three, initiated a foreclosure action. The case is working its way through the Connecticut courts, but justice moves slowly, and foreclosure is not on the near horizon.

#### **Loans Serviced By Compass/Silar**

Compass was the servicer of nine DTDF loans. Silar Advisors, LLC, represents that Silar foreclosed on its loan to Compass on September 26, 2008, and that Asset Resolution, LLC was an entity created to continue the servicing process. There has been no recent collection activity on any of these nine loans.

### **Conclusion**

No further settlement funds have been received by DTDF since the February 2009 distribution. At this time, we cannot estimate the timing or the amount of the next distribution. Please know DTDF continues to focus on the recovery of assets and the prosecution of causes of action against potential recovery targets. We continue to ask for your patience, and want to assure you that the Board and the DTDF professionals are giving our best efforts to obtain the best possible recovery for you.

Best Regards,  
Robert G. Worthen  
Chairman of the Board