

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

THE 1031 TAX GROUP, LLC, et al.,

Case No. 07-11448 (MG)

Jointly Administered

Debtors.

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GERARD A. McHALE, Jr., not
individually but solely in his capacity as
Chapter 11 trustee for THE 1031 TAX
GROUP, LLC, et al.,

Plaintiffs,

-v-

Adv. Pro. No. 08-01604 (MG)

WACHOVIA BANK, NATIONAL
ASSOCIATION, WACHOVIA EXCHANGE
SERVICES, INC., WACHOVIA CAPITAL
MARKETS, LLC, WACHOVIA FINANCIAL
SERVICES, INC., and WACHOVIA
MORTGAGE CORPORATION,

Defendants.

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During the argument of the motion to dismiss scheduled to be heard on February 4, 2009, in connection with the Trustee's arguments that the *in pari delicto* doctrine does not apply, counsel shall be prepared to address the impact of the Court's prior decision, *The 1031 Tax Group, LLC*, slip op., 2007 WL 2085384 (Bankr. S.D.N.Y. July 17, 2007), and the actions subsequently taken by the Debtors as reflected in Case No. 07-11448, ECF # 447.

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DATED: January 29, 2009
New York, New York

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge