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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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: In Re: : Case No. 07-11448
: :
: THE 1031 TAX GROUP, LLC, : December 7, 2007
: :
: : One Bowling Green
Debtor. : New York, New York
-----X

TRANSCRIPT OF HEARING ON MOTION TO
SELL CHRISTIAN COVE HOUSE AND
MOTION TO SELL HELICOPTER
BEFORE THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: JONATHAN L. FLAXER, ESQ.
Golenbock, Eiseman, Assor,
Bell & Peskoe, LLP
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New York, New York 10022

For the U.S. Trustee: ANDREW D. VELEZ-RIVERA, ESQ.
Office of the U.S. Trustee
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For Creditors' Committee: ALLEN G. KADISH, ESQ.
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Staten Island, New York 10312

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 (Proceedings began at 10:04 a.m.)

2 THE COURT: Please be seated. Good morning. We're
3 here in 07-11448, The 1031 Tax Group.

4 Counsel, please make your appearances.

5 MR. FLAXER: Jonathan Flaxer of Golenbock, Eiseman,
6 counsel for the Trustee.

7 THE COURT: Good morning, Mr. Flaxer.

8 MR. VELEZ-RIVERA: Andrew Velez-Rivera for the United
9 States Trustee.

10 THE COURT: Good morning, Mr. Velez-Rivera.

11 MR. VELEZ-RIVERA: Good morning, Your Honor.

12 MR. KADISH: Good morning, Your Honor. Allen Kadish,
13 Greenberg Taurig for the Committee.

14 THE COURT: Good morning, Mr. Kadish. Mr. Flaxer?

15 MR. FLAXER: Good morning, Your Honor. We have two
16 motions on this morning, a motion to sell a helicopter and a
17 motion to approve the sale of a house. We've had no objections
18 to either. If I may start with the sale of the helicopter.

19 THE COURT: Yes, please. Go ahead.

20 MR. FLAXER: Your Honor signed an order approving
21 retention of Seiko as our aircraft broker. Seiko is a well
22 known reputable broker in this field and that the Trustee
23 himself is fairly familiar with aircraft and what they're worth
24 and how you sell them.

25 An extensive marketing campaign was conducted by

1 Seiko, which I will point out commenced actually before the
2 Trustee was appointed because Seiko was already working on this
3 on behalf of Mr. Roken [Ph.], and Seiko has agreed not to
4 charge for the expenses it incurred before the Trustee was
5 retained. The captor [ph.] expenses that \$1,200.00 they -- as
6 I set forth in the motion they have an extensive list of
7 contacts of parties who are likely to be interested in
8 aircraft. They advertise in the leading trade publications, as
9 well as on this dealer's network web site.

10 The best offer they were able to get was \$860,000.00
11 for this helicopter. We have a title report from the FAA
12 attached that shows there were no liens. There were other
13 offers, but they were lower than the \$860,000.00 and the
14 Trustee has determined that this is the highest and best offer
15 that's likely to be available, that the passage of time is a
16 detriment due to the continuing approval of storage and other
17 maintenance costs, and no request is made for any further
18 option due to the fact that extensive marketing has already
19 been conducted.

20 One detail I just want to observe. The selling
21 entities Open Air LLC -- and we have taken all appropriate
22 corporate action to empower Mr. McCale [Ph.] as sole member to
23 execute the sale. Having said that, Your Honor, I have an
24 order if you have any questions.

25 THE COURT: I do have a question, Mr. Flaxer, and it

1 relates to the sale motions more generally. I saw on ECF
2 there's now a motion to sell the Leer jet as well. That is,
3 and I think with respect to this motion, the defect I see is
4 you don't have no -- you don't have a declaration or an
5 affidavit. I need an evidentiary -- I realize there are no
6 objections, but I really do need an evidentiary basis. On
7 these motions, I'll hear what the Creditors' Committee and what
8 the U.S. Trustee has to say on it.

9 Except for proffer here as to what Mr. McCale would
10 testify if he were called as a witness, with respect to the
11 house in New Hampshire there is -- the broker -- at least there
12 is a declaration from the broker but, you know, under the law
13 as I understand it, I need evidence that supports this is a
14 reasonable exercise of business judgment by the Trustee in
15 making the sale. I really don't have much question about it,
16 but I don't have an evidentiary basis on it, so with respect to
17 the sale of the helicopter do you want to make a proffer?

18 MR. FLAXER: I'd be happy to, Your Honor, and I will
19 let the Court know that -- perhaps my mistake. Mr. McCale
20 asked me if he should be here and --

21 THE COURT: He doesn't need to be here. That's what
22 I would suggest is certainly with respect to the Leer jet or
23 Gulfstream. I can't remember which one it was. I just saw it
24 this morning online.

25 MR. FLAXER: Gulfstream.

1 THE COURT: Supplement your papers with a declaration
2 and in the absence of objections to the motion, which I don't
3 nec -- you know, really anticipate, you know, I would receive
4 declaration or affidavit as evidence in support of the sale
5 motion. Here in the absence of an affidavit or declaration
6 I'll accept a proffer.

7 MR. FLAXER: I will file a supplemental declaration
8 in support of the sale of the Gulfstream and get that served.

9 THE COURT: That's fine.

10 MR. FLAXER: I will also -- I'm perfectly comfortable
11 making a proffer on the record, because I spoke with George
12 Owen several times, as well as with the Trustee, and based on
13 that I'm prepared to make a proffer that an extensive marketing
14 campaign has been conducted for the sale of the helicopter,
15 which is described in detail in the motion that Mr. Owens'
16 efforts resulted in several offers, but none of those offers
17 were as high as the \$860,000.00 offer that's before the Court
18 and that Mr. Owens' view, as he's addressed in these, is that
19 this is the highest and best offer. He has no reservations
20 whatsoever about saying that and he's advised me that speed is
21 important here because these buyers he's talking to are not
22 accustomed to the bankruptcy process. They were somewhat taken
23 aback when I had to tell him that he had to put in the contract
24 that it's subject to Bankruptcy Court approval and that will be
25 a 20-day delay, so we also have a timing issue here.

1 THE COURT: Yeah. I didn't remember seeing a request
2 to waive the ten-day stay. Is that in this motion?

3 MR. FLAXER: I'm not sure I got it in the motion, but
4 I --

5 THE COURT: Is it in the order?

6 MR. FLAXER: I did put it in the order.

7 THE COURT: Okay. All right. And I take it,
8 Mr. Flaxer, that in the application it refers to -- that
9 Mr. McCale represents and then it goes on from there. I take
10 it your proffer is that if called to testify, Mr. McCale would
11 testify consistent with the facts that have been represented in
12 the application?

13 MR. FLAXER: Yes, Your Honor.

14 THE COURT: Thank you. Mr. Kadish, do you want to be
15 heard?

16 MR. KADISH: Your Honor, the Committee has heard from
17 the Trustee and his advisors and we have no objections.

18 THE COURT: All right. Mr. Velez-Rivera?

19 MR. VELEZ-RIVERA: The United States Trustee has no
20 objection, Your Honor.

21 THE COURT: All right. On that basis, the motion
22 will be approved.

23 MR. FLAXER: Thank you, Your Honor. May I hand up an
24 order?

25 THE COURT: Yes, you can. If you want, why don't you

1 wait until we deal with the second one as well and you can hand
2 both up?

3 MR. FLAXER: Next, Your Honor, is the proposed sale
4 of the Christian Cove house, which I want to, first of all,
5 apologize to the Court because when I was reading through the
6 papers last night I saw that it was referred to at one point as
7 16 Christian Cove and at one point as 112 Christian Cove. It
8 is 12 Christian Cove. However, there is --

9 THE COURT: As long as you get the order right
10 we're still good.

11 MR. FLAXER: Yes. And there is a legal description
12 that's in the exhibit to the motion --

13 THE COURT: Right.

14 MR. FLAXER: -- so there can be no confusion about
15 which property it is.

16 This contract that's annexed to the motion is a
17 contract that Mr. Oken [Ph.] entered into before the Trustee
18 was appointed and before the asset transfer agreement. The
19 motion explains the circumstances regarding the sale, including
20 the \$25,000.00 adjustment found to the purchase price through
21 some timing issues. We do have, I'm thankful, an affidavit
22 from the broker which explains why this is the best price
23 that's reasonably likely to be attained.

24 There's some additional relief that was stuffed into
25 this motion, three things in particular. The Kluger Peretz law

1 firm asserts a montage and actually has a filed mortgage
2 against this property. The Trustee may ultimately dispute the
3 validity of that mortgage. In consideration of that, we've
4 entered into and attached to the motion -- although it wasn't
5 attached when it was originally sent out, but we have --

6 THE COURT: I reviewed it.

7 MR. FLAXER: -- subsequently filed it -- a
8 stipulation with Kluger Peretz whereby the proceeds will be
9 held by the Trustee, will not be disbursed absent order of the
10 Court. We've given ourselves 45 days to try to resolve the
11 dispute. After that, the Kluger Peretz firm is free to go to
12 court and seek a ruling about the validity of their mortgage
13 and the Trustee, of course, is free to seek that really at any
14 time.

15 We have also sought permission to retain the real
16 estate broker. I should say retain and pay the real estate
17 broker and their -- a local counsel in New Hampshire, the
18 Walker & Varney, P.C. firm. Both have signed and we have
19 annexed their affidavit of disinterestedness. With respect to
20 the broker, Prudential Spencer Hughes [Ph.] Real Estate, there
21 is a commission amount that's stated in the motion. There's
22 also a reference to the fact that there's a co-broker with whom
23 they will share the commission and that's been disclosed and
24 the co-broker has also submitted an affidavit of
25 disinterestedness. I've made it clear in the order that the

1 amount of the commission that we've agreed to pay is it and we
2 don't have to pay any more than that.

3 We've also attached a bill from Walker and Varney,
4 which is \$4,000.00 and change. I assume there'll be a little
5 more for conducting the closing, and I've simply provided in
6 the order that the Trustee is authorized to pay their
7 reasonable fees and expenses.

8 THE COURT: Do you have any estimate of what the
9 additional fees would be?

10 MR. FLAXER: I don't. In light of the fact that it's
11 only \$4,000.00 and change, up to now I'm going to guess it's
12 going to be another \$1,000.00 or so. If anything if that's out
13 of line then I assure you my client is not going to pay it.

14 We have one extra favor to ask of the Court. The
15 closing on this one is happening --

16 THE COURT: Today.

17 MR. FLAXER: -- today, so --

18 THE COURT: I know. I saw that. I saw that.

19 MR. FLAXER: My paralegal is --

20 THE COURT: Ready to go.

21 MR. FLAXER: -- at his desk watching the ECF and the
22 minute it comes up --

23 THE COURT: Okay.

24 MR. FLAXER: -- he's going to fax it up.

25 THE COURT: I do have -- my question here is have

1 you or -- yeah, have you examined whether this transaction,
2 which Mr. Oken negotiated, is an arms' length transaction?

3 MR. FLAXER: Yes. The buyer is evidently some
4 affiliate or related to the Marriott chain of hotels and this
5 is -- I'm not exactly sure how it fits into their corporate
6 plans, but it's some type of relationship to --

7 THE COURT: I know Lake Winnepesaukee is a nice place
8 to have a house. I see that's where this house is.

9 MR. FLAXER: So, yes, we have looked into that and as
10 far as we can tell, this is on point.

11 THE COURT: Okay.

12 MR. FLAXER: This is no new insider --

13 THE COURT: And again, can you make a proffer of what
14 Mr. McCale would testify if called as a witness?

15 MR. FLAXER: Yes. He would testify that he has read
16 the declaration of Mister --

17 THE COURT: Mezzarella [Ph.]?

18 MR. FLAXER: Yes, Mezzarella. Thank you. Annexed to
19 the motion and he has asked his counsel in Florida, the Johnson
20 Pope firm, who is our co-counselman in this case to communicate
21 extensively with counsel and with the broker. By "counsel" I
22 mean, the Walker & Varney firm to assure himself that this is
23 indeed an arms' length transaction, if not an insider open-type
24 deal, that the buyer has no connection to Mr. Oken other than
25 the fact that they entered into this contract with him and that

1 this is the best price that can be obtained.

2 Once again, delay is detrimental to the estate and to
3 the ongoing accrual of taxes, real estate taxes, expenses,
4 maintenance of the house. It's getting winter. The house --
5 it's in a cold place. The house has to be winterized, so for
6 all these reasons if called to testify the Trustee would indeed
7 say what I have just made in my --

8 THE COURT: All right. Thank you. Mr. Kadish?

9 MR. KADISH: Your Honor, again, the Committee has
10 heard from the Trustee on this matter and there's no objection.

11 THE COURT: Thank you very much. Mr. Velez-Rivera?

12 MR. VELEZ-RIVERA: No objection, Your Honor.

13 THE COURT: All right. That motion will be granted
14 and will promptly enter an order.

15 MR. KADISH: Thank you, Your Honor.

16 THE COURT: Do you have anything else you want to
17 raise?

18 MR. FLAXER: If I may, I had a couple --

19 THE COURT: Because I have a couple of things I want
20 to raise, but go ahead.

21 MR. FLAXER: Okay. First of all, I just -- I
22 happened to bring with me the chambers copies of the motion to
23 sell the Gulfstream.

24 THE COURT: Okay.

25 MR. FLAXER: Which again is -- we'll be getting out a

1 declaration on that.

2 Secondly, the U.S. Trustee has signed off on the long
3 awaited retention applications in the IP of A cases for my firm
4 and the Johnson Pope firm, so put that in a little pile.

5 I do have on my desk a draft case management matter
6 which has been there for a couple days now, but I will get to
7 it.

8 THE COURT: Okay.

9 MR. FLAXER: Sorry. We filed yesterday a 2004 motion
10 with respect to JPS.

11 THE COURT: I saw that. Do you have a proposed order
12 on that? I saw it. I had checked ECF this morning and I saw
13 this is with respect to the JPS Capital.

14 MR. FLAXER: You know, I don't. I have the papers
15 here, but I don't have JPS, so I --

16 THE COURT: Okay. If you get us a disk, that order
17 will be entered. I reviewed it this morning.

18 MR. FLAXER: Okay. Great. Thank you, Your Honor. I
19 wanted to make the Court aware of the fact that -- and I have
20 discussed this with Mr. Velez-Rivera -- when we filed IP of A
21 cases it was, of course, accompanied by a declaration of
22 Mr. McCale under Rule 1007. That declaration was concedely a
23 somewhat bare bones declaration. We are working very hard to
24 fill in all the gaps. We had hoped to have an amended
25 declaration filed by now. We have not only because of the

1 difficulty in putting together a budget for all of these
2 entities, because the recordkeeping was frankly dismal.

3 THE COURT: How many additional cases are there now?

4 MR. FLAXER: There are two more cases now.

5 THE COURT: I know, but what's the total number?

6 MR. FLAXER: Twelve.

7 THE COURT: Twelve plus 1031 or total of 1031 -- or
8 12?

9 MR. FLAXER: I'm sorry. You have the 1031 case,
10 which I think has ten entities in that one, and then you have
11 the IP of A debtors which have now ten plus two, so I think you
12 have I guess a total of 22.

13 THE COURT: Okay.

14 MR. FLAXER: Which was also my son's number on the
15 high school soccer team, but I'm sure that matters.

16 THE COURT: Other than to your son.

17 MR. FLAXER: We are having weekly conference calls
18 with the Creditors' Committee to keep them advised of the
19 Trustee's activities and obviously getting input from the
20 Creditors' Committee and I will say that some of the members
21 are actually quite knowledgeable about some of the issues and
22 that's very helpful.

23 The Trustee is working very diligently to stabilize,
24 evaluate, and assume hopefully attempt to sell some of the real
25 estate assets. Some of them will likely be abandoned.

1 Obviously, I should say it's obvious, but the values that
2 Mr. Oken seemed to have in his head and evidently spoke about
3 or were represented to various people earlier in these
4 proceedings don't seem to hold up, don't seem to hold up well
5 at all.

6 THE COURT: It raises a question in my mind that --
7 which may not matter, but certainly the debtors and the
8 Creditors' Committee worked for many months in trying to put
9 the JPS financing in place and JPS purported to be doing due
10 diligence. At the same time, the debtor through Euron [Ph.]
11 and the Creditors' Committee through Merseow [Ph.] were also
12 doing -- I'll call it due diligence. Maybe that's the term
13 that isn't -- shouldn't be applied to it, but in -- and I'm
14 wondering how -- and we had certainly on the hearing on the
15 approval of the agreement that resulted in the -- ultimately
16 the transfer of the assets, I heard testimony from Merseow on
17 it. You know, I'm just wondering after the many months that
18 that work was going on why there was such a large disconnect
19 between the range of values that had been attributed to the
20 assets at the start of the case and what the situation appears
21 to be today.

22 MR. FLAXER: Your Honor, the term "disconnect" is one
23 that's come up often in the discussions among the Trustee and
24 his counsel and his professionals about the very issues that
25 Your Honor is raising. There are a number of areas of inquiry

1 who filed in 2004 with respect to JPS --

2 THE COURT: Yeah, I'll sign that.

3 MR. FLAXER: -- I think --

4 THE COURT: Get me a disk and it will get signed.

5 MR. FLAXER: Probably on Monday you will see a much
6 broader 2004 that listed very long list of witnesses, but it's
7 early in the process to assign blame.

8 THE COURT: "Blame" may not be the term to apply to
9 it, so let's not apply blame now.

10 MR. FLAXER: Okay. And --

11 THE COURT: There's a disconnect and I'm just curious
12 about --

13 MR. FLAXER: And well --

14 THE COURT: -- why.

15 MR. FLAXER: What I would add is that -- which
16 include meaning there may not be any blame. However, the --

17 THE COURT: Right.

18 MR. FLAXER: The issues are difficult not to see and
19 the Trustee will investigate them and if the Trustee did not,
20 there are lots of people out there who would be all over him
21 saying, you absolutely have to look into this, so this is very
22 much one of the items that the Trustee uses within his
23 responsibilities.

24 THE COURT: Yesterday I also briefly looked at the
25 docket of the Richmond case. I see that the Judge I think on

1 December 3rd entered an order denying the contempt motion. And
2 in his order, he I think -- it was -- I didn't bring it with
3 me. I printed it out, but there was a reference to encouraging
4 the continued consultation discussion between the Trustee of
5 the West Oaks Mall cases and Mr. McCale.

6 Can you give me some update on -- there apparently
7 was a transcript from a hearing but it wasn't accessible to me
8 on -- when I went on their ECF system.

9 Can you give me a little bit of update on where
10 things stand?

11 MR. FLAXER: Absolutely. I should have had that on
12 my list.

13 THE COURT: That's okay. I'm not ashamed --
14 embarrassed to ask things that are on my mind, so --

15 MR. FLAXER: From the Trustee's perspective the
16 hearing went very well. We were very pleased with the comment
17 to the Court.

18 THE COURT: I'm not so much interested. I mean, I
19 saw the Judge's ruling and he filed --

20 MR. FLAXER: I'm more interested in what the status
21 without -- I don't -- you've obviously -- the Judge in Virginia
22 has been told something about what's going on and I'd just like
23 an update myself.

24 MR. FLAXER: First of all, there are continuing
25 discussions between the two trustees. There is now --

1 THE COURT: Let me just interrupt you for a second,
2 okay, while it's on my mind. I saw in his order that the Judge
3 wanted a letter submitted to him on the status of discussions.
4 I don't know -- I thought the date for that had already
5 occurred. If that letter has been provided to the judgment in
6 Richmond, I would like it to be provided to me.

7 MR. FLAXER: May be, Your Honor. I'm advised by
8 counsel to the Creditors' Committee that there was a letter
9 submitted.

10 THE COURT: Okay.

11 MR. FLAXER: We will certainly get that to you.

12 THE COURT: Mr. Velez-Rivera, have you seen it?

13 MR. VELEZ-RIVERA: I can't say I have, Your Honor.

14 THE COURT: Okay.

15 MR. FLAXER: The --

16 THE COURT: All right. Give it to the U.S. Trustee
17 as well.

18 MR. FLAXER: Will do.

19 MR. VELEZ-RIVERA: I would have asked him anyway.

20 THE COURT: I know.

21 MR. FLAXER: Mr. McCale's goal and what he's been
22 trying to do and he tried to put off the whole contempt hearing
23 based on this, which is is West Oaks Mall worth the candle to
24 this estate and if it's not let's just -- we'll be happy to --
25 to walk away from it. Let's focus on the economics. He was

1 not able to get the hearing adjourned. The hearing went
2 forward.

3 The Trustee's view is the same. He's working very
4 hard, which is really been handed off to Deloitte to determine
5 whether or not this effort is worth the candle. It's a
6 tremendous amount of debt on that property and there's an issue
7 about a very large prepayment penalty and how that issue was
8 determined. It plays a big role in whether or not there's any
9 value there for this estate.

10 Then there's an overlaying issue underlying, which is
11 are there claims against any of the lenders based on such
12 things as constructive trust or tracing substantive
13 consolidation, et cetera, which again would lend a whole
14 different cast to the view of whether or not there was any
15 value. That is a longer term, more difficult analysis, but
16 also Deloitte is working hard on the tracing analysis. It's up
17 to the lawyers then to determine if the facts support a claim
18 for relief.

19 Again, that's a claim that could be heard in either
20 court but I'm not going to get into the venue motion. There
21 are some discussions now of putting off the venue motion yet
22 again, so we focus our efforts on economics and on
23 investigation rather than on a fairly onerous -- I --

24 THE COURT: Has there been discovery -- I know that
25 it was put off once because of discovery. Has discovery taken

1 place or --

2 MR. FLAXER: Discovery is underway, but it's a big
3 job and the Trustee is trying, as long as it doesn't prejudice
4 our motion, to keep the lawyers and the professionals focused
5 on economics and on efforts other than running around and
6 producing documents; however, obviously if that's what we have
7 to do that's what we'll do.

8 I don't know if I'm giving you enough insight or not.
9 I'm trying.

10 THE COURT: No, I -- you know, there's a date in
11 early January --

12 MR. FLAXER: Yes.

13 THE COURT: -- for the venue motion and one question
14 I had is it going to be an evidentiary hearing.

15 MR. FLAXER: If it goes forward, it certainly is.
16 There are draft stipulations going back and forth to further
17 adjourn that hearing.

18 THE COURT: And I saw you filed a revised motion.
19 That's not how it's styled, but --

20 MR. FLAXER: Correct.

21 THE COURT: On venue, so you filed a more substantial
22 brief on venue.

23 MR. FLAXER: Yes.

24 THE COURT: And obviously the Court will be the first
25 to know if there's any late breaking news. Your Honor has

1 probably observed that there was notice of appeal filed.

2 THE COURT: By Cordell [Ph.].

3 MR. FLAXER: By Cordell.

4 THE COURT: And what's happening on that?

5 MR. FLAXER: We're working on a counter designation
6 that's due Monday and we have some very strong views about
7 that.

8 THE COURT: Okay.

9 MR. FLAXER: And I think -- I'd say the most
10 obvious --

11 THE COURT: No, you've answered my question,
12 Mr. Flaxer.

13 MR. FLAXER: Thank you, Your Honor.

14 THE COURT: Mr. Kadish?

15 MR. KADISH: Your Honor, just briefly. Yeah, on the
16 Cordell appeal --

17 THE COURT: Just make your appearance.

18 MR. KADISH: Allen Kadish, Greenberg Taurig for the
19 Trustee. On the Cordell appeal, the Committee has some very
20 strong view as well and we've shared those and we intend to
21 work with the Trustee I think we -- I think the Committee --

22 THE COURT: Has it been assigned to a district judge
23 yet?

24 MR. KADISH: We asked that question yesterday and I
25 don't think it -- from what we know, I don't think we've found

1 an assignment yet. I think normally that occurs when the
2 record is designated and then the file is transmitted. I don't
3 think it's been assigned yet.

4 I just wanted to stay to say one issue. Obviously,
5 we're talking with the Trustee. We have weekly appointments
6 with the Trustee which are informative. We're urging the
7 Trustee to move not just to a verbal relationship with the
8 Committee, but to a written relationship.

9 Let me just comment on the value issue, Your Honor.
10 There -- the case -- there's one theme in this case that
11 everyone seems to ignore and that bears repeating often and
12 that is until the Trustee came into place, which was at the
13 same time importantly as the asset transfer agreement a lot of
14 the records and information were a mystery.

15 We had -- we, the estate, the Committee, the debtor,
16 the debtor's forensic professionals have little access to the
17 Oken side of the equation. What we're finding out as the
18 Trustee is doing, his investigations that the records are
19 obviously incomplete.

20 One of the jobs that Deloitte is doing now is trying
21 to figure out the economics behind the real estate forensics.
22 We are not -- as a committee we are not so cavalier about how
23 to treat the real estate in terms of an abandonment theory if
24 it doesn't add up necessarily on a significant plus side. At
25 the moment, I don't think the Committee is willing to simply

1 say that it ought to be treated like a smaller asset and simply
2 abandon or hand it off to a lender or to -- or to abandon the
3 property in a way that it doesn't go back to Mr. Oken, for
4 instance. I think that a lot of the emphasis that the
5 Committee has put in the case, and perhaps this is what is
6 remembered from some of the Merserow presentations, is that
7 these assets can either be disposed of quickly and simply or
8 perhaps worked and invested.

9 So we're going to have to look at how that equation
10 plays out here, and what's in the best interests of the
11 creditors, and what the Trustee's position ultimately is as he
12 gets further knowledgeable about these assets, so I just want
13 to not leave that question hanging out there, Your Honor.

14 THE COURT: Mr. Velez-Rivera, anything you want to
15 add?

16 MR. VELEZ-RIVERA: [No verbal response.]

17 THE COURT: Okay. We're adjourned. Thank you. And,
18 John, if you'd give the orders and we'll get the house sale
19 order entered immediately. Thank you.

20 [Proceedings concluded at 10:34 a.m.]

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I certify that the foregoing is a court transcript from an electronic sound recording of the proceedings in the above-entitled matter.

Ruth Ann Hager

Dated: December 13, 2007

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