

## PLACER VINEYARDS - JOSEPH MILANOWSKI

### Filing of a proof of claim in the Joseph Milanowski chapter 7 case.

An involuntary bankruptcy petition under Chapter 11 was filed against Joseph Milanowski on May 29, 2007. After the bankruptcy court entered an order for relief, a deadline for proofs of claim was set for December 18, 2007, and many creditors filed proofs of claim, including the USACM Liquidating Trust on behalf of the direct lenders as a result of Mr. Milanowski's personal guaranty of those loans (see below).

On December 31, 2009, the Joseph Milanowski case was converted to a Chapter 7. David A. Rosenberg was appointed the chapter 7 trustee. Here is the trustee's contact information: David A. Rosenberg, 5030 Paradise Road #B-215, Las Vegas, NV 89119, Tel. 702-405-7312.

The court set a deadline for filing proofs of claim in the Chapter 7 as May 6, 2010. The deadline to file a complaint objecting to the discharge or dischargeability of a debt is April 6, 2010.

The USACM Liquidating Trust filed proof of claims in the Milanowski chapter 11 case on December 5, 2007 at Claim number 206. That proof of claim asserted the amounts owed by Milanowski on his guarantee of the direct loans called Placer County Land Speculators 1 and 2, as well as for USA Investors VI, LLC aka Hotel Marquis (or Hotel Zoso) Loan; and the Milanowski Receivable. The Trust also filed Proof of claim No. 701-1 on March 1, 2008 for breach of fiduciary duty, conversion, fraud, civil conspiracy, unjust enrichment, receipt of preferential transfers, and receipt of fraudulent transfers. Because the Trust filed the proofs of claim in the chapter 11 case, it does not need to re-file a proof of claim in the chapter 7 converted case.

On December 22, 2008, Elli M.A. Mills, the Receiver for the Placer 1 Loan, directed the conclusion of the foreclosure sale, with a credit bid of \$8,404,030. There were no other bidders and title to the property was taken in the names of the Placer 1 Lenders, with the Receiver continuing as Receiver for the property. Foreclosure of the Placer 1 lien extinguished the Placer 2 lien. The sole remaining source of repayment for the Placer 2 Lenders is a claim on the personal guaranty of Thomas Hantges and Joseph Milanowski.

**Question:** Do direct lenders not invested in the Placer 1 or 2 loans need to file a proof of claim in the Joseph Milanowski bankruptcy?

**Answer:** The USACM Liquidating Trust can not give you legal advice. If you rely on the Trust's proof of claim, then any distribution to the Trust will be paid pro rata to all creditors according to the terms of the confirmed plan of reorganization. If you believe you have some other basis for a claim against Mr. Milanowski, or some different damages amount, you may wish to file a proof of claim.

Question: Do Placer 1 or 2 lenders need to file a proof of claim in the Joseph Milanowski bankruptcy?

Answer: The Trust filed the proof of claim described above in the Milanowski bankruptcy case on account of Joseph Milanowski's guarantee of the Placer 1 and 2 loans. The proof of claim filed by the Trust as servicer will be on behalf of the direct lenders in Placer 1 and 2. To the extent that the Trust as servicer of the Placer 1 or 2 Loans recovers sums on account of Milanowski's guarantee, as opposed to the Trust's other claims against Milanowski, the proceeds will be payable to the Placer 1 or 2 lenders as appropriate.