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LLP

L A W Y E R S

E-Filed on  
December 18, 2009

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11 Attorneys for USACM Liquidating Trust

12  
13 **UNITED STATES BANKRUPTCY COURT**  
14 **DISTRICT OF NEVADA**

15 In re:  
16 USA Commercial Mortgage Company,  
17 USA Capital Realty Advisors, LLC,<sup>1</sup>  
18 USA Capital Diversified Trust Deed Fund,  
19 LLC,  
20 USA Capital First Trust Deed Fund, LLC,<sup>2</sup>  
21 USA Securities, LLC,<sup>3</sup>  
22 Debtors.

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

CHAPTER 11

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**DECLARATION OF EDWARD M.  
BURR IN SUPPORT OF MOTION  
TO FURTHER EXTEND DEADLINE  
TO FILE OBJECTION TO  
ALLOWANCE OF CLAIMS; AND  
CERTIFICATE OF SERVICE**

Date: OST Requested January 11, 2010  
Time: OST Requested 9:30 a.m.

**Affects:**

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

23 I, Edward M. Burr, hereby declare under penalty of perjury that:

24 I am a principal with Sierra Consulting Group, LLC (“Sierra”).

25 <sup>1</sup> This bankruptcy case was closed on September 23, 2008.

26 <sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 26, 2007.

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1 I submit this declaration on behalf of the Motion to Further Extend Deadline to File  
2 Objection to Allowance of Claims (the “Motion”) [DE 7474] filed by the USACM  
3 Liquidating Trust (the “USACM Trust”), as successor to USA Commercial Mortgage  
4 Company (“USACM”).

5 Sierra previously served as financial adviser to the Official Committee of  
6 Unsecured Creditors of USA Commercial Mortgage Company (“Committee”).

7 I assisted the Committee in analyzing facts concerning these jointly administered  
8 bankruptcy cases, including scheduled liabilities and proofs of claim. The Committee  
9 ceased to exist on March 12, 2007, the Effective Date of the Debtors’ Third Amended  
10 Joint Chapter 11 Plan of Reorganization (“Plan”), and I am now assisting the USACM  
11 Liquidating Trust (“USACM Trust”) created under the Plan.

12 I make the following declaration based upon my personal knowledge, and upon the  
13 records of the Debtors and the USACM Trust described in this declaration.

14 I understand that under the Plan as modified by the Confirmation Order, the  
15 deadline for interested parties to object to Allowance of Claims and Equity Interests was  
16 90 days after the Effective Date, or June 10, 2007. That deadline was further extended to  
17 October 9, 2007 by a June 29, 2007 order [DE 4097] after a hearing held on June 22, 2007.  
18 The deadline was further extended to October 15, 2007 by a bridge order that was  
19 approved at a hearing held on August 23, 2007 [DE 4625]. On October 11, 2007, the  
20 Court entered an order [DE 4971] extending the deadline to February 12, 2008. On  
21 January 22, 2008, the Court entered an order [DE 5709] extending the deadline to June 12,  
22 2008. On May 13, 2008, the Court entered an order [DE 6347] extending the deadline to  
23 October 10, 2008. On December 2, 2008, the Court entered an Order [DE 6636]  
24 extending the deadline to February 9, 2009. On February 19, 2009, this Court entered an  
25 order [DE 6843] extending the deadline to June 9, 2009. On May 7, 2009 entered an order  
26 [DE 7105] extending the deadline to October 7, 2009.

1 To date there have been filed:

- 2 • seven administrative claims totaling \$2,016,499 — there are no unresolved  
3 administrative claims;
- 4 • 100 priority claims totaling \$6,975,181 — there is one unresolved priority  
5 claim for \$32,844;
- 6 • 1669 secured claims filed totaling \$291,093,538 — all secured claims are  
7 resolved or have been converted to unsecured claims;
- 8 • 1,241 unsecured claims totaling \$635,120,837.33 — as of December 8,  
9 2009, there were \$215,094,144 unresolved unsecured claims remaining; and
- 10 • 69 unknown claims totaling \$322,617 — all unknown claims have been  
11 resolved or objected to.
- 12 • Two objections to the status of an administrative claim for \$62,496 that have  
13 been sustained, resulting in the claims being reclassified as unsecured.  
14 There are no unresolved administrative claims.
- 15 • Objections to 74 priority claims that have been sustained and reclassified as  
16 unsecured in aggregate of \$4,458,040. There is one unresolved alleged  
17 priority claim remaining for \$32,844.
- 18 • Objections to 1,660 secured claims that have been sustained and reclassified  
19 as unsecured (subject to potential further objection) in the aggregate amount  
20 of \$290,201,464. There are no unresolved secured claims that assert liens on  
21 assets owned by the Trust.<sup>4</sup>
- 22 • As of August 31, 2009, \$178,847,946 in unsecured claims have been  
23 allowed and \$550,014,743 have been disallowed, leaving a total of  
24 \$215,094,144 in unresolved unsecured claims.

25  
26 <sup>4</sup> Unfortunately, numerous direct loans secured by borrower property have not been resolved.

- 1           •       Objections to 78 “wrong debtor” claims, in the aggregate amount of  
2                   \$11,809,386, were sustained. The Trust believes that it has made all of the  
3                   available “wrong debtor” objections.
- 4           •       Objections to 157 claims for lack of documentation in the amount of  
5                   \$23,597,974; 154 objections have been sustained totaling over \$23,147,974.
- 6           •       Objections to 43 claims based on miscellaneous grounds in the amount of  
7                   \$87,973,801. Nineteen of these objections have been sustained totaling  
8                   \$53,181,903; Fourteen objections have stipulated withdrawals totaling  
9                   \$15,914,574; three claims totaling \$4,966,275 have been partially allowed in  
10                  the amount of \$2,300,000, with the remaining balance of \$2,666,275  
11                  disallowed; three objections resulted in claims being reclassified as  
12                  subordinated A-7 claims totaling \$91,216; One claim was deemed allowed  
13                  for \$11,358,662; and three objections totaling \$2,461,170 remain  
14                  unresolved.
- 15          •       Objections to Direct Lenders’ claims in the amount of \$91,794,121,  
16                  principally on loans paid in full by the borrowers. The Court has sustained  
17                  \$90,687,801 of these objections, the remaining \$1,106,320 consists of  
18                  objections to claims based on investments in the Beastar, LLC and Beau  
19                  Rivage Loans and will be heard on December 18, 2009.,
- 20          •       A stipulation has been executed and an order signed which provides for the  
21                  disallowance of the Spectrum and Weddell proofs of claim in the amount of  
22                  \$125,000,000.
- 23          •       Thirty-two objections to claims based on the Palm Terrace lawsuit totaling  
24                  \$64,000,000; of which 31 claims have been disallowed in their entirety and  
25                  one claim was deemed partially allowed in the amount of \$50,000 with the  
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1 remaining portion of the claim disallowed. Thus, \$63,950,000 of the Palm  
2 Terrace Claims have been disallowed.

- 3 • 248 objections totaling \$94,236,178 to claims based on double counted  
4 claim totals.

5 The Trust prosecuted objections to claims, including the Loans known as Opaque  
6 Mt Edge \$7,350,000; HFA Riviera; HFA Riviera 2<sup>nd</sup>; Hasley Canyon; Fiesta Beaumont  
7 \$2.4 million; Ashby Financial Company \$7,200,000; Glendale Tower Partners, LLC;  
8 Golden State Investments II; 5252 Orange, LLC; Midvale Market Place, LLC; Urban  
9 Housing Alliance – 435 Lofts Loan; Boise/Gowen 93, LLC; LCG Gilroy, LLC; J Jireh’s  
10 Corporation; One Point Street, LLC – HFA North Yonkers; Goss Road Loan; Elizabeth  
11 May Real Estate Loan; Slade Development; Wasco Investments, LLC; I-40 Gateway  
12 West, LLC 2nd; Cottonwood Hills, LLC; Standard Property Development, LLC; Meadow  
13 Creek Partners; I-40 Gateway West; Gateway Stone; Palm Springs Marquis Hotel; Roam  
14 Development; Del Valle Isleton; Preserve at Galleria; Copper Sage Commerce I; 3685 San  
15 Fernando Road; Bar USA; Bay Pompano Beach; Beastar, LLC; Beau Rivage; Clear  
16 Creek; La Hacienda; Rio Rancho Business Park; and Shamrock Tower. The Trust has  
17 other adversary proceedings pending that constitute claims objections.

18 Further, as the Trust has received information from claimants, it has entered into  
19 stipulations for the allowance and disallowance of priority and unsecured claims.  
20 Conversely, some claimants have stipulated to either withdraw their claims or have them  
21 reclassified as unsecured claims upon discussion with the USACM Trust’s counsel.

22 Not all of the claims objections can be resolved through motions. The Court has  
23 ordered that the Trust’s objection to claim 1366 of Los Valles Land & Golf, LLC be  
24 consolidated with a related adversary proceeding filed by the Trust against Los Valles and  
25 its guarantor, Dan S. Palmer, Jr.  
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1 USACM Trust has 99 direct lender loans on record for which investors have filed a  
2 proof of claim asserting money owed. To date USACM Trust has objected to proofs of  
3 claims based on 39 of these loans for having been repaid in full. There are additional paid  
4 in full loans that also have amounts scheduled for unremitted principal. USACM Trust  
5 has objected to the proofs of claims based on these loans, USACM Trust has objected to  
6 the difference between the amount asserted on the proof of claim and the predetermined  
7 amount allowed as an unsecured claim for the subject loan. There will be an additional 60  
8 direct lender loans outstanding after these loans are resolved, the majority of these loans  
9 are being serviced by Compass Financial. USACM Trust has been unable to obtain the  
10 status of these outstanding loans from Compass Financial.

11 I make this declaration under penalty of perjury of the laws of the United States of  
12 America on December 8, 2009.

13 By /s/ Edward M. Burr  
14 Edward M. Burr

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1 Copy of the foregoing served on  
2 December 18, 2009, via e-mail or first  
3 class postage prepaid U.S. Mail to all  
parties listed on the Post Effective Date  
Service List on file with this Court:

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5 s/Marilyn Schoenike  
6 Marilyn Schoenike  
Lewis and Roca LLP

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