



Entered on Docket
January 03, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

Chapter 11

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

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

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

Adversary No. 06-01256-LBR

In re:
USA SECURITIES, LLC,
Debtor.

**TEMPORARY RESTAINING
ORDER AND NOTICE OF
HEARING ON MOTION FOR
PRELIMINARY INJUNCTION
AND MOTION FOR PRE-
JUDGMENT WRIT OF
ATTACHMENT**

Affects:

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

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1 USA COMMERCIAL MORTGAGE COMPANY, a
2 chapter 11 debtor, and USA CAPITAL DIVERSIFIED
TRUST DEED FUND, LLC, a chapter 11 debtor,

3 Plaintiffs,

4 vs.

5 HMA Sales, LLC, a Nevada limited liability company,
6 and SALVATORE J. REALE, an individual,

7 Defendants.

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9 This matter having come before the Court on Debtor USA Capital Diversified Trust Deed
10 Fund, LLC's Motion for Temporary Restraining Order and Preliminary Injunction, after having
11 reviewed the motion, declarations and other papers filed in this matter and pursuant to Bankruptcy
12 Rule of Procedure 7065 and Fed. R. Civ. Pro. 65, Russell Walker, Esq. appearing for USA
13 Investment Partners and Joseph Milanowski; this Temporary Restraining Order ("TRO") is issued
14 *ex parte* because it has been alleged that Defendants in the above-captioned adversary proceeding,
15 HMA Sales, LLC, its officers and/or agents, and Salvatore Reale (together, the "Defendants"), has
16 caused the sale transaction on that real property, more commonly known as the Royal Hotel
17 Property (the "Property"), to close escrow and that the sale proceeds may involve monies that can
18 be traced to a Debtor in the above-captioned bankruptcy cases. Debtor is unable to timely provide
19 notice and service of process on HMA and Salvatore J. Reale ("Reale") due to the shortness of
20 time in which the issues at hand have presented themselves.

21 Without the issuance of the requested TRO, there is a substantial probability that Debtor
22 will suffer irreparable injury, losing its right and opportunity to recover its monies and suffering
23 harm in the event the sales proceeds are fully distributed, by Court order or otherwise. Therefore,
24 a TRO is warranted to maintain the status quo.

25 In consideration of the foregoing,

26 **IT IS HEREBY ORDERED AS FOLLOWS:**

27 1. HMA and Reale, their agents, officers, members, managers, escrow agents and all
28 others acting on their behalf are restrained and enjoined from distributing any proceeds resulting

1 from the sale of the Royal Hotel Property until further order of this Court or expiration of this
2 TRO.

3 2. Reale may spend up to \$100,000 of proceeds from the sale of the Royal Hotel.

4 **IT IS FURTHER ORDERED AS FOLLOWS:**

5 3. The hearing on Debtor's Motion for Preliminary Injunction and the Plaintiff's
6 Motion for a Pre-Judgment Writ of Attachment will be held before this Court on January 3, 2007
7 at 1:30 p.m.;

8 4. No bond will be required of the Plaintiff.

9 In addition to attempting to serve the defendant, as permitted by Rule 7005 of the
10 Bankruptcy Rules of Procedure, the defendant may be served by delivering copies of this Order,
11 Debtor's Motion for Temporary Restraining Order and Preliminary Injunction, the Complaint, and
12 the Summons to the defendant's last known address by Courier, Certified Mail, or by facsimile or
13 electronic/e-mail transmission, if known.

14 Dated: December 27, 2006

15 Submitted by:
16 RAY QUINNEY & NEBEKER P.C.
17 and SCHWARTZER & MCPHERSON LAW
18 FIRM

19 By: /s/ Lenard E. Schwartzer, Esq.
20 LENARD E. SCHWARTZER, ESQ.
21 JEANETTE E. MCPHERSON, ESQ.
22 *Counsel for Plaintiffs*

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