



Entered on Docket
December 19, 2006

Hon. Linda B. Riegle
United States Bankruptcy Judge

AUGUST B. LANDIS, ASSISTANT UNITED STATES TRUSTEE
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UNITED STATES DEPARTMENT OF JUSTICE
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Attorneys for the Acting United States Trustee,
SARA L. KISTLER

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

TREE MOSS PARTNERS, LLC,
Debtor.

Chapter 7 - Involuntary

Case No. BK-S-06-13758

Date: December 15, 2006

Time: 9:30 a.m.

**ORDER FOR APPOINTMENT OF AN INTERIM TRUSTEE AND
RESTRICTING THE DEBTOR'S OPERATIONS DURING THE GAP PERIOD**

This matter came on for hearing pursuant to a Motion Under 11 U.S.C. §§ 303(f) and (g) for an Order Appointing an Interim Trustee, or Alternatively, Restricting the Debtor's Business Operations During the Gap Period. The motion was filed by USA Capital Diversified Trust Deed Fund ("Diversified"), the petitioning creditor in this involuntary case. An opposition to the

1 motion was filed by the alleged debtor, Tree Moss Partners, LLC. Lenard Schwartzner appeared
2 at the hearing as counsel for Diversified, Jeffery Herman appeared on behalf of Diversified's
3 Official Unsecured Creditors Committee, Russell Walker appeared on behalf of Tree Moss, and
4 Assistant United States Trustee August B. Landis appeared on behalf of the Office of the United
5 States Trustee. Other appearances were noted on the record, and arguments were made
6 concerning the motion filed by Diversified and the opposition filed by Tree Moss.

7 The Court has reviewed and considered the motion, the opposition, the declarations in
8 support of each, and the arguments of counsel made at the December 15, 2006 hearing. Pursuant
9 to the Court's findings of fact and conclusions of law made on the record during the December
10 15, 2006 hearing in accordance with FED. R. BANKR. P. 9016(c) and 7052:

11 **IT IS ORDERED** that the relief requested in the motion is **GRANTED**.

12 **IT IS FURTHER ORDERED** that, pursuant to 11 U.S.C. § 303(g), the United States
13 Trustee shall appoint an interim trustee under 11 U.S.C. § 701 to take possession of the property
14 of the estate and to operate any business of the debtor.

15 **IT IS FURTHER ORDERED** that, from the time of the oral announcement of this order
16 in open court, Tree Moss shall not take any action to convey, encumber, or in any manner
17 transfer or diminish its assets, specifically including the Condo Units described in the Motion,
18 absent further order of this Court.

1 **RULE 9021 DECLARATION**

2 In accordance with Local Rule 9021, the undersigned certifies that:

3 The Court waived the requirements of Local Rule 9021

4 -As to Russell S. Walker, counsel for the alleged debtor. ***See Note Below

5
6 A copy of this proposed order has been delivered to the following attorneys and
7 unrepresented parties who appeared at the hearing regarding this matter and/or who filed
8 a written objection, and they have:

9 Approved the form of this order

10 -Lenard E. Schwartz, Counsel for Petitioner, USA Capital; and

11 -Jeffrey D. Hermann, Counsel for the Official Committee of Equity
12 Security Holders of Petitioner, USA Capital Diversified Trust Deed Fund

13 Waived signature in open court; and/or

14 Failed to file and serve papers in accordance with Local Rule 9021(c).

15 I have delivered a copy of this proposed order to all attorneys and unrepresented
16 parties who appeared at the hearing regarding this matter and/or who filed a written
17 objection, and all have either approved the form of this order, waived the right to review
18 the order, failed to file and serve papers in accordance with Local Rule 9021(c), and the
19 following have disapproved the order:

20 No opposition was filed in response to the motion, and no other party or counsel
21 appeared at the hearing.

22 **NOTE:** This form of order was forwarded to counsel who appeared at the December 15,
23 2006 hearing via email on Saturday, December 16, 2006. The order was revised and
24 recirculated via email on Monday, December 18, 2006. No response to either email
25 message has been received from counsel for the alleged debtor, and entry of this order
26 would therefore require waiver of Local Rule 9021.

27 **SARA L. KISTLER**
28 **ACTING UNITED STATES TRUSTEE**
REGION 17

By: /s/ August B. Landis
August B. Landis
Assistant United States Trustee
Las Vegas, Nevada

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