



Dear Interested Party,

The most important event occurring during the month of August was the court establishing a “claims bar date” of October 31, 2005. The “claims bar date” is that date by which anyone having a claim against the bankruptcy estate must file notice of the claim (officially called a “proof of claim”) with the court. As a creditor or investor, this is extremely important to you for two reasons.

First, it puts us closer to a point in time when distributions can be made. Despite now having in excess of \$40,000,000 in cash on hand, we cannot make any distributions until the court determines the rights of any particular class of creditors and we have a total amount of claims being made against the bankruptcy estate. Until the actual status of those claiming “secured” creditor positions are adjudicated, the possibility exists that the bulk of the funds collected to date would have to be used to satisfy the claims of the “secured” creditor class.

Second, this is the last date for filing a claim against the estate and **those who do not file a claim will not** be eligible to participate in any future distributions. **This is critical.**

If you have not filed a proof of claim with the bankruptcy court you must do so. A proof of claim form is included in this website. The court is the Middle District of Florida and the case is Brasota Mortgage Company, Inc., Case No. 8:05-bk-06215-KRM

Claims forms should be filed with:

Clerk of the Bankruptcy Court
United States Bankruptcy Court, Middle District of Florida
Sam M. Gibbons United States Courthouse
801 North Florida Street, Suite 707
Tampa, Florida 33608

Going forward, in the interest of getting to that point when we can make distributions, we are attempting to set up an expedited procedure for processing claims, especially those claiming “secured” status. We anticipate that shortly after the claims bar date has passed, we will request that anyone who has filed a “secured” claim to provide us with additional information if such information was not already provided with the claim form filed with the court. Generally “secured” creditors will be requested to provide copies of the original recorded assignments of mortgage **and the original note being assigned. This is important. It is not the note signed by Morrison or Brasota, but the actual note from the mortgage borrower payable to Brasota.** If one does not have that or an independent escrow agreement establishing the ownership and control of **that** note, it is anticipated

that the chances of being found to be a “secured” creditor are extremely slim. Certainly, it is expected that those claims will be objected to in an effort to have them classified as unsecured claims.

Having said that, we are not advising anyone of their legal rights or remedies and should you still feel you have a “secured” claim, you will be given the opportunity to defend that right in the courts and I would suggest that you seek independent counsel.

As in the past, I will proceed to outline the major assets and challenges facing the Company.

Cash – As of month end we have a cash balance of \$41,400,000, an increase of \$1.8 million over last month end. Shortly after the end of the month, we did have two additional developer loans payoff for slightly more than \$3,000,000 bringing the total cash on hand to over \$44,000,000. I am attempting to proceed with collections during September that could potentially bring the cash on hand at September 30th to greater than \$50,000,000.

This is somewhat of a mixed blessing in that as trustee, the law requires that I be bonded for an amount equal to 105% of the cash on hand, which requires me to post a bond of \$46,200,000 at a cost to the estate of \$231,000. The US Trustee’s office did arrange for the required bond to be reduced from the normally required 150% of cash on hand to the 105% level mentioned above, a savings of almost \$100,000.

Mortgages Receivable – Again, this is the one major area that can, and will, impact the overall recovery the greatest. We have made significant progress in bringing this area further under control during the month.

Most significantly progress continues to be made in the area of developer loans which constitute approximately 50% of the total loan portfolio. As covered last month, in many instances the former management had no collection procedures in place and most of the developer loans required no current interest payments. During the past month, we met with every developer (there are currently 11 developers with 80 loans outstanding) and established exit strategies and reasonable expectations for bringing loans current, refinancing or planned sales of property by the developers. While we still have a number of loan “workouts,” to date we have not written off any major developer loans nor have we given any interest concessions. We do anticipate that of the 80 loans, approximately 30% totaling \$5-6 Million have actually been paid off but the Company’s books, although reflecting receipt of the cash and giving appropriate mortgage satisfactions, never reflected the loan as having been paid.

Current loans which last month totaled \$8.8 Million have been reduced to \$7.7 million, about \$800,000 through mortgage payoffs and \$300,000 going into delinquent or litigation status.

There are now 55 loan files with the attorneys for foreclosure representing total outstanding principle balances of \$8,400,000.

In summary, at month end we still have in excess of \$50,000,000 in loans outstanding and this area will continue to be the primary area of focus as we move forward into the future.

Real Estate Owned (REO) – We made little or no progress in this area during the month. However, we will be approaching the court in September for expedited procedures which should allow us to sell the REO in a reasonable manner. At month end, the REO balance, estimated to be about \$5.2 million, was unchanged from the previous month end.

Other Litigation

The month of September will be a relatively busy month from the litigation side of the house.

Retainer Litigation – On September 1st, two additional criminal defense attorneys agreed to the full return of their retainers which had been paid by the Company and at this point we have recovered \$170,000 of the \$205,000 that was paid out the morning that the Company was placed in receivership. Only one retainer for \$35,000 remains to be recovered and we will be proceeding forward on that recovery matter.

Clancy's – Records subpoenaed from AmSouth Bank and a payroll leasing company are being delivered to our attorney's office shortly and we have a pre-trial conference on the matter established with the court for September 20th at 10:00A.M. if the matters have not been resolved by that time.

McMullin Creek – We continue to have discussions with the attorney for the 50% partner in this venture and are hopeful that there will be no need for any litigation. We feel that this does appear to be a legitimate joint venture and will work at solidifying the venture agreement as to any profit distributions in the future.

M.O.R.U.P.S. – This litigation (to recover certain condominium units that we feel were acquired with Brasota funds) is scheduled for a pre-trial conference on September 26th at 10:30 A.M.

Preferential and Fraudulent Transfer Litigation – Last month we indicated that we had brought suit against Mr. Coey, a former officer of the Company, that suit is scheduled for a pretrial conference on September 20th at 10:00 A.M. During the current month, we also brought a recovery suit against the parents of one of the former Company employee's who received a return of over \$50,000 within one year of the Company's filing of bankruptcy. Additional suits of this type will be filed during September.

Receiver and Receiver Attorney Fees – Currently, these matters are scheduled to be heard by the court on September 12th. As previously stated, the trustee, the creditor's committee, U.S. Trustee's office and a number of individual creditor's plan to or have filed objections to the payment of those fees.

Secured Creditor Litigation – This coming week we will be filing an adversary proceeding against a small group of creditors with a total amount owed of approximately \$5,300,000 and who contend to have received documents which they feel place them in a position superior to any other creditors. We contend that such is not the case and that basically all creditors are unsecured. This is the most significant litigation affecting the potential return to creditors and, as such, is the focus of our litigation attention.

During the month, the court also approved retention of real estate appraisers where such appraisers are required for decisions related to real estate owned or judgments related to potential foreclosure proceedings; the rejection of certain contracts that were entered into by the Company before the bankruptcy; approval of certain commissions, also for agreements that were entered into before the filing; the payment of an outstanding construction draw to one of our developer borrowers and lastly, the court continued the hearing on what procedures will be used in the secured claim process until September 12th.

Finally, the Web site appears to be fairly successful and has had over 10,000 “hits” since early May. We will continue to try and keep everyone informed via the web site, but should you be aware of any creditor who does not have internet access, please request they drop us a note at the Brasota offices. I can be reached at jerry@brasota.com and will continue to try and respond to any emails within one week.

Best Regards,
Brasota Mortgage Co. Inc.

Jerry McHale

Gerard A. McHale, Jr.
Chapter 11 Trustee