

Dear Interested Party,

The month of September was highlighted by strong cash collections – In my last monthly update, I indicated that we finished the month of August with cash on hand in excess of \$40,000,000. We ended the month of September with cash balances slightly in excess of \$53,000,000.

The second most important item occurring during the month was the beginning of the difficult task of claims reconciliations. We have over 1770 claimants and the task has become further complicated by a number of items.

1/ A premature mailing from the bankruptcy court which confused creditors about the secured claims objection process. Many creditors mistook the mailing as requests for information which normally would not have been sent out until after the claims bar date of October 31<sup>st</sup> had passed.

**IF YOU HAVE FILED A PROOF OF CLAIM INDICATING THAT YOU FEEL YOU HAVE A SECURED POSITION (AND THE INFORMATION THAT WE HAVE RECEIVED FROM YOU IS NOT ADDEQUATE), WE WILL BE CONTACTING YOU SEPARATELY, AFTER OCTOBER 31, WITH REQUESTS FOR ADDITIONAL INFORMATION AS PER THE COURT APPROVED SECURED CLAIMS PROCEDURE.**

2/ That same mailing caused many unsecured creditors to respond unnecessarily when the process would have actually been **ONLY** directed to those who claim a secured status.

3/ For some reason Retirement Accounts Inc, who represents in excess of 100 accounts may have sent incorrect information to some of the account holders – informing these creditors that their claims needed to be filed with John Ray, the former Receiver for Brasota. As we are all hopefully aware by now, this advice is incorrect, all claims need to be filed with the Bankruptcy Court in Tampa. (See August Newsletter for address).

Although we apologize for the confusion, the mailings did not originate from the Brasota office, the Trustee's office or from his professionals.

A brief synopsis of where we stand at month end is outlined below –

**Cash** – As of month end, we have slightly more than \$53,000,000 on deposit. This is an \$11,000,000 increase from last month and is the result of excellent collection efforts by the staff. During the month, we negotiated a 3 month CD with Wachovia Bank paying 3.66% interest on slightly in excess of \$29,000,000 and the balance of the funds are in a Wachovia Money Market account where we have negotiated a rate of 3.55%.

**Mortgages Receivable** – As stated last month, this is the area of highest priority as our highest loss exposure is in this area. The loan collections process, upon a default in a

loan, can become expensive. Accordingly, we are doing our best to develop exit strategies for all major developer loans.

During the month, we had a total of 21 loans pay off which translates to an increase in cash, in excess of \$11,000,000 (which ultimately will become available for distribution).

We continue to “work the files” and hope to have continuing solid collection efforts – As of month end, we do have total loans receivable of slightly more than \$40,000,000. I would caution against making any sweeping assumptions about collection success on the full \$40,000,000. Certainly, some bad debt losses will be incurred (and collection expenses paid) before we’re “out of the woods”. We still have collection efforts underway on loans where literally the first payment was never made.

**REO** – The REO balances remained unchanged from last month end and we will be submitting contracts of sale for court approval during October to begin to bring this balance down. We do not anticipate any losses in the Real Estate owned portfolio.

### **Other Litigation**

During the month, we had a number of court appearances but most were relatively perfunctory and in the nature of status updates to the court.

**Attorney Retainers** – Of the \$205,000 paid out for criminal attorney fees just prior to the receivership, the majority has been recovered or we are in the process of formalizing the settlement. We are proceeding with litigation for recovery of the final \$35,000.

**Clancy’s** - We are continuing our review of the records, including the recently received documents from AmSouth Bank and the payroll leasing company. A pre-trial conference has been set for November 29<sup>th</sup>.

**McMullin Creek** – We have reviewed our expenditures on this property as well as the expenditures of the co-venturer. We continue to have negotiation discussions and are hopeful of reaching a resolution satisfactory to both parties. If that resolution cannot be reached, a pre-trial conference has been set for November 10<sup>th</sup>.

**M.O.R.U.P.S.** – We have received a default judgment and will be proceeding to foreclosure. This covered certain condominium units obtained using Brasota funds, but deeded to a Morrison related entity.

**Preferential and Fraudulent Transfer Litigation** – Presently there are three suits which fall into this category –

- **Thibodeau Family Partnership** – A suit for recovery of real estate in Bridgeport, Connecticut, which was acquired with funds “borrowed” from Brasota and for which all expenses have been paid by Brasota (yet deeded in the name of the Thibodeau Family Trust). This Trust appears to be controlled by George Thibodeau’s widow.

- **Robert Coey** – A suit for recovery of transfers occurring while the Company was insolvent. We have had preliminary settlement discussions with Mr. Coey and his counsel and are maintaining an active law suit in this matter. This matter is scheduled for a pre-trial conference on October 25<sup>th</sup> at 10:30.

- **Rutherford Litigation** – Suit brought against Mo Hottman’s parents for return of funds to an insider during the preference period and while the Company was insolvent. This is now scheduled for a pre-trial conference on October 25<sup>th</sup> at 10:30.

Additional suits of this nature will be filed in the upcoming months.

**Receiver and Receiver Attorney Fees** – After an appearance in front of the court on September 12<sup>th</sup>, the parties agreed to meet for mediation in late October.

**Secured Creditor Litigation** – This is the action against a small group of creditor’s who’s combined claims would total approximately \$5,300,000. There are a number of hearings related to this in October, the most important of these is a hearing on the 13<sup>th</sup> of the month to determine whether these particular creditors will be required to file a claim by the October 31<sup>st</sup> claims bar date. We will be objecting to that motion and requesting the court to force the claimants to abide by the October 31<sup>st</sup> date to which all other creditors are bound. We will continue to work towards resolution of this matter which, as I have previously mentioned is the single largest item which might affect the potential return to creditors.

During the month we had about 3,000 “hits” on the website and I would encourage your continued review of this website, it is certainly the most cost effective way we have of keeping all parties updated. I am still attempting to answer all inquiries on the website within 5 working days, but the influx of traffic because of the mailings described in the first part of this letter has caused a noticeable backlog in the responses that I need to get out.

In that most of the current questions deal with “Secured” vs. “Unsecured” status, I would again absolutely urge you to get a claim filed. If you think it’s secured – go ahead and file as such and we can sort out problems later, but if you don’t file the proof of claim, you will be left out in the cold.

Although I will attempt to get all responses out on a timely basis, do not let that belated response restrain you from filing a proof of claim. I can continue to be reached at [jerry@brasota.com](mailto:jerry@brasota.com).

Best Regards,  
Brasota Mortgage Company, Inc.

*Jerry McHale*

Gerard A. McHale, Jr.  
Chapter 11 Bankruptcy Trustee