

SIGNED.



Dated: January 20, 2010

Randolph J. Haines

RANDOLPH J. HAINES
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

<p>1 2 3 4 5 6 7 8 9 10 11 12</p>	<p>In re MORTGAGES LTD., Debtor.</p> <hr style="width: 100%;"/>	<p>) Chapter 11)) CASE NO. 2:08-bk-07465-RJH)) ORDER GRANTING IN PART AND DENYING) IN PART FINAL FEE APPLICATION OF MCA) FINANCIAL GROUP, LTD.)</p>
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MCA Financial Group, Ltd., has filed a final fee application seeking approval of fees in the total amount of \$122,131.25, of which it has already received payment of its retainer in the amount of \$95,868.61. The ML Liquidating Trust has objected to the application on a number of grounds, and an evidentiary hearing was held on those objections.

The Liquidating Trust objects that a final order approving MCA's employment was never entered. MCA's employment was authorized on an interim basis on June 25, 2008, and MCA withdrew as financial advisor on July 3, prior to the expiration of the 30 day period for objecting to the interim order. The Liquidating Trust raises no objection to entry of a final order authorizing MCA's employment that was not previously considered when the interim order was granted. This order authorizing payment of MCA's final fee application can also effectively serve as the final order authorizing its employment, and there is no substantive reason that it not do so. Consequently objection on this ground is overruled.

The Liquidating Trust objects that some fees might have been incurred in providing services to Mortgages Ltd. Securities. However, the evidence established that MCA did not provide any such services and is not seeking payment for any such services. The objection on this ground is therefore overruled.

1 The Liquidating Trust objects that some portion of MCA's retainer may have
2 been received from impounds and escrows. The evidence did not establish, however, that such
3 funds were not within the authority of the Debtor to utilize for payment of professional
4 services, or were otherwise held in trust. This objection of the Liquidating Trust is therefore
5 overruled.

6 The Liquidating Trust argues that a significant portion of the services MCA
7 provided in doing a loan portfolio analysis was duplicative of the work of both the employees
8 of the Debtor and the Debtor's other professionals. The evidence established that with the
9 death of Scott Coles, the Debtor's own employees were incapable of providing that analysis,
10 and had not done so prior to Mr. Coles' death because he retained much of the information in
11 his head. The evidence did not establish that the same work that MCA accomplished had also
12 been done by the Debtor's other professionals. The exhibits admitted into evidence
13 demonstrated that the nature of the work that MCA accomplished was work that a debtor such
14 as Mortgages Ltd. would have to perform in order to responsibly administer its Chapter 11
15 case. Because the evidence did not establish that MCA's work had in fact been accomplished
16 by either the Debtor's own employees or other professionals, this objection is overruled.

17 Finally, the Liquidating Trust objects to some or all of the fees incurred by
18 MCA in working on DIP financing, particularly the financing proposal submitted by Southwest
19 Value Partners that was initially adopted by the Debtor. The evidence established that through
20 much of June, 2008, MCA did substantial work in soliciting, evaluating and negotiating DIP
21 financing proposals from a number of potential sources. By late June, however, the Debtor
22 decided to proceed with the Southwest Value financing proposal, so thereafter MCA's work
23 was largely limited to that particular financing proposal.

24 The term sheet for the Southwest Value DIP financing required that MCA
25 remain as the Debtor's financial advisor, and that there be no material change in the Debtor's
26 management. But an Order entered on July 1 required the resignation of Laura Martini as the
27 Debtor's interim president and required that MCA phase out of its work within 30 days. By
28 July 18 Southwest Value Partners withdrew its financing proposal largely because of that

1 substantial change in the Debtor's management.

2 As of July 1, MCA knew that it would have to terminate its representation of the
3 Debtor by the end of the month, and that the Southwest Value term sheet requirement for its
4 continued employment could not be satisfied. Consequently the Court cannot find on this
5 record that MCA's work on the Southwest Value DIP financing after July 1 was reasonably
6 anticipated to provide value to the Debtor and its estate. Instead, it appears that such work was
7 undertaken in a vain hope that the inability to obtain any other financing would effectively
8 require the continued employment of MCA, notwithstanding the Court's July 1 Order.

9 Except for the work on the Southwest Value financing after July 1, all of MCA's
10 work appears to have been reasonably likely to benefit the estate, and both the hours and the
11 hourly rate for such work appear to be reasonable in the local market.

12 For these reasons, MCA's final fee application should be granted in its entirety
13 with the exception of the amount sought for work on DIP financing from and after July 1, 2008.
14 Counsel for MCA is requested to upload an appropriate form of order.

15 DATED AND SIGNED ABOVE

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