

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Yates

Justice

PART 49mNorth 4211 Funding

INDEX NO.

602997/09

MOTION DATE

MOTION SEQ. NO.

003

MOTION CAL. NO.

Maiden & Muelson Holdings

The following papers, numbered 1 to _____ were read on this motion to/for _____

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: ☐ Yes ☒ No

Upon the foregoing papers, it is ordered that this motion

is withdrawn, pursuant to the attached stipulation, dated August 12, 2010.

Dated: AUG 20 2010James A. Yates J.S.C.Check one: ☒ FINAL DISPOSITION☐ NON-FINAL DISPOSITIONCheck if appropriate: ☐ DO NOT POST☐ REFERENCE☐ SUBMIT ORDER/JUDG.☐ SETTLE ORDER /JUDG.MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NORTH HILL FUNDING OF NEW YORK, LLC

Index No.: 602997/2009
(Action No. 1)

Plaintiff,

STIPULATION

-against-

MAIDEN & MADISON HOLDINGS, LLC, RIP
HOLDINGS V, LLC, CAPSTONE BUSINESS
CREDIT, LLC, CAPSTONE CAPITAL GROUP I, LLC
JOHN R. RICE, III AND JOSEPH F. INGRASSIA,
Defendant.

158 MADISON AVENUE ASSOCIATES, LLC,
CAPSTONE BUSINESS CREDIT, LLC, CAPSTONE
CAPITAL GROUP I, LLC, JOHN R. RICE, III,
and JOSEPH F. INGRASSIA

Index No.: 603397/2009
(Action No.2)

Plaintiff

-against-

NORTH HILL FUNDING OF NEW YORK, LLC and
BERKSHIRE CAPITAL FINANCIAL LTD.,

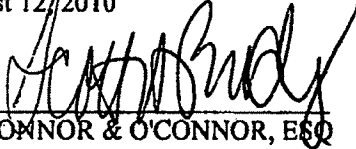
Defendant

IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel for all parties that the motion by Maiden & Madison Holdings, LLC, RIP Holdings V, LLC, Capstone Business Credit, LLC, Capstone Capital Group I, LLC, John R. Rice, III and Joseph F. Ingrassia (collectively, "Guarantors") to stay enforcement of the Judgment entered against them in Action No.1 on July 12, 2010 is hereby withdrawn.

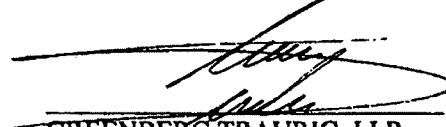
IT IS FURTHER STIPULATED, that the conditions imposed by the Order to Show Cause are replaced to the extent set forth in the Agreement reached by the parties, a copy of

which is attached hereto and incorporated herein.

Dated: New York, New York
August 12/2010



BRODY O'CONNOR & O'CONNOR, ESQ
Attorney for the Defendants
111 John Street, Suite 900
New York, New York 10038
212-233-2505
Fax: 212-233-2506



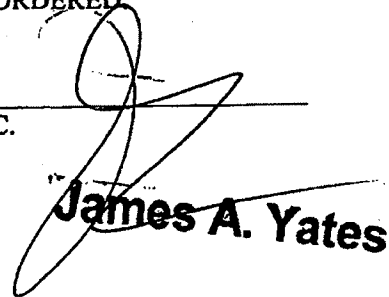
GREENBERG TRAURIG, LLP
Attorney for the Plaintiff
200 Park Avenue
Met Life Building
New York, New York 10166
212-801-9200

Dated:

AUG 20 2010

SO ORDERED:

J.S.C.



James A. Yates

AGREEMENT made this 10th day of August, 2010 by and between NORTH HILL FUNDING OF NEW YORK, LLC (hereinafter "NHF") and MAIDEN & MADISON HOLDINGS, LLC, RIP HOLDINGS V, LLC, CAPSTONE BUSINESS CREDIT, LLC, CAPSTONE CAPITAL GROUP I, LLC, JOHN R. RICE, III AND JOSEPH F. INGRASSIA (hereinafter collectively, "Capstone").

WHEREAS, in an action in the Supreme Court of the State of New York, County of New York, No. 602997/09 between NHF and Capstone, NHF obtained a judgment against Capstone in the amount of \$36,380,931.04 (the "Judgment").

WHEREAS, Capstone has requested that NHF cease steps in connection with the enforcement of the Judgment.

NOW THEREFORE, in consideration of good and valuable consideration as set forth herein, the parties agree as follows:

1. JEWELRY. Capstone acknowledges that it has acquired jewelry in connection with enforcement of an amount owed to it by Arthur D'Annunzio and his affiliated companies. It is agreed by the parties that said jewelry will continue to be held a) in safe deposit boxes located at J.P. Morgan Chase Bank, Avenue of the Americas and 56th Street, New York City, and (b) at selected retailers set forth on Schedule A (to be annexed). Ownership of the safe deposit shall be transferred to NHF within five (5) business days of the date of this Agreement, in accordance with procedures to be agreed on with Chase Bank. Capstone also agrees to grant NHF a security interest in the jewelry only within a reasonable period of time after execution of this Agreement, which security interest is subject to the terms hereof. Capstone shall have free and unrestricted access to the safe deposit boxes for purposes of selling the jewelry, or liquidating the jewelry through melting of gold, etc., at all times without notice to NHF. Sales or liquidation may only be to bona fide third parties for reasonable value, and not to affiliates of Capstone. NHF will not access the safe deposit boxes, absent a default under this Agreement, unless they have notified Capstone of their intent to access the safe deposit boxes and afforded Capstone the reasonable opportunity to accompany them to the boxes. . Notice shall be by email to Joseph Ingrassia and Scott Brody, Esq. On or before August 13, 2010, Capstone shall provide NHF with an inventory of the jewelry including the location of each piece. Such inventory shall outline jewelry held at each retailer, any UCC-1 Financing Statement filed in connection with such jewelry, and the accounts receivable due from each retailer. Counsel to Capstone shall also provide counsel to NHF with documentation relating to the surrender of the jewelry from D'Annunzio to Capstone and the outstanding legal bills to be paid from the proceeds of jewelry sales, by August 13, 2010.

Upon the sale of any jewelry, a portion of the sale proceeds shall be retained by Capstone to pay the expenses associated with such sale as hereinafter provided. Capstone has represented that fifteen (15%) percent of each sale shall be paid to Arthur D'Annunzio, ten (10%) percent to pay outstanding legal bills owed by Capstone and five (5%) percent to be retained by Capstone. Capstone shall pay the remaining seventy (70%) percent of every sales transaction to NHF, except as agreed on by the parties. The parties agree with respect to sales to Corsage/Bauxbaum, fifty (50%) percent of the first \$600,000 of sales proceeds shall be paid to NHF, fifty (50%)

percent of such first \$600,000 shall be paid to the law firm of Katten Muchin towards their outstanding legal fees and, thereafter, NHF shall receive seventy (70%) percent of the remaining sales proceeds. Upon the completion of payment of the aforesaid amount to Arthur D'Annunzio and all outstanding Capstone legal bills, NHF will thereafter receive ninety-five (95%) percent of the proceeds of future jewelry sales. Capstone shall provide NHF with sales/receipt documentation weekly and an updated inventory monthly by the tenth of each month. All sales shall be subject to this Agreement. Capstone agrees to utilize its best efforts to maximize the liquidation value of the jewelry, and to cooperate with NHF in reconciling the monthly inventory

If there is a default under the terms of Paragraph "3" of this Agreement, NHF shall be permitted to proceed with its enforcement of the outstanding debt owed by Capstone and the other Judgment Debtors to NHF (the "Debt"). However, NHF agrees that so long as Capstone continues to make payments of not less than \$500,000.00 per month, and Capstone complies with the provisions of Paragraph "1" and "2" of this Agreement, and further provided they are in compliance with the representations and warranties set forth in Paragraph "5" herein. NHF will permit Capstone to continue to liquidate the jewelry pursuant to the terms hereof without any change in the procedure being followed, for a period of six (6) months from the date of this Agreement.

2. **PAYMENTS.** Capstone shall make payments aggregating not less than \$500,000 on or before the tenth day of each month, commencing on August 10, 2010. NHF acknowledges that on August 6, 2010, Capstone made a payment in the amount of \$250,000 which payment shall be credited against the payment due August 10th. Subsequent payments shall be made each Monday from the net sales proceeds of sales from the prior week. Payments shall be made by wire transfer to the account of NHF. Should jewelry sales result in net proceeds greater than \$500,000 in any month, such excess shall be paid to NHF, and credited against the next succeeding monthly payment owing by Capstone hereunder. All amounts shall be non-refundable and credited against the Judgment.

3. **SALE OF 158 MADISON.** The sale of 158 Madison Avenue (the "Property") must occur by December 8, 2010. Capstone agrees to pay NHF not less than \$30 million from the Skyland NYC Corp. sale in return for which NHF shall release its mortgage lien from the Property. Should the current buyer, Skyland NYC Corp., not proceed with the transaction in accordance with its contract with the Capstone affiliate, Capstone shall have until September 14, 2010 to identify another buyer ("Substitute Buyer") acceptable to NHF and to enter into a contract which provides for a closing date to occur not later than December 8, 2010 and which would result in net proceeds to NHF of not less than \$26.5 million. The contract with the Substitute Buyer shall provide that the deposit shall be held by Greenberg Traurig, LLP, as escrow agent and, in the event of a default by the Substitute Buyer, the deposit shall be turned over to NHF for application to the Judgment. Capstone further agrees to pursue its liquidation claim against Skyland, and the proceeds thereof after litigation expenses shall be applied to reduce the Judgment. Should Capstone default under the terms of this Agreement, NHF's obligation to release its mortgage lien pursuant to the contract with the Substitute Buyer shall terminate.

4. **INFORMATION.** Counsel for Capstone acknowledges receipt of information subpoenas and the restraining notices for the following individuals and entities:

Joseph F. Ingrassia
John R. Rice, III
RIP Holdings V, LLC
Capstone Business Credit, LLC
Capstone Capital Group I, LLC
Maiden & Madison Holdings, LLC

Capstone and its counsel agree to commence to supply the requested information commencing within ten (10) days of the date of this Agreement and to complete the production of the requested information within twenty (20) days thereafter. John Rice and Joseph Ingrassia agree to provide NHF with affidavits confirming that they have not transferred any personal assets in the last year without receiving value. NHF agrees that such information may not be disclosed to any third party other than its attorneys and Liberty until such time as NHF would have a right to proceed with enforcement proceedings hereunder and that all parties in receipt of same shall hold same in strictest confidence unless there shall be a default by Capstone under the terms of this Agreement. So long as no default exists under this Agreement, NHF shall not pursue further enforcement proceedings.

5. **REPRESENTATIONS AND WARRANTIES.** Capstone represents and warrants that it will not from the date hereof:

- a) Transfer any asset for less than fair value retained by Capstone, nor distribute any of its assets, including making distributions to investors or payment of sub-debt;
- b) that it shall not remove jewelry from the safe deposit boxes other than in connection with a sale to a bonafide third party, for value, or other liquidation event as provided herein.

6. **SETTLEMENT.** Provided NHF has received the monthly payments of not less than \$500,000, as provided herein, and aggregate payments of \$35.5 million by December 8, 2010 ("Settlement Payment"), time being of the essence unless extended in writing by NHF, NHF will accept \$35.5 million as payment in full of the Judgment and obligations from Capstone and 158 Madison Associates, LLC. Should Capstone default in its obligations at any time during this Agreement, including but not limited to a breach of the Representations and Warranties contained in Paragraph "5", all amounts received by NHF may be retained and applied to the Judgment and NHF's obligation to accept the Settlement Payment and its obligation to release its lien in connection with a sale of 158 Madison Avenue to any subsequent buyer not under contract shall no longer be binding on NHF. In such event, NHF shall have the right to proceed with any and all remedies available to it, except as set forth above.

If the Settlement Payment is made by December 8, 2010, NHF shall return all remaining collateral in its possession and control to Capstone, shall issue satisfaction of judgment to all the judgment debtors and all security interests of NHF shall be extinguished. The parties agree to execute all such documents necessary to transfer 158 Madison Avenue and to complete the release of all interests.

NORTH HILL FUNDING OF NEW YORK, LLC

By: [Signature]
Name: Paula S. Sanyal
Title: Manager

MAIDEN & MADISON HOLDINGS, LLC

By: _____
Name: _____
Title: _____

RIP HOLDINGS V, LLC

By: _____
Name: _____
Title: _____

CAPSTONE BUSINESS CREDIT, LLC

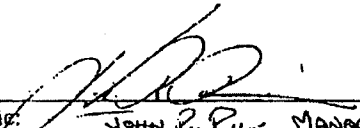
By: _____
Name: _____
Title: _____

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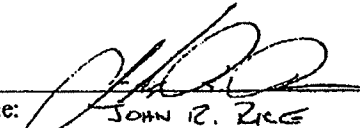
NORTH HILL FUNDING OF NEW YORK, LLC

By: _____
Name:
Title:

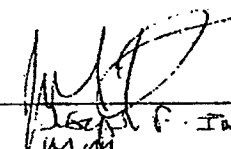
MAIDEN & MADISON HOLDINGS, LLC,

By: 
Name: JOHN R. RIFE
Title: MANAGING MEMBER

RIP HOLDINGS V, LLC

By: 
Name: JOHN R. RIFE
Title: MANAGING MEMBER

CAPSTONE BUSINESS CREDIT, LLC

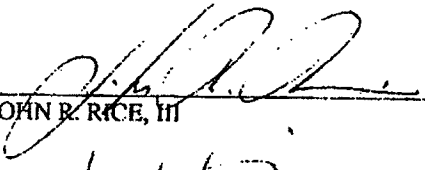
By: 
Name: JOSEPH F. TARGUILA
Title: MEMBER


CAPSTONE CAPITAL GROUP I, LLC

By: 

Name: Joseph F. Ingrassia

Title: Mgt


JOHN R. RICE, III


JOSEPH F. INGRASSIA