

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

In re:)	Chapter 11
)	
CORNERSTONE MINISTRIES)	Case No. 08-20355-reb
INVESTMENTS, INC.)	
)	
Debtor.)	Judge Brizendine
_____)

**MOTION OF THE OFFICIAL COMMITTEE OF CREDITORS HOLDING
UNSECURED CLAIMS FOR AN ORDER AUTHORIZING THE
EXAMINATIONS OF CERTAIN PERSONS AND ENTITIES UNDER RULE 2004
OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

The Official Committee of Creditors Holding Unsecured Claims (the “Committee”) of Cornerstone Ministries Investments, Inc. (the “Debtor”) hereby brings this motion (the “Rule 2004 Motion”) for an order authorizing the examination of certain entities and individuals pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) as set forth below.

FACTUAL BACKGROUND

1. When the Debtor filed this case, it reported assets of nearly \$160 million and liabilities of nearly \$154 million, including nearly \$142 million in unsecured public debt held by 3,523 bondholders. *See* Docket No. 1. Additionally, documents that have been publicly filed by the Debtor with the SEC show that the Debtor is part of an intricate web of inter-related entities that are borrowers from the Debtor, lenders to the Debtor, are in control of or are controlled by the Debtor, or otherwise have business relationships with the Debtor. Many of these inter-related entities are or have been controlled by the same, relatively small, group of individuals and have been advised by common sets of attorneys and accountants. Additionally, publicly available documents show that the

Debtor is a party to, or otherwise involved in, a number of complex financing arrangements with what appear to be unrelated third parties. The Committee set forth some of these arrangements that gave it concern in its initial set of objections filed in this case. *See* Docket Nos. 38-41.

2. Unraveling the Debtor's various webs of relationships described above will be important to the recovery unsecured creditors are likely to receive in this case. Understanding these relationships will assist the Court in determining which, if any, of the Debtor's creditors should be subordinated or otherwise subject to a reduction in their claims. Similarly, understanding these relationships will assist in determining what claims, if any, may be brought against which parties. Additionally, as the majority of the Debtor's outstanding borrowers are these related entities, understanding these relationships will assist in determining what assets may be available for the Debtor's borrowers to pay amounts owing to the Debtor.

3. Since its appointment, the Committee has undertaken a substantial review of the Debtor, its current assets and liabilities, and the best means of maximizing the potential value of those assets to repay creditors in this case. This has largely been a cooperative process with the Debtor to date and the Committee is hopeful that this review and investigation will promptly lead to an appropriate plan of reorganization or liquidation being filed in the near to intermediate future.

4. At this juncture in the case, the Committee believes that it is appropriate to begin a formal investigation of the affiliate and related relationships. The Committee brings this Rule 2004 Motion in furtherance of that investigation.

RELIEF REQUESTED

5. The Committee seeks authorization to commence examinations under Rule 2004 of a significant number of individuals and entities that, based upon public disclosures and the Committee's investigation to date, are related to, or otherwise may have significant business relationships with, the Debtor. As discussed further below, at this time the Committee is only seeking the *authority* to take the examinations of the individuals and entities set forth below. Depending upon the results of the Committee's examinations, it is possible that certain of the examinations for which the Committee seeks authority through this Rule 2004 Motion will be unnecessary. The Committee will exercise its judgment to determine the order, timing, and necessity of particular examinations. However, it is appropriate at this time for the Court to authorize the examination of each of the individuals and entities below, as this will reduce the time, expense, and administrative burden of the Court addressing examinations of each of the individuals and entities below on a *seriatim* basis.

6. In addition to the Debtor, the individuals and entities the Committee seeks to examine fall into four broad categories: (i) entities that are either related to the Debtor or are under common management and control with the Debtor; (ii) individuals who control the Debtor, most of whom also control or have controlled one or more of the entities in category (i) above; (iii) certain of the financial and legal advisors to the entities listed in category (i) above; and (iv) entities that appear to be unrelated third parties (or entities that have been established to do business with unrelated third parties), but have significant financial relationships that involve the Debtor.

7. The Committee at this time seeks Court authority to conduct these examinations. The scope of these examinations will depend upon the individual or entity involved and the specific relationship with the Debtor. For certain individuals and entities, the Committee anticipates requesting documents and taking examinations under oath; for others the Committee may determine that only document production or examinations under oath are appropriate; for others still, the Committee may determine – once the investigation has commenced – that no examination is necessary at all. Similarly, the Committee anticipates that the timing of the examinations it seeks to undertake will be flexible. Certain of the individuals and entities will be subject to examination shortly after entry of an order authorizing these examinations to be conducted. In other circumstances, the Committee may determine that it is appropriate to delay the examination for a period of time. Ultimately, through this Rule 2004 Motion, the Committee seeks flexibility to conduct its examination in a manner in which it sees fit based upon the particular circumstances of the case. Consistent with this objective, the Committee also notes that it may be necessary and appropriate for the Committee to bring additional motions under Rule 2004 to examine additional entities and individuals in the future.

8. In conducting these examinations, the Committee intends to work with the individual or entity being examined to the greatest extent possible to minimize disputes (and therefore the necessity for significant Court involvement in the examination and investigation process) and minimize the disruption caused to the individuals being examined, consistent with the overall objective of understanding the complex inter-entity relationships that this case presents.

9. At this time, the individuals and entities that the Committee seeks authority to examine are as follows (the Committee includes a brief description, where appropriate, of the relationships of the individuals or entities with the Debtor as the Committee presently understands them):

The Debtor and related corporate entities:

(i) *Cornerstone Ministries Investments, Inc.* – This entity is the Debtor in this case.

(ii) *eNable Business Solutions, Inc. f/k/a Cornerstone Capital Advisors, Inc.* – eNable Business Solutions, Inc. (“eNable”), which was formerly known as Cornerstone Capital Advisors, Inc., has provided administrative, management, executive and advisory services to the Debtor since July 2003. The Debtor and eNable entered into an amended advisory agreement on February 8, 2008, shortly prior to the Debtor’s bankruptcy filing. The Debtor and eNable have or have had numerous common individuals in their operation and management. eNable is or was the lessee of the Debtor’s office building and office/computer equipment in Cumming, Georgia. Based on the Debtor’s public filings, the Committee estimates that since the inception of the Debtor’s relationship with eNable, the Debtor has paid eNable in excess of \$11 million.

(iii) *Heron Lake, LLC* – Heron Lake, LLC is a subsidiary of the Debtor in which the Debtor acquired an 89% interest in 2006 according to the Debtor’s March 29, 2007 10-KSB (the “10-KSB”), as filed with the Securities and Exchange Commission (the “SEC”).

(iv) *Cornerstone Group Holdings, Inc.* – In 2005 and 2006 the Debtor made eight loans to majority or wholly owned subsidiaries of Cornerstone Group

Holdings, Inc. At the time of these transactions, two of the Debtor's directors were also directors of Cornerstone Group Holdings, Inc. Cornerstone Group Holdings, Inc. may have been dissolved in late 2006 by Church Growth Foundation, Inc, which is shown as its parent company in certain filings. In other filings, The Foundation for Christian Communities Development, Inc. is shown as the parent company of Cornerstone Group Holdings, Inc. In certain public filings, Cornerstone Group Holdings, Inc. is also shown as the sole shareholder of eNable.

(v) ***Cornerstone Insurance Agency*** – In certain of the Debtor's public filings, Jayme Sickert, who is or was a director of the Debtor (and is one of the individuals the Committee seeks to examine through this Rule 2004 Motion, as set forth below), was listed as President of Cornerstone Insurance Agency from January 2005 through October 2006.

(vi) ***Church Growth Foundation, Inc.*** – Church Growth Foundation, Inc. now holds (or at one time held) the ownership interests in the entities to which the Debtor made loans in 2005 and 2006 that were formerly owned by Cornerstone Group Holdings, Inc. Church Growth Foundation, Inc. is shown as the parent company of Cornerstone Group Holdings, Inc. in certain public filings.

(vii) ***The Foundation for Christian Communities Development, Inc.*** – In certain public filings, The Foundation for Christian Communities Development, Inc. is shown as the sole shareholder of Cornerstone Group Holdings, Inc., which in turn is shown as the sole shareholder in eNable.

(viii) ***Cornerstone Direct Public Offerings, LLC*** – In certain public filings, Cornerstone Group Holdings, Inc., which owns or may own all of the equity of

eNable, is shown as the 67% owner of Cornerstone Direct Public Offerings, LLC. Additionally, Cornerstone Direct Public Offerings, LLC is or was a counterparty to a letter agreement with Wellstone Communities, LLC in which Cornerstone Direct Public Offerings, LLC agreed to provide marketing and regulatory compliance services in connection with Wellstone Communities, LLC's offering of Series A Voting Convertible Preferred Stock.

(ix) ***Meridian Housing, LLC*** – Meridian Housing, LLC is a material borrower from the Debtor. This loan is guaranteed by Meridian Housing, LLC's parent, Church Growth Foundation, Inc., which is an entity the Committee seeks to examine through this Rule 2004 Motion.

(x) ***Wellbrook Properties, Inc.*** – John T. Ottinger, Jr., interim President/CEO of the Debtor, serves or served as a member of the board of Wellbrook Properties, Inc. eNable is also the advisor to Wellbrook Properties, Inc., as it is with the Debtor.

(xi) ***Wellstone LLC*** – In September 2006, Messrs. Wehmiller, Ottinger, Brooks, and Covington (all of whom are described further below) each acquired an 18.75% interest in Wellstone LLC, which is the Debtor's largest borrower. The Committee understands that Messrs. Wehmiller, Ottinger, Brooks, and Covington may have subsequently divested themselves of their interests in Wellstone, LLC, though the Committee has seen no public document confirming this, nor is the Committee presently aware of the facts surrounding such a divestiture. Upon information and belief, Mr. John Lowery, President of Wellstone, LLC (and one of the individuals the Committee seeks to examine through this Rule 2004 Motion), owns the other 25% of Wellstone LLC.

Though Wellstone LLC had engaged Houlihan Lokey at the time of the 10-KSB to assist Wellstone “to obtain additional capital investors and lenders so that they can refinance most or all of the CMI debt” (see 10-KSB at 22), the Debtor did not consider any of these loans impaired or non-performing at the time of the filing of the 10-KSB. Wellstone LLC also purchased certain housing projects from Senior Housing Services, Inc. in September 2006 and, as part of that transaction, Wellstone LLC assumed all of the Debtor’s outstanding real estate loans on these projects.

(xii) **Wellstone Realty, LLC** – Wellstone Realty, LLC is a subsidiary of Wellstone, LLC, the entity described immediately above.

(xiii) **Wellstone Construction, LLC** – Wellstone Construction, LLC is a subsidiary of Wellstone, LLC, the entity described above.

(xiv) **Wellstone Retirement Communities I, LLC** – In December 2005, the Debtor’s two largest borrowers sold eight senior housing properties to Wellstone Retirement Communities I, LLC. Wellstone Retirement Communities I, LLC is or was managed by eNable, which also manages the Debtor. Two of the Debtor’s directors at the time of the December 2005 transaction were also directors of eNable. In January 2006, Wellstone Retirement Communities I, LLC also purchased a senior housing property from Sage Living Centers, Inc., which is a substantial borrower from the Debtor and is managed by a director of the Debtor. After Wellstone Retirement Communities I, LLC sold these facilities in April 2007, the Debtor agreed to provide a guarantee of up to \$3.5 million of certain of Wellstone Retirement Communities I, LLC’s obligations in return for a fee of \$35,000.

(xv) **Wellstone Investment Fund, LLC** – In August 2006, the Debtor borrowed a material amount of money from Wellstone Investment Fund, LLC. Wellstone Investment Fund, LLC is managed by eNable. The Debtor paid off this loan in December 2006.

(xvi) **Wellstone Communities, LLC** – Wellstone Communities, LLC¹ is an entity for which Mr. Ottinger, the Debtor’s interim President/CEO serves or served as a Vice President. Wellstone Communities, LLC also is or was a counterparty to a letter agreement with Cornerstone Direct Public Offerings, LLC in which Cornerstone Direct Public Offerings, LLC agreed to provide marketing and regulatory compliance services in connection with Wellstone Communities, LLC’s offering of Series A Voting Convertible Preferred Stock. Recently, Wellstone Communities, LLC issued a private placement memorandum to raise approximately \$50 million in additional capital.

(xvii) **Wellstone Securities, LLC** – Wellstone Securities, LLC² was proposed to be the primary broker-dealer in a securities offering by Wellbrook Properties, Inc., which offering was later withdrawn. Wellstone Securities, LLC was proposed to be the selling agent for certain securities that Wellstone Communities proposed to sell. Wellstone Securities, LLC is a member of the National Association of Securities Dealers and SIPC.

(xviii) **Wellstone Housing, LLC** – Wellstone Housing, LLC is a significant borrower from the Debtor. Wellstone Housing, LLC is a subsidiary of Senior

¹ In the public filings the Committee has reviewed, there are references both to “Wellstone Communities, LLC” and “Wellstone Communities, Inc.” The Committee is uncertain, at this stage, whether these are separate entities. In this Rule 2004 Motion, the Committee uses these entity names interchangeably.

² In the public filings the Committee has reviewed, there are references both to “Wellstone Securities, LLC” and “Wellstone Securities, Inc.” The Committee is uncertain, at this stage, whether these are separate entities. In this Rule 2004 Motion, the Committee uses these entity names interchangeably.

Housing Services, Inc., which is also a major borrower from the Debtor. Wellstone LLC has guaranteed these Wellstone Housing, LLC loans.

(xix) ***Trinity Trust Company*** – Trinity Trust Company is the indenture trustee for one or more series of public bonds issued by the Debtor. Marvin Hoeflinger owns 100% of Trinity Trust Company. Mr. Hoeflinger's wife, Sylvia, is or has been employed by both the Debtor and eNable.

(xx) ***Castleberry Properties, LLC*** – The Debtor made a loan to Castleberry Properties, LLC in March 2006. eNable owns 50% of Castleberry Properties, LLC.

(xxi) ***Sage Living Centers, Inc.*** – Sage Living Centers, Inc. is a substantial borrower from the Debtor. As of September 30, 2007, the Debtor had made nine loans to Sage Living Centers, Inc. with an aggregate principal balance of approximately \$17.5 million. Edward Moore is the President and Chief Executive Officer of Sage Living Centers, Inc. Mr. Moore has also been a director of the Debtor since December 20, 2007 and is one of the individuals the Committee intends to examine through this Rule 2004 Motion. Sage Living Centers, Inc. also sold a property to Wellstone Retirement Communities I, LLC in January 2006, which has relationships with the Debtor as described herein.

(xxii) ***Senior Housing Services, Inc.*** – In September 2006, Senior Housing Services, Inc. and its subsidiaries sold ownership interests in seven family housing projects to Wellstone LLC. As part of this transaction, Wellstone LLC assumed all of the Debtor's outstanding real estate loans on these projects. Wellstone Housing, LLC is a subsidiary of Senior Housing Services, Inc.

(xxiii) ***Senior Housing Alternatives, Inc.*** – Senior Housing Alternatives, Inc. is or may be a substantial borrower from the Debtor. In the affidavit in support of the Debtor’s application to retain Miller & Martin, PLLC, Miller & Martin PLLC discloses that they either have in the past or presently represent Senior Housing Alternatives, Inc.

(xxiv) ***Integrity Telecommunications Services*** – Integrity Telecommunications Services was founded by Robert Covington, who is also President of eNable and is one of the individuals the Committee intends to examine through this Rule 2004 Motion.

(xxv) ***Church Consulting Services*** – Marvin Hoeflinger and Sylvia Hoeflinger are, respectively, the Executive Director and the President of Church Consulting Services. Marvin and Sylvia Hoeflinger are also members of the Board of Directors of Trinity Trust Company and are individuals the Committee intends to examine through this Rule 2004 Motion. Sylvia Hoeflinger is or was also a non-executive employee of the Debtor and eNable. Upon information and belief, Church Consulting Services would arrange loans to churches that were financed through the Debtor.

(xxvi) ***Revelation Corporation*** – Revelation Corporation was founded and is 30% owned by John Lowery, who is also founder and part owner of Wellstone, LLC, the Debtor’s largest borrower, and is one of the individuals the Committee intends to examine through this Rule 2004 Motion.

(xxvii) ***Foxwell, LLC*** – Foxwell, LLC is a joint venture between Wellstone, LLC and an entity known as Fox Development. Foxwell oversees the design

and construction of all of Wellstone Community, LLC's developments. Wellstone Community, LLC and the other related Wellstone entities, are the Debtor's largest borrowers.

Individuals in control of or related to the Debtor and related corporate entities:

(i) ***John T. Ottinger, Jr.*** – Mr. Ottinger is the interim President/CEO of the Debtor and signed the bankruptcy petition on behalf of the Debtor. Mr. Ottinger assumed this position on about December 20, 2007. He also serves or served as a member of the loan and investment committee of the Debtor's board. Mr. Ottinger had previously been employed by the Debtor, eNable, and Wellstone LLC. Mr. Ottinger also entered into an agreement with eNable on July 1, 2007 under which he agreed to provide consulting services to eNable. Mr. Ottinger also is or was a director of eNable's parent company. Mr. Ottinger also is or was a director and is or was chief executive officer of Wellbrook Properties, Inc., a company for which eNable serves or served as advisor, in a relationship similar to eNable's relationship with the Debtor. Mr. Ottinger also acquired an 18.75% interest in Wellstone LLC, which is the Debtor's largest borrower, in September 2006. The Committee understands that Mr. Ottinger may have divested himself of his interests in Wellstone, LLC, but the Committee has not seen documentation confirming this, nor is the Committee aware of the circumstances under which such a divestiture took place.

(ii) ***Jack Wehmiller*** –Mr. Wehmiller was Chairman of the Debtor's Board of Directors and Chief Executive Officer of the Debtor until December 20, 2007. Mr. Wehmiller also served as the Debtor's principal financial officer for a period of time in 2007 after Mr. Ottinger resigned from the Debtor on March 31, 2007. He also serves

or served as a member of the loan and investment committee of the Debtor's board. Mr. Wehmiller also is or was a member of the staff of eNable. Mr. Wehmiller also formed and worked for Wellstone Securities LLC from April 2002 through January 2004. Mr. Wehmiller also acquired an 18.75% interest in Wellstone LLC, which is the Debtor's largest borrower, in September 2006. The Committee understands that Mr. Wehmiller may have divested himself of his interests in Wellstone, LLC, but the Committee has not seen documentation confirming this, nor is the Committee aware of the circumstances under which such a divestiture took place.

(iii) **Cecil A. Brooks** – Mr. Brooks was a member of the Debtor's Board of Directors and was CEO and Co-President of the Debtor until November 1, 2006. Mr. Brooks was for a period of time also the CEO of eNable. Mr. Brooks also is or was a director of eNable's parent company. Mr. Brooks also acquired an 18.75% interest in Wellstone LLC, which is the Debtor's largest borrower, in September 2006. The Committee understands that Mr. Brooks may have divested himself of his interests in Wellstone, LLC, but the Committee has not seen documentation confirming this, nor is the Committee aware of the circumstances under which such a divestiture took place.

(iv) **Bill Wagner** – Mr. Wagner was appointed Chief Financial Officer of the Debtor on December 6, 2007. Mr. Wagner was also appointed as Chief Financial Officer of eNable in September 2007. Mr. Wagner resigned these positions on February 29, 2008.

(v) **Edward Moore** – Mr. Moore was elected as a director of Debtor on December 20, 2007. Mr. Moore is also President and Chief Executive Officer of Sage Living Centers, Inc., which is a substantial borrower from the Debtor. Upon information

and belief, the Committee understands that Mr. Moore is also a consultant to Church Consulting Services.

(vi) **Robert Covington** – Mr. Covington is President of eNable. Mr. Covington is also a part-owner of Wellstone, LLC together with Messrs. Wehmiller, Brooks and Ottinger. Mr. Covington is also the founder of Integrity Telecommunications services. The Committee understands that Mr. Covington may have divested himself of his interests in Wellstone, LLC, but the Committee has not seen documentation confirming this, nor is the Committee aware of the circumstances under which such a divestiture took place.

(vii) **John Lowery** – Mr. Lowery is President and Chief Executive Officer of Wellstone Communities, LLC, Wellstone, LLC, and possibly other Wellstone related entities. Wellstone Communities, LLC has significant connections with the Debtor, including common management. Wellstone, LLC is the Debtor's largest borrower.

(viii) **Ted Fox** – Mr. Fox is or was a director of the Debtor. He first joined the Debtor's board in 1996. He also served on the board of Wellstone Communities, Inc., a former subsidiary of the Debtor, in 2003.

(ix) **Henry Darden** – Mr. Darden is or was a director of the Debtor. He also serves or served as a member of the loan and audit committees. He first joined the Debtor's board in 1992.

(x) **Jayne S. Sickert** – Mr. Sickert is or was a director of the Debtor. He first joined the Debtor's board in 1992. He was also President of Cornerstone Insurance Agency, a company which he started in January 2005, from January 2005

through October 2006. In October 2006, Mr. Sickert became National Sales Director for eNable.

(xi) **Irving B. Wicker** – Mr. Wicker is or was a director of the Debtor. He also serves or served as a member of the audit committee. He first joined the Debtor's board in 1990.

(xii) **Royce M. Cox** – Mr. Cox is or was a director of the Debtor. He first joined the Debtor's board in 2006.

(xiii) **Barbara I. Byrd** – Ms. Bird is or was a director of the Debtor. She also serves or served as Secretary of the Debtor. She first joined the Debtor's board in 2006. She is or was employed by eNable as an executive assistant and was previously employed by the Debtor as the executive assistant to the CEO and CFO from February 2002 through June 2003.

(xiv) **John M. Nix** – Mr. Nix is or was a director of the Debtor. He first joined the Debtor's board in 2006.

(xv) **Glenn Trematore** – Mr. Trematore was a member of the Board of Directors of the Debtor until September 6, 2006.

(xvi) **Marvin Hoeflinger** – Marvin Hoeflinger owns 100% of Trinity Trust Company, which is the Trustee for certain of the Debtor's publicly issued bonds. Mr. Hoeflinger is also the Executive Director of Church Consulting Services.

(xvii) **Sylvia Hoeflinger** – Sylvia Hoeflinger is married to Marvin Hoeflinger, who owns 100% of Trinity Trust Company. Trinity Trust Company is the Trustee for certain of the Debtor's publicly issued bonds. Prior to May 1, 2003, Sylvia Hoeflinger was a non-executive employee of the Debtor. Starting on May 1, 2003,

Sylvia Hoeflinger became a non-executive employee of eNable. Sylvia Hoeflinger was also a member of the Board of Directors of Trinity Trust Company and served as its secretary until May 2007. Sylvia Hoeflinger is also President of Church Consulting Services.

(xviii) **David Hoeflinger** – David Hoeflinger is a member of the Board of Directors of Trinity Trust Company. On information and belief, the Committee also understands that David Hoeflinger is the son of Marvin and Sylvia Hoeflinger.

Advisors to the Debtor and related corporate entities:

(i) **Miller & Martin, PLLC** – Miller & Martin, PLLC acted as pre-petition counsel to the Debtor. In this capacity, Miller & Martin, PLLC counseled the Debtor in substantially all of its most significant transactions, including transactions involving First United Bank and Bernard National Senior Funding, Ltd., as well as representing the Debtor with respect to compliance with state and federal securities laws. Additionally, Miller & Martin, PLLC has counseled a number of the Debtor's affiliated and related parties, including many that are the subject of this Rule 2004 Motion such as Senior Housing Alternatives, Inc., Wellstone Communities LLC, Wellstone LLC, Church Growth Foundation, Inc., Meridian Housing, LLC, Sage Living Centers, Inc., eNable Business Solutions, Inc. and numerous affiliates and parties related, either directly or indirectly. Additionally, as set forth in the application to employ Miller & Martin, PLLC, Miller & Martin, PLLC has substantial preference exposure to the Debtor.

(ii) **Berman Hopkins Wright & LaHam, LLP** – The Debtor engaged Berman Hopkins Wright & LaHam, LLP (“Berman Hopkins”) as its principal accountant to audit the Debtor's financial statements on November 2, 2005. The Debtor has filed an

application to retain Berman Hopkins in this case. The Committee has filed a preliminary objection to this retention. Additionally, as set forth in the application to employ Berman Hopkins, Berman Hopkins has preference exposure to the Debtor.

Third Parties Financing Entities and Related Parties

(i) ***CMI Asset Pool I, LLC*** – CMI Asset Pool I, LLC is a wholly-owned subsidiary of the Debtor according to the Debtor’s 10-KSB. Based upon the Debtor’s filings with the SEC, the Committee understands that this entity was formed in or about August 2006 in connection with the Debtor’s establishment of a \$40 million revolving credit facility with Bernard National Senior Funding, Ltd. In connection with the formation of this entity, the Committee understands that the Debtor transferred nineteen first mortgage loans to this entity, which were, according to the Debtor, in turn pledged to Bernard National Senior Funding, Ltd.

(ii) ***Bernard National Senior Funding, Ltd.*** – As described immediately above, the Committee understands that Bernard National Senior Funding, Ltd. is a counterparty to the Debtor or CMI Asset Pool I, LLC on a \$40 million revolving credit facility.

(iii) ***D.B. Zwirn*** – D.B. Zwirn is connected to CMI Asset Pool I, LLC and Bernard National Senior Funding, Ltd., into which the Debtor pledged its assets to obtain a revolving lending facility.

(iv) ***First United Bank and Trust Company*** – First United Bank and Trust company is a significant alleged secured creditor of the Debtor by way of a purported assignment or pledge of the Debtor’s interest in certain of the Debtor’s loans to Wellstone, LLC. Wellstone, LLC is the Debtor’s largest borrower. First United Bank

and Trust Company has also purportedly made certain direct loans to Wellstone, LLC, which First United Bank and Trust Company purports are senior in right of payment to the Debtor's loans to Wellstone, LLC.

BASIS FOR RELIEF

10. Rule 2004(a) of the Federal Rules of Bankruptcy Procedure provides that on motion of any party in interest, the Court may order the examination of any entity. Rule 2004(b) provides that a party in interest may examine the “acts, conduct, or property or [] the liabilities and financial condition of the debtor, or [] any matter which may affect the administration of the debtor’s estate” and, in a case under chapter 11 such as this one, a party in interest may also examine “the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.” *See* F.R.B.P. 2004(b); *see also* 2 Collier on Bankruptcy ¶ 343.04. Courts in this Circuit analogize Rule 2004 examinations as the equivalent of a “fishing expedition.” *See In re MMH Automotive Group, LLC*, 346 B.R. 229, 233 (Bankr. S.D. Fla. 2006) (“Rule 2004 does allow the Trustee to go on a general fishing expedition so long as the information sought relates to ‘the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate....’”). Courts in this Circuit permit examinations of third parties just as they permit examinations of the Debtor. *See In re Analytical Systems, Inc.*, 71 B.R. 408, 411 (Bankr. N.D. Ga. 1987).

11. While the number of the examinations that the Committee seeks to conduct at this time is large, it is also justified under the facts of this case, is appropriate to undertake at this time, and is authorized under Rule 2004. Shortly after its appointment, the Committee raised a number of concerns to this Court about the circumstances of the Debtor's bankruptcy filing and the Debtor's interconnectedness with various individuals, corporate entities (both direct affiliates and otherwise), and certain of the Debtor's proposed advisors in the case. *See* Docket Nos. 38-41. From the outset, the Committee has been clear that it intends to investigate these relationships.

12. This Rule 2004 Motion is the second step of the Committee's investigation. This second stage of the Committee's investigation is intended both to allow the Committee to continue to investigate asset and liability values of the Debtor as well as to allow the Committee to investigate whether there are claims that the estate can bring (or actions for disallowance or subordination of claims against the Debtor's estate) that would improve the recovery general unsecured creditors will receive from this case.

13. It is appropriate for the Committee to investigate these individuals and entities at this time. Since its appointment, the Committee has been working with the Debtor to understand its business, assets, and liabilities. To date, this has been a productive process, both for the Debtor and for the Committee. The Committee is now transitioning its work from understanding the structure and operation of the Debtor's business to considering the appropriate structure for a plan of reorganization or liquidation. Examining the entities and individuals described above is critical to plan structuring considerations, including determining what the assets and liabilities might be

under a plan and what claims the Debtor or creditors may have against one or more of these individuals and entities.

14. Finally, the relief requested herein is squarely within the scope of examinations contemplated by Rule 2004. The Rule 2004 examinations that the Committee is requesting to conduct are all related to the “acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate.” Additionally, the Rule 2004 examinations are relevant to understanding “the operation of [the Debtor’s] business and the desirability of its continuance,” as well as “the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.”

WHEREFORE, the Committee respectfully requests that this Court enter an order authorizing the Committee to conduct examinations under Rule 2004 of the Federal Rules of Bankruptcy Procedure of each of the individuals and entities set forth above.

Respectfully submitted this 9th day of May 2008.

ALSTON & BIRD LLP

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