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From: [REDACTED]
Sent: Wed 4/27/2011 1:53:11 PM
Subject: Swanson and 1220

Dan Swanson asked me to talk to you about lending money against 1220 South Ocean.

1220 is owned by a single asset LLC owned by Dan (or in a joint tenancy with his wife, Karen).

He is looking for a new \$10 million second to refinance the existing \$5,332,695.25 second mortgage loan that has been in place since January 2011. Before January 2011 there was no second. The new second would be junior to the existing first mortgage loan(s) held by TD Bank (successor to Mercantile) now totaling \$21,200,000 but which he would pay down to \$20,200,000 out of the proceeds of the new second. TD extended the due date of the first until October 30, 2011 (when the existing second was put on) and Dan thinks TD will further extend it until Spring/Summer 2012 with an additional paydown. The existing second matures in January 2012.

Basically, he is seeking another selling season.

This is his proposed use of proceeds:

Principal reduction on TD first	\$1,000,000
Interest reserve for first (to July 31, 2012)	800,000
Reserve for 2011 real property taxes	200,000
Pay off existing second	5,332,693
Closing costs of refinancing	200,000
Reserve for maintenance, insurance and other bills for 1220	1,000,000
For "Dan to live on"	1,467,307

Obviously, there is play in this.

We did not discuss interest rates or any other financial terms.

The existing second mortgage lender is New Providence Capital Management Partners II Limited (NPCM), a Bahamian international business company, with an address in Nassau. It is controlled by David Kosoy, a Canadian who has been dabbling in Palm Beach real estate for 20 years and who has a piece of the Royal Poinciana Plaza along with Lee Munder. Dan said the interest rate is "in the fives". It is due in January 2012-academic since the first is due October 30, 2011. The subordination agreement between NPCM and TD prohibits any current payment of principal or interest on the second while the first is outstanding. I assume there was a reserve or discount to compensate for this. It does not appear that Dan personally guaranteed the second.

I think (but don't know) that Dan found Kosoy through Jim McCann who has had some dealing over the years with Kosoy. Kosoy is a Toronto based real estate developer who buys distressed real estate and value adds(The Sterling Companies/Sterling Centrecorp) and NPCM is a mortgage fund he founded in the Bahamas in 2007 and runs. He was also involved in buying a bank in the Turks and Caicos.

Dan is very uncomfortable with Kosoy. He says he regrets borrowing from Kosoy who "strung him along" "until he had no other alternatives". I notice that he had to give NPCM a second mortgage on 210 Miraflores- a house and lot adjacent to the Phipps Estate lot on which Dan lives- as additional security for the second on 1220. Since, I don't think there is much more than \$500,000 equity in 210 Miraflores, it seems that there was a hard bargain.

Dan says that TD was very obliging in entering into an agreement (a Mortgage Subordination Agreement) but I read it and find it a strict subordination agreement, with several restrictions on what NPCM can do in the event of default. TD does give NPCM an option to buy the first for all amounts secured (including fees, advances and expenses) for a scant 10 days after notice of default. Nevertheless, TD asked for and got in exchange: a \$998,000 principal paydown, a \$1,041,379 interest reserve and a \$137,849 tax reserve. (This was in January 2011.) This correlates to the use of proceeds he provided above. TD also got Dan's wife, Karen, as a guarantor. Dan already is a guarantor.

Dan has discussed a refi nancing of the NPC M second with TD and says that TD would welcome it but wants an additional \$1 million paydown plus an interest and tax reserve similar to what TD required in January.

Dan's Finances

I did not ask him to explain his financial condition at this stage but it seems obvious that he is illiquid from his "no alternative" comment and his characterization of the \$1,467,000 balance of the proposed loan proceeds as "for Dan to live on". I also think he has a problematic net worth.

His visible real assets seem to be:

1220 South Ocean. He has reduced the price to \$64,900,000 and now owes \$26,600,000. "Survey says" a \$40

number. Thus, Swanson's equity could range anywhere from 0 (if it doesn't sell before November) to say \$14,000,000. See discussion below.

205 Via Tortuga (Lot 17, Phipps Estates) (He lives in a house this land). He has a mortgage linked to a \$6 million credit line extended by Northern Trust secured by this property and an adjacent lot (207 Via Tortuga). This note has a variable interest rate and the "final due date" is October 2018. 205 Via Tortuga might be worth \$5,000,000.

207 Via Tortuga (Lot 18, Phipps Estates). This lot is adjacent to his house and covered by the same Northern Trust mortgage. It is about 20,000 sf and is listed with McCann for \$5,500,000 but is probably worth around \$4,000,000.

Swanson's equity in 205 + 207 Via Tortuga combined (assuming the \$6 million Northern line is fully drawn) is in the \$3,000,000 range.

210 Miraflores is an older 2000 sf Bermuda house adjacent to his Phipps lots. He rents it out. He paid \$350,000 in 1995 and owes \$700,000 on a 20 yr self-amortizing mortgage. He pledged it as additional security for the 1220 second held by NPCM in January 2011. It is probably worth \$1,300,000.

Interest in 101 El Bravo This is the spec house listed at \$47 million. Jim Patterson of Louisville is his partner. McCann (who has the listing) says that they have had offers up to \$30 million but Patterson has turned them down. Jim is allowed to say a deal can be made in the upper \$30s but it seems there is buyer "reluctance" above \$30. There is a \$25,000,000 mortgage on it through U.S. Bank N.A. which was put in place in February 2011. If they could get \$30M, Swanson's equity would presumably be \$2,500,000 possibly less. (They paid \$16.5M for the land in 2007.)

This indicates Swanson's net worth from PB real estate is in the \$6 million range + his equity in 1220 South Ocean which as discussed could be zero to \$14M.

This does not account for cash, securities, other business interests, any other real estate outside PB, and tangibles. I do not have any information about these. I do not know of other assets and I do not think he has a pending project.

He does have a pending and very active lawsuit against him by Leo Vecellio (Ranger Construction) who bought 589 N County. This is a very acrimonious suit. Vecellio is seeking several million in damages for construction defects and recently amended the suit to allege fraud by Dan, his wife, and his backer Dean DeSantis (son of Carl of Rexall-Sundown) and his wife. The fraud alleged is that Dan concealed water damage during construction due to hurricanes. This is well publicized and seems to be getting nastier and I assume very expensive to defend.

Value of 1220

Dan has reduced the ask from \$84 million to \$64 million. Evidently appraisals were made by TD and NPCM in January that were in the \$40s. Dan has asked that the TD appraisal be revised because of Moens sale of 1255 S Ocean (the ex Krakoff lot) to the south for \$22.7+ to Petterfy. (Swanson paid \$20.6 for the land at 1220.) He thinks/hopes 1220 will now appraise in the \$50s.

The nearest competition is Sandra Hammond's house at 1275 SOB listed by Cris Condon of Sotheby's at \$42.5. I do not think there have been offers. Swanson sold the house to Hammond from plans. It recorded as a \$15M land sale but she is supposed to have paid more than \$26M in total. Interestingly, Petterfy got interested in the land at 1255 while looking at 1275. 1275 has 13,300 sf on 170 lakefront feet (270 depth) and is basically a smaller version of 1220 (27,350 sf on 200+ feet by 450 feet depth).

The sense of the PB brokers is that 1220 will bring a \$40 number.

There has been a lot of activity in PB this season in the \$20-\$30 range (sales and offers). But the fact is that so far the high sale this season will be \$29.1 for 40 Blossom Way (190 feet on the ocean) which (Moens says) Moens and his partner (Bill Kallop) are buying and leasing to Petterfy for 5 years while he builds on 1255 which they owned and sold to him.

Discussion

Dan is shell-shocked. He doesn't think Kosoy will extend the second so he fears losing 1220 in November before next season provides an opportunity to sell it. I don't think he is likely to have many alternatives over the summer.

Its obvious that one could structure a second with a high rate of interest and an interest reserve. I think Dan would agree. The combined first and second would at \$30,200,000 represent 75% loan to expected sales value ratio -possibly a lower ratio if appraised value is used.

Since 1220 is owned by a single asset LLC, there seem to be some obvious techniques to limit exposure to delays in possession on default or in the event of an LLC bankruptcy including taking a membership position in the LLC and amending the operating agreement to require consent to certain actions like bankruptcy, sale and

refinancings. Taking an LLC membership position in addition to the mortgage could also be a vehicle for a profit participation in the event of a successful sale. Given the LLC's position, the FMV of an equity position would be modest.

If Dan (the LLC) defaulted, and the second mortgage holder acquired the first for \$20,200,000, then it would have \$30,200,000 in. If the house sold at \$40 million or slightly above, it would represent a return of \$10 million (plus interest) in a year on a \$10,000,000 debt position.