

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

In re:

Financial Resources Mortgage, Inc., and  
C L & M, Inc., a/k/a Commercial Project  
Loan Servicing,  
and other jointly administered cases\*

Bk. Nos. 09-14565-JMD  
09-14566-JMD

Chapter 7

Jointly Administered

Debtors

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\* Check the box that applies to this Pleading:

XXX      This Pleading concerns all jointly administered cases.

\_\_\_\_\_      This Pleading concerns the following jointly administered case(s):

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**STATUS REPORT AS OF 05/03/11**

NOW COMES Steven M. Notinger, Chapter 7 Trustee of the above-captioned cases and other Jointly Administered Debtors and submits this Status Report regarding pending matters:

1.      Lead Case No. 09-14565-JMD - this is the official case number for Financial Resources Mortgage, Inc. ("FRM") and has been designated the main bankruptcy case docket used by the Court to administer all of the Jointly Administered cases under one docket (or case record) to make it easier for the parties and the Court to monitor the important events in the case concerning all or one or more particular Jointly Administered Debtor(s). Notices of all settlements in related adversary proceedings are filed on the Lead Case Docket, as are all applications to employ and fee applications filed by professionals in the case. A copy of the Lead Case Docket to date can be found on the Trustee's website, [www.dntpc.com](http://www.dntpc.com), or by accessing the Bankruptcy Court's PACER System.

The most important recent development in Lead Case No. 09-14565-JMD is that the Court has set a bar date, or date by which all creditors must file a Proof(s) of Claim for any or all of the Jointly Administered Debtors. The bar date is **July 6, 2011**. All creditors should receive a Proof of Claim form and a Proof of Claim Cover Sheet from the clerk's office in the next few days. In addition, a copy of the Proof of Claim form and Proof of Claim Cover Sheet will be posted on the Trustee's website, [www.dntpc.com](http://www.dntpc.com). Any creditor who wishes to participate in any dividend to be paid in any Jointly Administered Case must file a Proof of Claim with the Bankruptcy Court Clerk's Office by the deadline. Creditors who have already filed Proof(s) of Claim in any Jointly

Administered Case need not file another Proof of Claim.

At some point after the bar date the Trustee will file objections to claims, if warranted.

2. Estate of C, L & M, Inc. (“CLM”), Case No. 09-14566-JMD. Because most creditors of the Jointly Administered Debtors put their funds into C L & M, Inc., the Trustee has placed most of the funds collected in these bankruptcy cases in the estate of CL&M pending further order of the Bankruptcy Court. To date the Trustee has collected approximately \$2,678,692.64 and disbursed approximately \$1,114,051.99 in fees and expenses pursuant to Court order (net funds on hand approximately \$1,564,640.65) in the CLM estate. There are also net funds presently deposited in a few other Jointly Administered Estates, including FRM (\$10,539.98), Scott D. Farah (\$45,629.81), Robert P. Farah (\$14,989.07) and the Red Hill 2009 Realty Trust (\$135,000.00).

On or before November 20, 2011 as required by the Bankruptcy Code, the Trustee will bring all Chapter 5 claims associated with FRM and CLM. Chapter 5 claims include claims for preferential transfers within 90 days of the bankruptcy filing (11/20/09) under 11 U.S.C. §547, claims for fraudulent transfers under state (within 4 years) or federal law (within 2 years) under 11 U.S.C. §544(b) and 11 U.S.C. §548 and post-petition transfers, if applicable, under 11 U.S.C. §549. There may be Chapter 5 claims associated with other Jointly Administered Debtors and those will also be brought within 2 years of their applicable petition date(s). Some Chapter 5 claims have already been brought and/or settled in association with the Adversary Proceedings discussed below. In an effort to settle as many Chapter 5 claims as possible prior to litigation, the Trustee is targeting the next 30-60 days to send out demand letters to potential Chapter 5 Defendants. To the extent that further suits have to be brought, each will be brought as a separate adversary proceeding, or lawsuit, associated with Lead Case No. 09-14565-JMD.

Pending Adversary Proceedings Associated with Lead Case No. 09-14565-JMD:

3. Notinger, et al. v. Tebbe, et al., Adv. Pro. No. 09-1184-JMD: This is the “big” adversary that the Trustee brought at the beginning of the case against all lender/investors to prevent the liquidation of assets he considered property of one or more of the bankruptcy estates, particularly CLM. The Court has, at 90 day intervals, continued to extend the Trustee’s request for a preliminary injunction to prevent the liquidation of mortgages or other property in which the bankruptcy estate(s) may have an interest, unless there is an agreement with the Trustee or an order of the Court. Many lender/investors have settled with the Trustee through this Adversary Proceeding and removed some or all of their loans from the injunction action, and/or settled preference claims and/or a split of claims against the Debtors’ professionals as part of same. A copy of the current Docket for Adv. Pro. No. 09-1184-JMD has also been posted on the Trustee’s website, [www.dntpc.com](http://www.dntpc.com). The funds in the CLM case have come in large part from settlements with investor/lenders, who in general agree to pay the estate of CLM, either in cash or eventual liquidation, a percentage of their outstanding loans and/or title or professional negligence claims. In general the percentages paid by lender/investors range from 30% to 60% of the value of their loans, with the amounts paid dependent on a lot of factors unique to each lender/investor’s particular loans and/or financial situation.

So far, no answer deadline, discovery deadlines or trial date have been set in Adv. Pro. No. 09-1184-JMD, which has allowed the Trustee to settle with willing parties while the preliminary injunction remains in place. As the two year anniversary date of the case approaches, however, the Trustee has to move forward in some fashion against the remaining Defendants who have not settled. The Court has stated that it cannot hold a trial of the entire 09-1184-JMD case at once as there are too

many Defendants and such a trial would be unworkable. At the next several Omnibus FRM Hearing dates scheduled by the Court on May 16, 2011 and/or June 13, 2011, the Trustee plans to discuss with the Court how to move 09-1184-JMD forward towards trial in the coming months. In some cases where the Trustee is aware that settlement is unlikely, he has already brought separate Adversary Proceedings against one or more lender/investors (see examples below), and that may be the way the Court will want to handle 09-1184-JMD, i.e. breaking it into separate adversary proceedings against individual or small groups of lender/investors. The Trustee continues to reach settlement agreements on a regular basis with lender/investors who wish to do so and plans to continue this process.

4. The following are related Adversary Proceedings which have been “broken out” of 09-1184-JMD against individual or small groups of lender/investors, but deal with the same issues, i.e., whether in the context of an alleged Ponzi scheme, the mortgage loans involved are property of the bankruptcy estate(s) and/or whether transfers by the Debtor(s) of the subject mortgages or co-mingled funds to lender/investors were fraudulent transfers:

Notinger v. Domercant, et al. (DCRJ 2008 Realty Trust)	Adv, Pro. No. 10-1032-JMD
Notinger v. Cason, et al.(Bennington 2009 Realty Trust)	Adv, Pro. No. 10-1033-JMD
Notinger v. Migliaccio, et al.	Adv. Pro. No. 10-1075-JMD
Notinger v. Cason, et al. (Red Hill 2009 Realty Trust)	Adv. Pro. No. 10-1103-JMD
Notinger v. Cason, et al. (Maynor Lane Realty Trust)	Adv. Pro. No. 10-1111-JMD
Notinger v. Ratliff, et al. (Diamond Ranch 2008 RT)	Adv. Pro. No. 10-1133-JMD

All of these cases are in the discovery stage, except for 10-1075-JMD where the Plaintiffs filed a Motion to Dismiss and the Court has taken the matter under advisement after hearing.

More of these adversary proceedings against individual or small groups of lenders will be filed shortly.

5. Other related cases:

Notinger v. Center Harbor Christian Church, Adv. Pro. No. 10-1040-JMD - this is the lawsuit brought by the Trustee against the church operated by Scott Farah’s father, Robert Farah, for fraudulent transfer of funds received from FRM and/or CLM in the four years prior to 11/20/09. This matter is also in the discovery stage, with the Defendant subject to an Order to compel answers to the Trustee’s discovery requests which have gone unanswered.

Boender, et al. v. Notinger, et al., Adv. Pro. No. 10-1086-JMD - this adversary proceeding deals with (at the moment) one subdivision known as the Chichester Condominiums where Old Republic National Title Ins. Co. brought suit in the name of several FRM/CLM lenders against the Trustee and other investor/lenders involved in Chichester Condominiums in order to cure title problems associated with Chichester Condominiums. The Trustee has brought third party/counterclaims on title insurance policies and a Motion to Join Old Republic as a party to the suit. The Trustee is also attempting to intervene in, and either stay or remove to the Bankruptcy Court, a title insurance coverage suit brought by Old Republic in the New Hampshire Federal District Court dealing with some of the same issues

as Adv. Pro. No. 10-1086-JMD. Both the Bankruptcy Court and the District Court have the matters under advisement.

6. Settled Adversaries: A few adversary proceedings related to Lead Case No. 09-14565-JMD have been settled prior to any substantial litigation. Those are Notinger v. Kirkman, Adv. Pro. No. 10-1034-JMD (suit against FRM/CLM lender by Trustee settled by Settlement Agreement similar to other settling lender/investors); and Moore, et al. v. Notinger, et al., Adv. Pro. No. 10-1127-JMD (suit against Trustee and lender/investor by borrower - settled by Settlement Agreement similar to other settling lenders/investors). In addition, the suit against FRM, CLM, Scott Farah, Donald Dodge and the Center Harbor Christian Church (“CHCC”) as relief defendant, brought by the federal Securities and Exchange Commission (“SEC”) in New Hampshire Federal District Court (SEC v. Farah, et al., USDC-NH Docket No. 10-cv-135-PB) was settled, with each of the Defendants agreeing to a permanent injunction preventing them from doing business in the securities area and the SEC allowing the Trustee to pursue CHCC for damages pursuant to Adv. Pro. No. 10-1040-JMD.

7. Other Issues: Scott Farah and Donald Dodge were each sentenced to lengthy prison sentences by the New Hampshire Federal District Court in February, 2011 after pleading guilty to wire fraud. Some time ago the Trustee made a formal claim against the Debtors’ former attorneys and continues to negotiate with their representatives about a possible solution which would get funds to creditors. Title insurance claims and possible claims against other professionals are being reviewed.

Respectfully Submitted,  
Steven M. Notinger, Chapter 7 Trustee  
By his attorneys,  
Donchess & Notinger, PC

Dated: May 5, 2011

By: /s/ Steven M. Notinger  
Steven M. Notinger, Chapter 7 Trustee

Dated: May 5, 2011

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### **CERTIFICATE OF SERVICE**

I, Deborah A. Notinger, certify that I have as of this date served the above-captioned Status Report was served by ECF on the parties listed below and on the parties on the attached regular mail Service List:

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Dated: May 5, 2011

By: /s/ Deborah A. Notinger  
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