



MMM Launches Commercial Real Estate Debt Management Practice

Interdisciplinary Team Assists Owners With Debt Issues

Atlanta (November 13, 2008) – The credit crisis that is dramatically affecting the commercial real estate industry is the impetus for a new practice group at Morris, Manning & Martin, LLP. The Atlanta-based law firm is launching a new Commercial Real Estate Debt Management Practice, offering legal support and practical business advice to real estate owners.

“Refinancing simply may not be available to replace mortgage loans as they mature,” says MMM Partner Nick Sears, who heads the new group. “Moreover, if the economy continues to degenerate, borrowers may not be able to derive sufficient cash flow from their properties to make regular monthly debt service payments,” he adds.

“Our team is particularly well-situated to assist commercial real estate developers and owners with managing their relationship with lenders, as well as the lenders’ loan servicers, in restructuring mortgage and mezzanine loans, identifying tax issues and resolving joint venture partnership disputes,” Mr. Sears says. “For example, we can advise borrowers on how to operate their properties to avoid the ‘recourse’ pitfalls in conduit loan documentation which could result in personal liability of the ‘carveout’ guarantors,” he adds.

Over the last 10 to 15 years, Mr. Sears explains, in many commercial real estate loans the lender agrees to limit its collection efforts to foreclosing on the real estate collateral except for certain "carve out" exceptions; when these exceptions occur, the lender may then pursue collection of the debt from *any* assets of the borrower and individual guarantors. Examples of "carve out" exceptions to the "nonrecourse" nature of loans are:

- Actions of the borrower which result in a decline in the value of the collateral
- Sale of the collateral without the lender's permission or the borrower's voluntary bankruptcy.

“The firm can also help members of the real estate industry look ahead and take advantage of new opportunities afforded by the economic crisis,” he adds.

The firm’s interdisciplinary team includes lawyers skilled in banking, real estate, litigation, bankruptcy and tax issues. Mr. Sears has considerable experience with real estate development and finance law. Others in the new practice include Tom Gryboski,



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a Partner in the firm's Real Estate Group, and Simon Malko, a Partner in the Litigation Group.

About Morris, Manning & Martin, LLP

Morris, Manning & Martin, LLP, (www.mmmlaw.com) enjoys national prominence for its corporate finance, securities, mergers and acquisitions, litigation, technology, intellectual property, real estate and real estate capital markets, environmental, insurance and healthcare practices. The firm has offices in Atlanta, Raleigh-Durham, Savannah and Washington, D.C.

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